

ACTS 2003

First Regular Session of the 113th Indiana General Assembly

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Enrolled Act Number to Public Law Number Table

PREFACE TO 2003 ACTS

ARRANGEMENT

This year's edition of the Acts of Indiana includes all laws from the First Regular Session of the 113th General Assembly. The laws are arranged into two categories: first, laws of a permanent nature that amend the Indiana Code or laws that are temporary or special in nature and that do not amend the Code; and second, joint resolutions.

Public Law 1 of the 2003 First Regular Session of the 113th General Assembly (P.L.1-2003) is a technical, nonsubstantive act to correct technical errors in Indiana's statutory law. Public Law 2 of the 2003 First Regular Session of the 113th General Assembly (P.L.2-2003) is a nonsubstantive act to recodify Title 10 of the Indiana Code, concerning state police, civil defense, and military affairs.

The text of all other laws enacted during the First Regular Session is arranged, insofar as possible, in order in which the governor signed the bills into law or the order in which laws not signed and not vetoed by the governor took effect.

PRINTING CODE

A special printing code has been used in publishing the session laws in order that the reader may determine at a glance the specific changes made by any amendment. The following statement appeared at the top of each bill:

PRINTING CODE: Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 General Assembly.

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.1-2003 (HEA 1167-2003), the technical correction bill prepared for the 2003 Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in a law enacted in 2002 were absent from other versions the law enacted in the same session. P.L.1-2003 (HEA 1167-2003) in 2003 resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

This system is intended to make the session laws more usable to the researcher by eliminating the need to compare each amendment against the text of the prior law in order to determine exactly what changes the General Assembly made.

Of course, these typefaces are intended only as a tool to indicate to the reader the text of the prior law that was deleted by amendment and to highlight any new text that was added by amendment. They are

not a permanent part of the law itself. In reproducing or quoting the law, it is unnecessary to retain these typefaces; instead, all stricken text may be deleted and all boldface and italic may be reproduced in regular type.

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 1 enacted by the 113th First Regular Session is cited as P.L.1-2003.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certification immediately follows the text of the session laws in Volume IV.

CASH STATEMENT

Article 10, Section 4 of the Constitution of the State of Indiana requires that an "accurate statement of the receipts and expenditures of the public money, shall be published with the laws of each regular session of the General Assembly". The statement for the current year appears in this publication following the certification of the session laws.

TABLES

There are two citation tables at the end of Volume IV, offset from the text by a green divider. The Table of Citations Affected sets out each section of the Code that has been affected by legislation enacted at the First Regular Session of the 113th General Assembly. The Enrolled Act Number to Public Law Number Table provides cross-references from House and Senate bill numbers to public law numbers for the First Regular Session of the 113th General Assembly.

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Immediately following the tables in Volume IV is a subject index for the legislation enacted at the First Regular Session of the 113th General Assembly.

LAWS OF INDIANA

passed at the
FIRST REGULAR SESSION
113TH GENERAL ASSEMBLY

P.L.1-2003
[H.1167. Approved April 2, 2003.]

AN ACT to amend the Indiana Code concerning technical corrections.

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

SECTION 1. IC 2-5-1.1-16, AS AMENDED BY P.L.1-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. It is not the intent of the general assembly in enacting section 12.1 of this chapter to have the content of the audio or video coverage provided under section 12 of this chapter (**repealed**) used as evidence of the legislative intent, purpose, or meaning of an act enacted or resolution adopted by the general assembly.

SECTION 2. IC 3-11-1.5-17, AS AMENDED BY P.L.212-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election division shall send a copy of a precinct establishment order:

- (1) submitted under section 14 or 30 (**repealed**) of this chapter;
- or

(2) resubmitted under section 20 of this chapter; to the office for comment.

(b) The office shall review the order and may make any technical comments the office considers appropriate.

(c) The co-directors or an employee designated by the co-directors shall examine:

- (1) the proposed precinct establishment order; and
- (2) the comments of the office;

to determine if the order would establish precincts in compliance with this chapter.

SECTION 3. IC 3-11-4-3, AS AMENDED BY P.L.126-2002, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b) and ~~sections section 6 and 8~~ of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

- (1) Noon on election day if the voter registers to vote under IC 3-7-36-14.
- (2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk.
- (3) Noon on the day before election day if:
 - (A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and
 - (B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.
- (4) Midnight on the eighth day before election day if the application:
 - (A) is a mailed application; or
 - (B) was transmitted by fax;
 from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by fax, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by fax or hand delivered must be received by the circuit court clerk

not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 4. IC 3-11-4-6, AS AMENDED BY P.L.126-2002, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for the following:

- (1) An absent uniformed services voter.
- (2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).
- (3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) Whenever a voter described in subsection (a) files an application for a primary election absentee ballot and indicates on the application that:

- (1) the voter is an absent uniformed services voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application;
- (2) the voter is an address confidentiality program participant; or
- (3) the voter is an overseas voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the

date of the application;

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(f) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

- (1) To a law enforcement agency, upon request.
- (2) As directed by a court order.

(g) The county election board shall **by fax transmit an absentee ballot to** and receive **an absentee ballots ballot from by fax to** an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax, the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot."

(h) The county election board shall send confirmation to a voter described in subsection (g) that the voter's absentee ballot has been received as follows:

- (1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.
- (2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.
- (3) If the voter does not provide a fax number or an electronic

mail address, the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

SECTION 5. IC 3-11-10-17, AS AMENDED BY P.L.126-2002, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that any of the following applies, a ballot may not be accepted or counted:

- (1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section ~~26~~ 27 of this chapter;
 - (B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
 - (2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.
 - (3) The absentee voter is not a qualified voter in the precinct.
 - (4) The absentee voter has voted in person at the election.
 - (5) The absentee voter has not registered.
 - (6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.
 - (7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.
 - (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.
 - (9) The ballot has been challenged and not supported.
- (b) Subsection (c) applies whenever a voter with a disability is

unable to make a signature:

- (1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or
- (2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:
 - (A) in the records of the county voter registration office; or
 - (B) on the absentee ballot application.
- (c) The voter may request that the voter's signature or mark be attested to by:
 - (1) the absentee voter board under section 25(b) of this chapter;
 - (2) a member of the voter's household; or
 - (3) an individual serving as attorney in fact for the voter.
- (d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 6. IC 3-11.5-4-13, AS AMENDED BY P.L.126-2002, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that any of the following applies, the ballots shall be rejected:

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or ~~IC 3-11-10-26~~; **IC 3-11-10-27**;
 - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to

receive absentee ballots transmitted by fax.

(7) The ballot envelope contains more than one (1) ballot of any kind.

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

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

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

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

SECTION 7. IC 3-13-9-4, AS AMENDED BY P.L.174-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A vacancy in the town council:

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

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

shall be filled by the remaining members of the council at a regular or special meeting.

(b) The town clerk-treasurer shall give notice of the meeting. Except as provided in subsection (d) or (e), the meeting shall be held:

(1) within thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or

(2) within sixty (60) days after the vacancy occurs if the vacancy is covered by section 1 of this chapter and exists for more than thirty (30) days.

(c) The notice must:

(1) be in writing;

(2) state the purpose of the meeting;

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

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

(d) Notwithstanding subsection (b), if a vacancy:

(1) is not covered by section 1 of this chapter; and

(2) exists because a circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~; **IC 36-5-2-6.5(3)**;

the town council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the town council determines that a circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~; **IC 36-5-2-6.5(3)**.

(e) Notwithstanding subsection (b), if a vacancy:

(1) is covered by section 1 of this chapter;

(2) exists because a circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~; **IC 36-5-2-6.5(3)**; and

(3) exists for more than thirty (30) days;

the council shall meet and select an individual to fill the vacancy not later than sixty (60) days after the town council determines that a circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~; **IC 36-5-2-6.5(3)**.

SECTION 8. IC 3-13-11-3.5, AS ADDED BY P.L.174-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) If a vacancy exists on a town council because a circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~; **IC 36-5-2-6.5(3)**, the caucus shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county chairman receives a notice of the vacancy under IC 5-8-5. If the vacancy is due to the death of a town council member and the county chairman is aware of the member's death before receiving a notice of the death, the caucus may meet before the county chairman receives the notice of the death.

(b) The county chairman shall:

(1) give notice of the caucus meeting to caucus members under section 4 of this chapter; and

(2) keep the notice of the vacancy with the records of the caucus.

SECTION 9. IC 4-22-2-37.1, AS AMENDED BY P.L.120-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or

IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) After December 31, 2003, an emergency rule adopted by the office of Medicaid policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.

(23) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(24) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(25) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter.

The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

- (1) accept the rule for filing; and
- (2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

- (1) The effective date of the statute delegating authority to the agency to adopt the rule.
- (2) The date and time that the rule is accepted for filing under subsection (e).
- (3) The effective date stated by the adopting agency in the rule.
- (4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 10. IC 4-33-12-6, AS AMENDED BY P.L.192-2002(ss), SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The department shall place in the state

general fund the tax revenue collected under this chapter.

(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:

(A) the city in which the riverboat is docked, if the city:

(i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or

(ii) is contiguous to the Ohio River and is the largest city in the county; and

(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar (\$1) is in addition to the one dollar (\$1) received under subdivision (1)(B).

(3) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), fifteen cents (\$0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(5) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(6) Except as provided in subsection (k), sixty-five cents (\$0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

- (A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.
- (B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) With respect to tax revenue collected from a riverboat that operates on Patoka Lake, the treasurer of state shall quarterly pay the following amounts:

(1) The counties described in IC 4-33-1-1(3) shall receive one dollar (\$1) of the admissions tax collected for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling).

This amount shall be divided equally among the counties described in IC 4-33-1-1(3).

(2) The Patoka Lake development account established under IC 4-33-15 shall receive one dollar (\$1) of the admissions tax collected for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling).

(3) The resource conservation and development program that:

- (A) is established under 16 U.S.C. 3451 et seq.; and
- (B) serves the Patoka Lake area;

shall receive forty cents (\$0.40) of the admissions tax collected for each person embarking on a gambling excursion during the quarter or admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling).

(4) The state general fund shall receive fifty cents (\$0.50) of the admissions tax collected for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling).

(5) The division of mental health and addiction shall receive ten cents (\$0.10) of the admissions tax collected for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling).

The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

- (A) embarking on a gambling excursion during the quarter; or
- (B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the city in which the riverboat is docked.

(2) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or
(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents (\$0.09) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), one cent (\$0.01) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents (\$0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(6) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in subsection (k), sixty-five cents (\$0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or

admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(e) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1), or (d)(1) through (d)(2):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5, but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or

(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5), (c)(5), and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;

(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:

(1) Each entity receiving money under subsection (b).

(2) Each entity receiving money under subsection (d)(1) through (d)(2).

(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state

determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(f).

(k) For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

- (1) exceed a particular entity's base year revenue; and
- (2) would otherwise be due to the entity under this section;

to the property tax replacement fund instead of to the entity.

SECTION 11. IC 5-2-5-1, AS AMENDED BY P.L.1-2002, SECTION 13, AS AMENDED BY P.L.77-2002, SECTION 1, AND AS AMENDED BY P.L.133-2002, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Limited criminal history" means information with respect to any arrest criminal charge, which must include a disposition. However, information about any arrest or criminal charge which occurred less than one (1) year before the date of a request shall be considered a limited criminal history even if no disposition has been entered.

(2) "Bias crime" means an offense in which the person who committed the offense knowingly or intentionally:

- (A) selected the person who was injured; or
- (B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

(3) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children less than eighteen (18) years of age.

(4) "Council" means the security and privacy council created under section 11 of this chapter.

(5) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term

consists of the following:

(A) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(B) Information regarding a sex and violent offender (as defined in IC 5-2-12-4) obtained through sex and violent offender registration under IC 5-2-12.

(C) Any disposition, including sentencing, and correctional system intake, transfer, and release.

(6) "Certificated employee" has the meaning set forth in IC 20-7.5-1-2.

(7) "Criminal justice agency" means any agency or department of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. *The term includes the office of the attorney general.* The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations;

or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(8) "Department" means the state police department.

(9) "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

~~(10) "Foreign protection order" has the meaning set forth in IC 34-6-2-48.5.~~

~~(11) "Indiana order" has the meaning set forth in IC 5-2-9-2.1.~~

~~(10) (12) (10) "Inspection" means visual perusal and includes the~~

right to make memoranda abstracts of the information.

~~(11)~~ ~~(13)~~ **(11)** "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

~~(12)~~ ~~(14)~~ **(12)** "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders. *The term includes the office of the attorney general.*

~~(13)~~ ~~(15)~~ **(13)** "National criminal history background check" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

(14) "No contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under:

- (A) IC 31-32-13;*
- (B) IC 31-34-17;*
- (C) IC 31-34-20;*
- (D) IC 31-37-16;*
- (E) IC 31-37-19-1;*
- (F) IC 31-37-19-6;*
- (G) IC 33-14-1-7;*
- (H) IC 35-33-8-3.2; or*
- (I) IC 35-38-2-2.3.*

~~(15)~~ ~~(16)~~ **(15)** "Noncertificated employee" has the meaning set forth in IC 20-7.5-1-2.

~~(16)~~ ~~(17)~~ **(16)** "Protective order" has the meaning set forth in IC 5-2-9-2.1. *The term includes a foreign protection order (as defined in IC 34-6-2-48.5).*

~~(17)~~ ~~(18)~~ **(17)** "Qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services, including a business or an organization that licenses or certifies others to provide care or care placement services.

~~(18)~~ ~~(19)~~ **(18)** "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

~~(19)~~ ~~(20)~~ **(19)** "Reportable offenses" means all felonies and those Class A misdemeanors which the superintendent may designate.

~~(20)~~ ~~(21)~~ **(20)** "Request" means the asking for release or

inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

(A) reasonably ensures the identification of the subject of the inquiry; and

(B) contains a statement of the purpose for which the information is requested.

~~(21)~~ ~~(22)~~ **(21)** "School corporation" has the meaning set forth in IC 20-10.1-1-1.

~~(22)~~ ~~(23)~~ **(22)** "Special education cooperative" has the meaning set forth in IC 20-1-6-20.

~~(23)~~ ~~(24)~~ **(23)** "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

~~(24)~~ *"Workplace violence restraining order" means an order issued under IC 34-26-6.*

SECTION 12. IC 5-2-5-5, AS AMENDED BY P.L.1-2002, SECTION 14, AND AS AMENDED BY P.L.116-2002, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

(1) has applied for employment with a noncriminal justice organization or individual;

(2) has applied for a license and criminal history data as required by law to be provided in connection with the license;

(3) is a candidate for public office or a public official;

(4) is in the process of being apprehended by a law enforcement agency;

(5) is placed under arrest for the alleged commission of a crime;

(6) has charged that his rights have been abused repeatedly by criminal justice agencies;

(7) is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;

(8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;

~~(9)~~ *is employed by an entity that seeks to enter into a contract*

with a public school (as defined in IC 20-10.1-1-2) or a non-public school (as defined in IC 20-10.1-1-3); if the subject of the request is expected to have direct, ongoing contact with school children within the scope of the subject's employment;

~~(9) (10)~~ **(9)** has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;

~~(10) (11)~~ **(10)** is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;

~~(11) (12)~~ **(11)** is being sought by the parent locator service of the child support bureau of the division of family and children; ~~or~~

~~(12) (13)~~ **(12)** is or was required to register as a sex and violent offender under IC 5-2-12; or

~~(12) (14)~~ **(13)** has been convicted of any of the following:

(A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

(B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Possession of child pornography (IC 35-42-4-4(c)).

(F) Vicarious sexual gratification (IC 35-42-4-5).

(G) Child solicitation (IC 35-42-4-6).

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a *Class A or Class B* felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

SECTION 13. IC 5-2-8-1, AS AMENDED BY P.L.20-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section:

(1) "Abuse" has the meaning set forth in IC 34-6-2-1. means:

(A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes university police officers appointed under IC 20-12-3.5.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-19-8-6.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-19-8-6 or IC 33-19-8-4 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under IC 33-19-8-6 a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of

that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-19-5.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
 - (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
- (4) Information about the nature and extent of abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.
- (14) The taking of an abused child into protective custody.
- (15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
- (16) Assessment of a situation involving an endangered adult (as

defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 14. IC 5-2-8-2, AS AMENDED BY P.L.20-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section:

"Abuse" has the meaning set forth in ~~IC 34-6-2-1~~: **section 1(a) of this chapter.**

"City or town law enforcement agency" includes university police officers appointed under IC 20-12-3.5.

(b) There is established in each city and in each town with a city or town court a local law enforcement continuing education program. The program is funded by amounts appropriated under IC 33-19-8-4 and fees collected under IC 9-29-4-2, IC 9-29-11-1, and IC 35-47-2-3.

(c) A city or town law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-19-8-4 or IC 33-19-8-6 shall deposit each fee collected into the local law enforcement continuing education fund.

(d) Distribution of money in a local law enforcement continuing education fund shall be made to a city or town law enforcement agency without the necessity of first obtaining an appropriation from the fiscal body of the city or town.

(e) To make a claim under IC 33-19-8-4 a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(f) A city or town law enforcement agency shall provide to each law enforcement officer employed by the city or town law enforcement agency continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement

officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which the child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(g) A city or town law enforcement agency may enter into an agreement with other county, city, or town law enforcement agencies to provide the continuing education required by this section and section 1(h) of this chapter.

SECTION 15. IC 5-2-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) There is established the state police training fund. The fund consists of amounts collected under IC 33-19-5-1(b)(4), IC 33-19-5-2(b)(3), and IC 33-19-5-3(b)(4) on behalf of the state police department.

(b) If the state police department files a claim under IC 33-19-8-4 or IC 33-19-8-6 against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the state police department into the state police training fund established under

this section.

(c) Claims against the state police training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in the state police training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

(e) As used in this subsection, "abuse" has the meaning set forth in ~~IC 34-6-2-1~~. **section 1(a) of this chapter**. As a part of the state police department's in-service training, the department shall provide to each law enforcement officer employed by the department continuing education concerning the following:

- (1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.
- (2) Guidelines for making felony and misdemeanor arrests in cases involving abuse.
- (3) Techniques for handling incidents of abuse that:
 - (A) minimize the likelihood of injury to the law enforcement officer; and
 - (B) promote the safety of a victim.
- (4) Information about the nature and extent of the abuse.
- (5) Information about the legal rights of and remedies available to victims of abuse.
- (6) How to document and collect evidence in an abuse case.
- (7) The legal consequences of abuse.
- (8) The impact on children of law enforcement intervention in abuse cases.
- (9) Services and facilities available to victims of abuse and abusers.
- (10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.
- (11) Policies concerning arrest or release of suspects in abuse cases.
- (12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.
- (13) Landlord-tenant concerns in abuse cases.

- (14) The taking of an abused child into protective custody.
- (15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.
- (16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).
- (17) Response to a sudden, unexpected infant death.

The cost of providing continuing education under this subsection shall be paid from money in the state police training fund.

SECTION 16. IC 5-8-5-1, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies when a vacancy must be filled under:

- (1) IC 3-13-9; or
- (2) IC 3-13-11;

due to a reason set forth in IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~. **IC 36-5-2-6.5(3).**

SECTION 17. IC 5-8-5-3, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The town council may hold a public meeting to determine whether a circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~ **IC 36-5-2-6.5(3)** that results in a vacancy on the town council. The town council may set a meeting for making the determination on its own motion, or a person may petition the town council to set a meeting to make the determination. The town council may grant or deny a petition for a meeting.

(b) If a person files a petition with the council, the petition must state the basis for the person's claim that a circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~. **IC 36-5-2-6.5(3).**

SECTION 18. IC 5-8-5-4, AS ADDED BY P.L.174-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) If the town council is reasonably satisfied that any circumstance has occurred under IC 36-5-2-6.5(2) through ~~IC 36-5-2-6.5(4)~~, **IC 36-5-2-6.5(3)**, the council may, by an affirmative vote of a majority of the members appointed to the body, vote to declare a vacancy in the town council membership. The member who is alleged to have vacated the member's seat may participate in the meeting as a member, but may not vote on the issue.

(b) If the member who is the subject of the petition or motion does

not attend the meeting at which the town council makes the determination that a vacancy exists, the town council shall mail notice of its determination to the member.

(c) If the town council determines that a vacancy exists, the town clerk-treasurer shall give the circuit court clerk notice of the determination not later than five (5) days after the date of the town council's determination. The circuit court clerk shall give notice to the county chairman if a caucus is required under IC 3-13-11 to fill the vacancy.

SECTION 19. IC 5-22-3-4, AS AMENDED BY P.L.31-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Whenever this article requires that notice or other material be sent by mail, the material may be sent by electronic means as stated in any of the following:

- (1) Rules adopted by the governmental body.
- (2) Written policies of the purchasing agency.
- (3) A solicitation.

(b) Rules, written policies, and solicitation statements described in subsection (a):

- (1) are subject to this article; and
- (2) must provide that the transmission of information is at least as efficient and secure as sending the material by mail.

(c) A governmental body may receive electronic offers if both of the following apply:

- (1) The solicitation indicates the procedure for transmitting the electronic offer to the governmental body.
- (2) The governmental body receives the offer on a fax machine, by ~~e-mail~~, **electronic mail**, or by means of another electronic system that has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

SECTION 20. IC 5-26.5-1-8, AS ADDED BY P.L.133-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. For purposes of IC 5-26.5-2-2, "sexual assault" ~~has the meaning set forth in IC 33-19-4.5-7.~~ **means conduct that constitutes:**

- (1) **a misdemeanor or felony under IC 35-42-4 (sex crimes) or IC 35-46-1-3 (incest);**

(2) a misdemeanor or felony under the laws of:

(A) the United States;

(B) another state; or

(C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

SECTION 21. IC 5-26.5-1-9, AS ADDED BY P.L.133-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. For purposes of IC 5-26.5-2-2, "stalking" has the meaning set forth in ~~IC 33-19-4.5-8~~: **means conduct that constitutes:**

(1) a crime under IC 35-45-10-5 (stalking);

(2) a misdemeanor or felony under the laws of:

(A) the United States;

(B) another state; or

(C) an Indian tribe;

that is substantially similar to an offense described in subdivision (1); or

(3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or whether the person who engages in the conduct is an adult.

SECTION 22. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.90-2002, SECTION 120, AND AS AMENDED BY P.L.178-2002, SECTION 17, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction

under this chapter. The *state board of tax commissioners department of local government finance* shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment or new research and development equipment, or both, that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment or new research and development equipment, or both, and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

With the approval of the *state board of tax commissioners, department of local government finance*, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment or new research and development equipment, or both, is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment or new research and development equipment, or both.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) *Except as provided in subsection (f), an owner of new manufacturing equipment whose statement of benefits is approved before May 1, 1991, is entitled to a deduction from the assessed value of that equipment for a period of five (5) years.* Except as provided in subsections (f) and (i), subsection (h), an owner of new manufacturing equipment or new research and development equipment, or both, whose statement of benefits is approved after June 30, 2000, is entitled

to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection ~~(h)~~: (g). Except as provided in ~~subsections~~ subsection (f) ~~and (g)~~; and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

- (1) the assessed value of the new manufacturing equipment or new research and development equipment, or both, in the year ~~that the equipment is installed~~; of deduction under the **appropriate** table set forth in subsection (e); multiplied by
- (2) the percentage prescribed in the **appropriate** table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

- (1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

- (2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

- (3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

- (4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

- (5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%

2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%

2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) *With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:*

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

Notwithstanding subsections (d) and (e), a deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment or new research and development equipment, or both, to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in

which the equipment is located (excluding personal property that is assessed as construction in process) to be less than the assessed value of all of the personal property of the owner in that taxing district (excluding personal property that is assessed as construction in process) in the immediately preceding year.

(g) If a deduction is not fully allowed under subsection (f) in the first year the deduction is claimed, then the percentages specified in subsection (d) or (e) apply in the subsequent years to the amount of deduction that was allowed in the first year.

~~(h)~~ (g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the *state board of tax commissioners: department of local government finance*. A certified copy of the resolution shall be sent to the county auditor and the *state board of tax commissioners: department of local government finance*.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

~~(i)~~ (h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate

potential for harm.

SECTION 23. IC 6-1.1-17-5, AS AMENDED BY P.L.170-2002, SECTION 19, AS AMENDED BY P.L.177-2002, SECTION 6, AND AS AMENDED BY P.L.178-2002, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

(1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.

(2) The fiscal body of a second class city, not later than September 30.

(3) The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(A) the time required in ~~section 5-6~~ *section 5.6(b)* of this chapter; or

(B) *September 20 if a resolution adopted under section 5.6(d) of this chapter is in effect.*

(4) The proper officers of all other political subdivisions, not later than September 20.

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the

adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

- (1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;
- (2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and
- (3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 24. IC 6-1.1-17-13, AS AMENDED BY P.L.90-2002, SECTION 153, AND AS AMENDED BY P.L.178-2002, SECTION 25, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. *(a) Except as provided in subsection (b), ten (10) or more taxpayers may initiate an appeal from the county board of tax adjustment's action on a political subdivision's budget by filing a statement of their objections with the county auditor. The statement must be filed ~~within~~ not later than ten (10) days after the publication of the notice required by section 12 of this chapter. The statement shall specifically identify the provisions of the budget and tax levy to which the taxpayers object. The county auditor shall forward the statement, with the budget, to the department of local government finance.*

(b) This subsection applies to provisions of the budget and tax levy of a political subdivision:

- (1) against which an objection petition was filed under section*

5(b) of this chapter; and

(2) that were not changed by the fiscal body of the political subdivision after hearing the objections.

A group of ten (10) or more taxpayers may not initiate an appeal under subsection (a) against provisions of the budget and tax levy if less than seventy-five percent (75%) of the objecting taxpayers with respect to the objection petition filed under section 5(b) of this chapter were objecting taxpayers with respect to the objection statement filed under subsection (a) against those provisions.

SECTION 25. IC 6-1.1-18.5-3, AS AMENDED BY P.L.192-2002(ss), SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as otherwise provided in this chapter and IC 6-3.5-8-12, a civil taxing unit that is treated as not being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, that was used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT of subsection (b) for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in the last STEP of section 2(b) of this chapter.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient (rounded to the nearest ten-thousandth (**0.0001**)), of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year, divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by

the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

(b) Except as otherwise provided in this chapter and IC 6-3.5-8-12, a civil taxing unit that is treated as being located in an adopting county under section 4 of this chapter may not impose an ad valorem property tax levy for an ensuing calendar year that exceeds the amount determined in the last STEP of the following STEPS:

STEP ONE: Add the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year to the part of the civil taxing unit's certified share, if any, used to reduce the civil taxing unit's ad valorem property tax levy under STEP EIGHT of this subsection for that preceding calendar year.

STEP TWO: Multiply the amount determined in STEP ONE by the amount determined in the last STEP of section 2(b) of this chapter.

STEP THREE: Determine the lesser of one and fifteen hundredths (1.15) or the quotient of the assessed value of all taxable property subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year divided by the assessed value of all taxable property that is subject to the civil taxing unit's ad valorem property tax levy for the ensuing calendar year and that is contained within the geographic area that was subject to the civil taxing unit's ad valorem property tax levy in the preceding calendar year.

STEP FOUR: Determine the greater of the amount determined in STEP THREE or one (1).

STEP FIVE: Multiply the amount determined in STEP TWO by the amount determined in STEP FOUR.

STEP SIX: Add the amount determined under STEP TWO to the amount determined under subsection (c).

STEP SEVEN: Determine the greater of the amount determined under STEP FIVE or the amount determined under STEP SIX.

STEP EIGHT: Subtract the amount determined under STEP FIVE of subsection (e) from the amount determined under STEP SEVEN of this subsection.

(c) If a civil taxing unit in the immediately preceding calendar year provided an area outside its boundaries with services on a contractual basis and in the ensuing calendar year that area has been annexed by the civil taxing unit, the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals the amount paid by the annexed area during the immediately preceding calendar year for services that the civil taxing unit must provide to that area during the ensuing calendar year as a result of the annexation. In all other cases, the amount to be entered under STEP SIX of subsection (a) or STEP SIX of subsection (b), as the case may be, equals zero (0).

(d) This subsection applies only to civil taxing units located in a county having a county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) of one percent (1%) as of January 1 of the ensuing calendar year. For each civil taxing unit, the amount to be added to the amount determined in subsection (e), STEP FOUR, is determined using the following formula:

STEP ONE: Multiply the civil taxing unit's maximum permissible ad valorem property tax levy for the preceding calendar year by two percent (2%).

STEP TWO: For the determination year, the amount to be used as the STEP TWO amount is the amount determined in subsection (f) for the civil taxing unit. For each year following the determination year the STEP TWO amount is the lesser of:

- (A) the amount determined in STEP ONE; or
- (B) the amount determined in subsection (f) for the civil taxing unit.

STEP THREE: Determine the greater of:

- (A) zero (0); or
- (B) the civil taxing unit's certified share for the ensuing calendar year minus the greater of:
 - (i) the civil taxing unit's certified share for the calendar year that immediately precedes the ensuing calendar year; or
 - (ii) the civil taxing unit's base year certified share.

STEP FOUR: Determine the greater of:

- (A) zero (0); or
- (B) the amount determined in STEP TWO minus the amount determined in STEP THREE.

Add the amount determined in STEP FOUR to the amount determined in subsection (e), STEP THREE, as provided in subsection (e), STEP FOUR.

(e) For each civil taxing unit, the amount to be subtracted under subsection (b), STEP EIGHT, is determined using the following formula:

STEP ONE: Determine the lesser of the civil taxing unit's base year certified share for the ensuing calendar year, as determined under section 5 of this chapter, or the civil taxing unit's certified share for the ensuing calendar year.

STEP TWO: Determine the greater of:

(A) zero (0); or

(B) the remainder of:

(i) the amount of federal revenue sharing money that was received by the civil taxing unit in 1985; minus

(ii) the amount of federal revenue sharing money that will be received by the civil taxing unit in the year preceding the ensuing calendar year.

STEP THREE: Determine the lesser of:

(A) the amount determined in STEP TWO; or

(B) the amount determined in subsection (f) for the civil taxing unit.

STEP FOUR: Add the amount determined in subsection (d), STEP FOUR, to the amount determined in STEP THREE.

STEP FIVE: Subtract the amount determined in STEP FOUR from the amount determined in STEP ONE.

(f) As used in this section, a taxing unit's "determination year" means the latest of:

(1) calendar year 1987, if the taxing unit is treated as being located in an adopting county for calendar year 1987 under section 4 of this chapter;

(2) the taxing unit's base year, as defined in section 5 of this chapter, if the taxing unit is treated as not being located in an adopting county for calendar year 1987 under section 4 of this chapter; or

(3) the ensuing calendar year following the first year that the taxing unit is located in a county that has a county adjusted gross income tax rate of more than one-half percent (0.5%) on July 1 of

that year.

The amount to be used in subsections (d) and (e) for a taxing unit depends upon the taxing unit's certified share for the ensuing calendar year, the taxing unit's determination year, and the county adjusted gross income tax rate for resident county taxpayers (as defined in IC 6-3.5-1.1-1) that is in effect in the taxing unit's county on July 1 of the year preceding the ensuing calendar year. For the determination year and the ensuing calendar years following the taxing unit's determination year, the amount is the taxing unit's certified share for the ensuing calendar year multiplied by the appropriate factor prescribed in the following table:

COUNTIES WITH A TAX RATE OF 1/2%

Year	Subsection (e) Factor
For the determination year and each ensuing calendar year following the determination year	0

COUNTIES WITH A TAX RATE OF 3/4%

Year	Subsection (e) Factor
For the determination year and each ensuing calendar year following the determination year	1/2

COUNTIES WITH A TAX RATE OF 1.0%

Year	Subsection (d) Factor	Subsection (e) Factor
For the determination year	1/6	1/3
For the ensuing calendar year following the determination year	1/4	1/3
For the ensuing calendar year following the determination year by two (2) years	1/3	1/3

SECTION 26. IC 6-1.1-21-5, AS AMENDED BY P.L.192-2002(ss), SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each year the taxpayers of each county shall receive a credit for property tax replacement in the amount of each taxpayer's property tax replacement credit amount for taxes which under IC 6-1.1-22-9 are due and payable in May and November of that year. The credit shall be applied to each installment of taxes. The dollar amount of the credit for each taxpayer shall be determined by the

county auditor, based on data furnished by the department of local government finance.

(b) The tax liability of a taxpayer for the purpose of computing the credit for a particular year shall be based upon the taxpayer's tax liability as is evidenced by the tax duplicate for the taxes payable in that year, plus the amount by which the tax payable by the taxpayer had been reduced due to the application of county adjusted gross income tax revenues to the extent the county adjusted gross income tax revenues were included in the determination of the total county tax levy for that year, as provided in sections 2(g) and 3 of this chapter, adjusted, however, for any change in assessed valuation which may have been made pursuant to a post-abstract adjustment if the change is set forth on the tax statement or on a corrected tax statement stating the taxpayer's tax liability, as prepared by the county treasurer in accordance with IC 6-1.1-22-8(a). However, except when using the term under section 2(l)(1) of this chapter, the tax liability of a taxpayer does not include the amount of any property tax owed by the taxpayer that is attributable to that part of any property tax levy subtracted under section 2(g)(1)(B), 2(g)(1)(C), 2(g)(1)(D), 2(g)(1)(E), 2(g)(1)(F), 2(g)(1)(G), ~~2(g)(1)(H)~~, **2(g)(1)(H)**, 2(g)(1)(I), 2(g)(1)(J), or 2(g)(1)(K) of this chapter in computing the total county tax levy.

(c) The credit for taxes payable in a particular year with respect to mobile homes which are assessed under IC 6-1.1-7 is equivalent to the taxpayer's property tax replacement credit amount for the taxes payable with respect to the assessments plus the adjustments stated in this section.

(d) Each taxpayer in a taxing district that contains all or part of an economic development district that meets the requirements of section 5.5 of this chapter is entitled to an additional credit for property tax replacement. This credit is equal to the product of:

- (1) the STEP TWO quotient determined under section 4(a)(3) of this chapter for the taxing district; multiplied by
- (2) the taxpayer's taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

SECTION 27. IC 6-1.1-21.2-4, AS AMENDED BY P.L.192-2002(ss), SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~As~~ **As** used in this chapter, "base assessed value" means the base assessed value as that

term is defined or used in:

- (1) IC 8-22-3.5-9(a);
- (2) IC 36-7-14-39(a);
- (3) IC 36-7-14-39.3(c);
- (4) IC 36-7-14.5-12.5;
- (5) IC 36-7-15.1-26(a);
- (6) IC 36-7-15.-1-26.2(c);
- (7) IC 36-7-15.1-35(a);
- (8) IC 36-7-15.1-53;
- (9) IC 36-7-15.1-55(c);
- (10) IC 36-7-30-25(a)(2); or
- (11) IC 36-7-30-26(c).

SECTION 28. IC 6-1.1-24-7, AS AMENDED BY P.L.139-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) When real property is sold under this chapter, the purchaser at the sale shall immediately pay the amount of the bid to the county treasurer. The county treasurer shall apply the payment in the following manner:

- (1) first, to the taxes, special assessments, penalties, and costs described in section 5(e) of this chapter;
- (2) second, to other delinquent property taxes in the manner provided in IC 6-1.1-23-5(b); and
- (3) third, to a separate "tax sale surplus fund".

(b) The:

- (1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or
- (2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property;

may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(c) If the person described in subsection (b)(1) acquired the property from a delinquent taxpayer after the property was sold at a tax sale under this chapter, the county auditor may not issue a warrant to the person unless the person is named on a tax sale surplus fund disclosure form filed with the county auditor under IC 32-2-8 (**repealed**).

(d) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is not claimed within the three (3) year period after the date of its receipt.

(e) If an amount applied to taxes under this section is later paid out of the county general fund to the purchaser or the purchaser's successor due to the invalidity of the sale, all the taxes shall be reinstated and recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale.

(f) When a refund is made to any purchaser or purchaser's successor by reason of the invalidity of a sale, the county auditor shall, at the December settlement immediately following the refund, deduct the amount of the refund from the gross collections in the taxing district in which the land lies and shall pay that amount into the county general fund.

SECTION 29. IC 6-1.1-25-5.5, AS AMENDED BY P.L.1-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) The deed given by the county auditor to a county ~~which that~~ acquired property under IC 6-1.1-24-6, or to a city agency ~~which that~~ acquired property under IC 36-7-17, shall be in a form prescribed by the state board of accounts and approved by the attorney general.

(b) The deed given by the county auditor to a city that ~~acquires~~ **acquired** property under IC 6-1.1-24-6.6 **before its expiration and repeal** must be in a form prescribed by the state board of accounts and approved by the attorney general.

SECTION 30. IC 6-1.1-25-8, AS AMENDED BY P.L.1-2002, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Each county auditor shall maintain a tax sale record on the form prescribed by the state board of accounts. The record shall contain:

- (1) a description of each parcel of real property that is sold under ~~IC~~ IC 6-1.1-24;
- (2) the name of the owner of the real property at the time of the sale;
- (3) the date of the sale;
- (4) the name and mailing address of the purchaser and the purchaser's assignee, if any;

- (5) the amount of the minimum bid;
- (6) the amount for which the real property is sold;
- (7) the amount of any taxes paid by the purchaser or the purchaser's assignee and the date of the payment;
- (8) the amount of any costs certified to the county auditor under section 2(e) of this chapter and the date of the certification;
- (9) the name of the person, if any, who redeems the property;
- (10) the date of redemption;
- (11) the amount for which the property is redeemed;
- (12) the date a deed, if any, to the real property is executed; and
- (13) the name of the grantee in the deed.

SECTION 31. IC 6-1.5-5-1, AS AMENDED BY P.L.178-2002, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:

- (1) IC 6-1.1-8.
- (2) IC 6-1.1-12.1.
- (3) IC 6-1.1-14.
- (4) IC 6-1.1-16.
- (5) IC 6-1.1-26-2.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

- (1) the opportunity for review under this section; and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(c) Except as provided in subsections (e) and (f), in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor within forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board within ten (10) days after it is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

(f) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-12.1-5.7(h) **(repealed)** the person must follow the procedures in IC 6-1.1-12.1-5.7(h) **(repealed)**.

SECTION 32. IC 6-2.5-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. A person is entitled to a refund from the department if:

- (1) a retail merchant erroneously or illegally collects state gross retail or use taxes under this article from the person;
- (2) the retail merchant remits the taxes to the department;
- (3) the retail merchant does not refund the taxes to the person; and
- (4) the person properly applies for the refund under the refund provisions of the gross income tax law contained in IC 6-2.1 **(repealed)**.

SECTION 33. IC 6-3-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) At the election of the taxpayer, there shall be allowed, as a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during such year to institutions of higher education located within Indiana, to any corporation or foundation organized and operated solely for the benefit of any such institution of higher education, or to the associated colleges of Indiana.

(b) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed one hundred dollars (\$100) in the case of a single return or two hundred dollars (\$200) in the case of a joint return.

(c) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed:

- (1) ten percent (10%) of such corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for such year (as determined without regard to any credits against that tax); or
- (2) one thousand dollars (\$1,000);

whichever is less.

(d) For purposes of this section, the term "institution of higher education" means any educational institution located within Indiana:

- (1) which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on;
- (2) which regularly offers education at a level above the twelfth grade;
- (3) which regularly awards either associate, bachelors, masters, or doctoral degrees, or any combination thereof; and
- (4) which is duly accredited by the North Central Association of Colleges and Schools, the Indiana state board of education, or the American Association of Theological Schools.

(e) The credit allowed by this section shall not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(f) Any taxpayer subject to an income tax under the provisions of IC 6-2.1 (**repealed**) as well as under the provisions of IC 6-3-1 through IC 6-3-7 may elect to claim the credit allowed by this section against the income tax imposed by IC 6-2.1 (**repealed**), but in no event shall a credit be claimed against both such taxes.

SECTION 34. IC 6-3-3-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) At the election of the taxpayer, a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, is permitted in an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the aggregate amount of contributions made by the taxpayer during the taxable year to the twenty-first century scholars program support fund established under IC 20-12-70.1-5.

(b) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year may not exceed:

- (1) one hundred dollars (\$100) in the case of a single return; or
- (2) two hundred dollars (\$200) in the case of a joint return.

(c) In the case of a taxpayer that is a corporation, the amount allowable as a credit under this section for any taxable year may not exceed the lesser of the following amounts:

- (1) Ten percent (10%) of the corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for the taxable year (as

determined without regard to any credits against that tax).

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

(d) The credit permitted under this section may not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(e) Any taxpayer subject to an income tax under IC 6-2.1 (**repealed**) as well as under IC 6-3-1 through IC 6-3-7 may elect to claim the credit allowed by this section against the income tax imposed by IC 6-2.1, but may not claim a credit against both of these taxes.

SECTION 35. IC 6-3-3-10, AS AMENDED BY P.L.14-2000, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section:

"Base period wages" means the following:

(1) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(2) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

- (1) has his principal place of residence in the enterprise zone in which he is employed;
- (2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;
- (3) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone; and
- (4) in the case of an individual who is employed by a taxpayer that is a pass through entity, was first employed by the taxpayer after December 31, 1998.

"Qualified increased employment expenditures" means the following:

- (1) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.
- (2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

- (1) IC 6-2.1 (gross income tax) (**repealed**) with respect to enterprise zone gross income;
- (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;
- (3) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and
- (4) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

- (1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or
- (2) one thousand five hundred dollars (\$1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be

applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

- (1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and
- (2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 36. IC 6-3-4-4.1, AS AMENDED BY P.L.192-2002(ss), SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) This section applies to taxable years beginning after December 31, 1993.

(b) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, in applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(c) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(d) Every corporation subject to the adjusted gross income tax liability imposed by ~~IC 6-3~~ **this article** shall be required to report and pay an estimated tax equal to twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(e) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (d) or (g). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax plus utility receipts tax which equal or exceed:

(1) twenty percent (20%) of the final tax liability for such taxable year; or

(2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(f) The provisions of subsection (d) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2 (**repealed**), shall exceed one thousand dollars (\$1,000) for its taxable year.

(g) If the department determines that a corporation's:

(1) estimated quarterly adjusted gross income tax liability for the current year; or

(2) average estimated quarterly adjusted gross income tax liability for the preceding year;

exceeds, before January 1, 1998, twenty thousand dollars (\$20,000), and, after December 31, 1997, ten thousand dollars (\$10,000), after the credit allowed by IC 6-3-3-2 (**repealed**), the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) If a corporation's adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return.

SECTION 37. IC 6-3.1-11-22, AS AMENDED BY P.L.192-2002(ss), SECTION 102, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) A credit to which a taxpayer is entitled under this chapter shall be applied against taxes owed by the taxpayer in the following order:

(1) Against the taxpayer's adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for the taxable year. ~~liability~~

(2) Against the taxpayer's insurance premiums tax liability

(IC 27-1-18-2) for the taxable year.

(3) Against the taxpayer's financial institutions tax (IC 6-5.5) for the taxable year.

(b) Whenever the tax paid by the taxpayer under any of the tax provisions listed in subsection (a) is a credit against the liability or a deduction in determining the tax base under another Indiana tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under this chapter.

SECTION 38. IC 6-3.1-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The credit provided under section 7 of this chapter is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under IC 6-2.1 (**repealed**), IC 6-3, this article, or IC 6-5.5. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same qualified expenditure.

SECTION 39. IC 6-3.5-1.1-2.9, AS ADDED BY P.L.178-2002, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.9. (a) This section applies to a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000).

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

- (1) finance, construct, acquire, improve, renovate, remodel, or equip the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs; and
- (2) repay bonds issued or leases entered into for constructing, acquiring, improving, renovating, remodeling, and equipping the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.

(c) In addition to the rates permitted by section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of:

- (1) fifteen-hundredths percent (0.15%);
- (2) two-tenths percent (0.2%); or
- (3) twenty-five hundredths percent (0.25%);

on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing on, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty-five (25) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection ~~(b)~~: **(c)**. The tax rate may not be imposed at a rate greater than is necessary to pay the costs of financing, acquiring, improving, renovating, remodeling, and equipping the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings, the acquisition of land, and any other reasonably related costs.

(e) The county treasurer shall establish a county jail revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may be used only for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (b).

(g) A county described in subsection (a) possesses unique governmental and economic development challenges due to:

- (1) underemployment in relation to similarly situated counties and the loss of a major manufacturing business;
- (2) an increase in property taxes for taxable years after December 31, 2000, for the construction of a new elementary school; and
- (3) overcrowding of the county jail, the costs associated with

housing the county's inmates outside the county, and the potential unavailability of additional housing for inmates outside the county. The use of county adjusted gross income tax revenues as provided in this chapter is necessary for the county to provide adequate jail capacity in the county and to maintain low property tax rates essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, remodeling, and equipping described in subsection (b), rather than the use of property taxes, promotes those purposes.

(h) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

- (1) the redemption of bonds issued; or
- (2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 40. IC 6-3.5-1.1-3.6, AS ADDED BY P.L.178-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.6. (a) This section applies only to a county having a population of more than six thousand (6,000) but less than eight thousand (8,000).

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

- (1) finance, construct, acquire, improve, renovate, or equip the county courthouse; and
- (2) repay bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, and equipping the county courthouse.

(c) In addition to the rates permitted under section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing on, acquisition, improvement, renovation, and equipping described in subsection (b) is completed or the date on

which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty-two (22) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection ~~(b)~~: **(c)**. The tax rate may not be imposed for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping the county courthouse.

(e) The county treasurer shall establish a county jail revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before a certified distribution is made under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (b).

(g) A county described in subsection (a) possesses unique economic development challenges due to:

- (1) the county's heavy agricultural base;
- (2) the presence of a large amount of state owned property in the county that is exempt from property taxation; and
- (3) recent obligations of the school corporation in the county that have already increased property taxes in the county and imposed additional property tax burdens on the county's agricultural base.

Maintaining low property tax rates is essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b), rather than the use of property taxes, promotes that purpose.

(h) Notwithstanding any other law, funds accumulated from the

county adjusted gross income tax imposed under this section after:

- (1) the redemption of the bonds issued; or
- (2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 41. IC 6-3.5-1.1-10, AS AMENDED BY P.L.157-2002, SECTION 2, AND AS AMENDED BY P.L.178-2002, SECTION 57, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) *Except as provided in subsection (b), one-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.*

(b) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 9 of this chapter, the initial certified distribution certified for a county under section 9 of this chapter shall be distributed to the county treasurer from the account established for the county under section 8 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

- (1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.*
- (2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.*
- (3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.*
- (4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.*

Notwithstanding section 11 of this chapter, the part of the certified distribution received under subdivision (1) that would otherwise be allocated to a civil taxing unit or school corporation as property tax replacement credits under section 11 of this chapter shall be set aside and treated for the calendar year when received by the civil taxing unit

or school corporation as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

~~(b)~~ (c) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(3) revenue that must be used to pay the costs of construction, improvement, ~~or~~ renovation, or remodeling of a jail and related buildings and parking structures under section 2.7 or 2.9 of this chapter; ~~or~~

~~(3)~~ (4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

distributions made to a county treasurer under ~~subsection~~ subsections (a) and (b) shall be treated as though they were property taxes that were due and payable during that same calendar year. *Except as provided by subsection (b), the certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.*

~~(c)~~ (d) All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 42. IC 6-3.5-6-17, AS AMENDED BY P.L.178-2002, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) ~~Except as provided in section 2.5 of this chapter,~~ Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be

distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the state budget agency, estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding calendar year and ending June 30 of the ensuing calendar year.

(b) Before June 16 of each calendar year, the department, after reviewing the recommendation of the state budget agency, shall estimate and certify to the county auditor of each adopting county the amount of county option income tax revenue that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified may be adjusted under subsection (c) or (d).

(c) The department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 16 of this chapter.

(d) The department may certify an amount less than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year.

(e) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(f) ~~Except as provided in section 2.5 of this chapter,~~ Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(g) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 43. IC 6-3.5-6-17.6, AS AMENDED BY P.L.120-2002, SECTION 3, AND AS AMENDED BY P.L.178-2002, SECTION 66, IS AND CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.6. (a) This section applies to a county containing a consolidated city.

(b) On or before July ~~15~~ 2 of each year, the budget agency shall make the following calculation:

STEP ONE: Determine the cumulative balance in a county's account established under section 16 of this chapter as of the end of the current calendar year.

STEP TWO: Divide the amount estimated under section 17(b) of this chapter before any adjustments are made under section 17(c) or 17(d) of this chapter by twelve (12).

STEP THREE: Multiply the STEP TWO amount by three (3).

STEP FOUR: Subtract the amount determined in STEP THREE from the amount determined in STEP ONE.

(c) For 1995, the budget agency shall certify the STEP FOUR amount to the county auditor on or before July 15, 1994. Not later than January 31, 1995, the auditor of state shall distribute the STEP FOUR amount to the county auditor to be used to retire outstanding obligations for a qualified economic development tax project (as defined in IC 36-7-27-9).

(d) After 1995, the STEP FOUR amount shall be distributed to the county auditor in January of the ensuing calendar year. The STEP FOUR amount shall be distributed by the county auditor to the civil taxing units within thirty (30) days after the county auditor receives the distribution. Each civil taxing unit's share equals the STEP FOUR amount multiplied by the quotient of:

(1) the maximum permissible property tax levy under IC 6-1.1-18.5 for the civil taxing unit, plus, for a county, an amount equal to:

(A) the property taxes imposed by the county in 1999 for the county's welfare administration fund; plus

(B) after December 31, ~~2002~~, 2004, the greater of zero (0) or the difference between:

(i) the county hospital care for the indigent property tax levy imposed by the county in ~~2002~~, 2004 adjusted each year after ~~2002~~ 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus

- (ii) the current uninsured parents program property tax levy imposed by the county; divided by
- (2) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 for all civil taxing units of the county, plus an amount equal to:
 - (A) the property taxes imposed by the county in 1999 for the county's welfare administration fund; plus
 - (B) after December 31, ~~2002~~, 2004, the greater of zero (0) or the difference between:
 - (i) the county hospital care for the indigent property tax levy imposed by the county in ~~2002~~, 2004 adjusted each year after ~~2002~~ 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus
 - (ii) the current uninsured parents program property tax levy imposed by the county.

SECTION 44. IC 6-3.5-6-18, AS AMENDED BY P.L.120-2002, SECTION 4, AND AS AMENDED BY P.L.90-2002, SECTION 296, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

- (1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;
- (2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);
- (3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;
- (4) make payments permitted under IC 36-7-15.1-17.5;
- (5) make payments permitted under subsection (i); and
- (6) make distributions of distributive shares to the civil taxing units of a county.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net

revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year. The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the total property taxes that are first due and payable to the civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund, and after December 31, ~~2002~~, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in ~~2002~~, 2004, adjusted each year after ~~2002~~ 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county. The denominator of the fraction equals the sum of the total property taxes that are first due and payable to all civil taxing units of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund, and after December 31, ~~2002~~, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in ~~2002~~, 2004, adjusted each year after ~~2002~~ 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.

(f) The *state board of tax commissioners department of local government finance* shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The *state board of tax commissioners department of local government finance* shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 45. IC 6-3.5-7-15, AS AMENDED BY P.L.192-2002(ss), SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The executive of a county, city, or town may, subject to the use of the certified distribution

permitted under sections 25 and 26 of this chapter:

- (1) adopt a capital improvement plan specifying the uses of the revenues to be received under this chapter; or
- (2) designate the county or a city or town in the county as the recipient of all or a part of its share of the distribution.

(b) If a designation is made under subsection (a)(2), the county treasurer shall transfer the share or part of the share to the designated unit unless that unit does not have a capital improvement plan.

(c) A county, city, or town that fails to adopt a capital improvement plan may not receive:

- (1) its fractional amount of the certified distribution; or
- (2) any amount designated under subsection ~~(c)(2)~~; **(a)(2)**;

for the year or years in which the unit does not have a plan. The county treasurer shall retain the certified distribution and any designated distribution for such a unit in a separate account until the unit adopts a plan. Interest on the separate account becomes part of the account. If a unit fails to adopt a plan for a period of three (3) years, then the balance in the separate account shall be distributed to the other units in the county based on property taxes first due and payable to the units during the calendar year in which the three (3) year period expires.

(d) A capital improvement plan must include the following components:

- (1) Identification and general description of each project that would be funded by the county economic development income tax.
- (2) The estimated total cost of the project.
- (3) Identification of all sources of funds expected to be used for each project.
- (4) The planning, development, and construction schedule of each project.

(e) A capital improvement plan:

- (1) must encompass a period of no less than two (2) years; and
- (2) must incorporate projects the cost of which is at least seventy-five percent (75%) of the fractional amount certified distribution expected to be received by the county, city, or town in that period of time.

(f) In making a designation under subsection (a)(2), the executive must specify the purpose and duration of the designation. If the designation is made to provide for the payment of lease rentals or bond

payments, the executive may specify that the designation and its duration are irrevocable.

SECTION 46. IC 6-3.5-7-26, AS ADDED BY P.L.192-2002(ss), SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) This section applies only to homestead credits for property taxes first due and payable after calendar year 2006.

(b) For purposes of this section, "adopting entity" means: ~~the entity that:~~

- (1) **the entity that** adopts an ordinance under IC 6-1.1-12-41(f); or
- (2) any other entity that may impose a county economic development income tax under section 5 of this chapter.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

- (1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and
- (2) must specify that the certified distribution must be used for the purpose provided in subsection (e).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

- (1) retained by the county auditor under subsection (g); and
- (2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of

this chapter to increase the percentage of the homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42. The county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
- (2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
- (3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

(f) The increased percentage of homestead credit determined by the county auditor under subsection (e) applies uniformly in the county in the calendar year for which the increased percentage is determined.

(g) The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

SECTION 47. IC 6-5.5-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Notwithstanding any other provision of this article, there is no tax imposed on the adjusted gross income or apportioned income of the following:

- (1) Insurance companies subject to the tax under IC 27-1-18-2 or IC 6-2.1 (**repealed**).
- (2) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System).
- (3) Any corporation that is exempt from income tax under Section 1363 of the Internal Revenue Code.
- (4) Any corporation exempt from federal income taxation under the Internal Revenue Code, except for the corporation's unrelated business income. However, this exemption does not apply to a

corporation exempt from federal income taxation under Section 501(c)(14) of the Internal Revenue Code.

SECTION 48. IC 6-5.5-9-3, AS AMENDED BY P.L.192-2002(ss), SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. If the tax imposed by this article is held inapplicable or invalid with respect to a taxpayer, then notwithstanding the statute of limitations set forth in IC 6-8.1-5-2(a), the taxpayer is liable for the taxes imposed ~~by~~ for the taxable periods with respect to which the tax under this article is held inapplicable or invalid.

SECTION 49. IC 8-10-5-8.5, AS AMENDED BY P.L.170-2002, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. Port authorities created in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), shall have all the powers of port authorities provided under ~~IC 8-10-5-8~~ **section 8 of this chapter** except the power to exercise eminent domain as provided in section 8(8) of this chapter in any city having a population of:

- (1) more than seventy-five thousand (75,000) but less than ninety thousand (90,000); or
- (2) more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

SECTION 50. IC 9-21-1-2 AS AMENDED BY P.L.128-2002, SECTION 1, AND AS AMENDED BY P.L.143-2002, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) *Except as provided in section 3.5 of this chapter*, a local authority may adopt by ordinance additional traffic regulations with respect to ~~streets, and~~ highways under the authority's jurisdiction. An ordinance adopted under this subsection may not conflict with or duplicate a statute.

(b) *After a request has been made at a public meeting or by certified mail to the legislative body (as defined in IC 36-1-2-9) from the property owner, a local authority may adopt by ordinance additional traffic regulations with respect to a private road within the authority's jurisdiction. The ordinance:*

- (1) *must require a contractual agreement between the local authority and property owner of the private road setting forth the terms and responsibilities of the additional traffic regulations;*

(2) *must require the contractual agreement required under subdivision (1) to be recorded after passage of the ordinance in the office of the recorder of the county in which the private road is located; and*

(3) *may not conflict with or duplicate state law.*

(c) A fine assessed for a violation of a traffic ordinance adopted by a local authority may be deposited into the general fund of the appropriate political subdivision.

SECTION 51. IC 9-23-3-0.5, AS ADDED BY P.L.78-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. As used in this chapter, "uniform time standards manual", for purposes of ~~IC 9-23-3-14(c)~~, **section 14(c) of this chapter**, means a schedule established by a manufacturer or distributor setting forth the time allowances for the diagnosis and performance of warranty work and service.

SECTION 52. IC 12-10-6-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001 (RETROACTIVE)]: **Sec. 2.1. (a) An individual who is incapable of residing in the individual's own home may apply for residential care assistance under this section. The determination of eligibility for residential care assistance is the responsibility of the division. Except as provided in subsections (g) and (i), an individual is eligible for residential care assistance if the division determines that the individual:**

(1) is a recipient of Medicaid or the federal Supplemental Security Income program;

(2) is incapable of residing in the individual's own home because of dementia, mental illness, or a physical disability;

(3) requires a degree of care less than that provided by a health care facility licensed under IC 16-28; and

(4) can be adequately cared for in a residential care setting.

(b) Individuals suffering from mental retardation may not be admitted to a home or facility that provides residential care under this section.

(c) A service coordinator employed by the division may:

(1) evaluate a person seeking admission to a home or facility under subsection (a); or

(2) evaluate a person who has been admitted to a home or

facility under subsection (a), including a review of the existing evaluations in the person's record at the home or facility.

If the service coordinator determines the person evaluated under this subsection is mentally retarded, the service coordinator may recommend an alternative placement for the person.

(d) Except as provided in section 5 of this chapter, residential care consists of only room, board, and laundry, along with minimal administrative direction. State financial assistance may be provided for such care in a boarding or residential home of the applicant's choosing that is licensed under IC 16-28 or a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., that meets certain life safety standards considered necessary by the state fire marshal. Payment for such care shall be made to the provider of the care according to division directives and supervision. The amount of nonmedical assistance to be paid on behalf of a recipient living in a boarding home, residential home, or Christian Science facility shall be based on the daily rate established by the division. The rate for facilities that are referred to in this section and licensed under IC 16-28 may not exceed an upper rate limit established by a rule adopted by the division. The recipient may retain from the recipient's income a monthly personal allowance of fifty-two dollars (\$52). This amount is exempt from income eligibility consideration by the division and may be exclusively used by the recipient for the recipient's personal needs. However, if the recipient's income is less than the amount of the personal allowance, the division shall pay to the recipient the difference between the amount of the personal allowance and the recipient's income. A reserve or an accumulated balance from such a source, together with other sources, may not be allowed to exceed the state's resource allowance allowed for adults eligible for state supplemental assistance or Medicaid as established by the rules of the office of Medicaid policy and planning.

(e) In addition to the amount that may be retained as a personal allowance under this section, an individual shall be allowed to retain an amount equal to the individual's state and local income tax liability. The amount that may be retained during a month may not exceed one-third (1/3) of the individual's state and local income tax liability for the calendar quarter in which that month occurs.

This amount is exempt from income eligibility consideration by the division. The amount retained shall be used by the individual to pay any state or local income taxes owed.

(f) In addition to the amounts that may be retained under subsections (d) and (e), an eligible individual may retain a Holocaust victim's settlement payment. The payment is exempt from income eligibility consideration by the division.

(g) The rate of payment to the provider shall be determined in accordance with a prospective prenegotiated payment rate predicated on a reasonable cost related basis, with a growth of profit factor, as determined in accordance with generally accepted accounting principles and methods, and written standards and criteria, as established by the division. The division shall establish an administrative appeal procedure to be followed if rate disagreement occurs if the provider can demonstrate to the division the necessity of costs in excess of the allowed or authorized fee for the specific boarding or residential home. The amount may not exceed the maximum established under subsection (d).

(h) The personal allowance for one (1) month for an individual described in subsection (a) is the amount that an individual would be entitled to retain under subsection (d) plus an amount equal to one-half (1/2) of the remainder of:

(1) gross earned income for that month; minus

(2) the sum of:

(A) sixteen dollars (\$16); plus

(B) the amount withheld from the person's paycheck for that month for payment of state income tax, federal income tax, and the tax prescribed by the federal Insurance Contribution Act (26 U.S.C. 3101 et seq.); plus

(C) transportation expenses for that month; plus

(D) any mandatory expenses required by the employer as a condition of employment.

(i) An individual who, before September 1, 1983, has been admitted to a home or facility that provides residential care under this section is eligible for residential care in the home or facility.

(j) The director of the division may contract with the division of mental health and addiction or the division of disability, aging, and rehabilitative services to purchase services for individuals suffering from mental illness or a developmental disability by providing

money to supplement the appropriation for community residential care programs established under IC 12-22-2 or community residential programs established under IC 12-11-1.1-1.

(k) A person with a mental illness may not be placed in a Christian Science facility listed and certified by the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc., unless the facility is licensed under IC 16-28.

SECTION 53. IC 12-13-8-4, AS AMENDED BY P.L.90-2002, SECTION 339, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. For taxes first due and payable in 1990, each county shall impose a medical assistance property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were incurred by the county as determined by the state board of accounts for all medical care, including psychiatric care and institutional psychiatric care, for wards of the county office (described in IC 12-15-2-16) that was provided in 1986, 1987, and 1988.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of:

- (A) the amount of bank taxes (IC 6-5-10) **(repealed)**;
- (B) the amount of savings and loan association taxes (IC 6-5-11) **(repealed)**;
- (C) the amount of production credit association taxes (IC 6-5-12); plus
- (D) the amount of motor vehicle excise taxes (IC 6-6-5);

that were allocated to the county welfare fund and used to pay for the medical care for wards provided in 1986, 1987, and 1988.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Adjust the amount determined in STEP THREE by the amount determined by the department of local government finance under section 6 of this chapter.

STEP FIVE: Multiply the amount determined in STEP FOUR by the greater of:

- (A) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and

payable in 1990; or

(B) the statewide average assessed value growth quotient using the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for property taxes first due and payable in 1990.

STEP SIX: Multiply the amount determined in STEP FIVE by the statewide average assessed value growth quotient, using all the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for the year in which the tax levy under this section will be first due and payable.

SECTION 54. IC 12-15-9-0.6, AS ADDED BY P.L.178-2002, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.6. (a) The office's claim against assets that are not included in the individual's probate estate may be enforced as set out in ~~IC 32-4-1-1~~. **IC 32-17-13.**

(b) Enforcement of a claim against assets that are not included in an individual's probate estate must be commenced not more than nine (9) months after the decedent's death. This limit does not apply to any assets that were not reported to the local office of the division of family and children.

SECTION 55. IC 12-15-12-14, AS AMENDED BY P.L.107-2002, SECTION 11, AND AS AMENDED BY P.L.170-2002, SECTION 81, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section applies to a Medicaid recipient: ~~who~~:

(1) *who* is determined by the office to be eligible for enrollment in a Medicaid managed care program; ~~and~~

(2) *whose Medicaid eligibility is not based on the individual's aged, blind, or disabled status; and*

(3) *who* resides in a county having a population of:

(A) more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000);

(B) more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000);

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

(D) more than three hundred thousand (300,000) but less than four hundred thousand (400,000); or

(E) more than four hundred thousand (400,000) but less than

seven hundred thousand (700,000).

(b) Not later than January 1, 2003, the office shall require a recipient described in subsection (a) to enroll in the risk-based managed care program.

(c) The office:

(1) shall apply to the United States Department of Health and Human Services for any approval necessary; and

(2) may adopt rules under IC 4-22-2;

to implement this section.

SECTION 56. IC 12-15-15-1.1, AS AMENDED BY P.L.66-2002, SECTION 5, AND AS AMENDED BY P.L.120-2002, SECTION 13, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.1. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, *IC 16-22-8*, or IC 16-23.

(b) For a state fiscal year ending after June 30, 2000, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate *inpatient hospital* services, ~~reimbursed~~ *reimbursable* under this article *and under the state Medicaid plan, that were provided during the state fiscal year* by hospitals established and operated under IC 16-22-2, IC 16-22-8, and IC 16-23.

STEP TWO: For the aggregate *inpatient hospital* services identified under STEP ONE, the office shall calculate the aggregate payments made under this article *and under the state Medicaid plan* to hospitals established and operated under IC 16-22-2, IC 16-22-8, and IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate an amount equal to ~~one~~ *a percentage hundred fifty percent (150%)* of a reasonable estimate of the amount that would have been paid in the aggregate by the office for *the inpatient hospital* services described in STEP ONE under Medicare payment principles. *The office shall apply in this STEP the maximum percentage permitted for the state under federal Medicaid law.*

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: From the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount equal to one hundred percent (100%) of the difference between:

(A) the aggregate payments for covered services made under this article to the hospital during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19; and

(B) a reasonable estimate of the amount that would have been paid for the services described in clause (A) under Medicare payment principles:

The actual distribution of the amount calculated under this STEP to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under this STEP is not a condition precedent to the tender of payments to hospitals under STEP SEVEN.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

*STEP SEVEN: FIVE: Distribute an amount equal to the amount calculated under STEP SIX FOUR to the eligible hospitals described in subsection (c) in proportion to each hospital's *hospital specific limit under 42 Medicaid shortfall as defined in subsection (f). U.S.C. 1396r-4(g), as determined by the office;**

(c) Subject to subsection (e), reimbursement for a state fiscal year under this section consists of a single payment made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, 2000; 2001, shall be made before December 31 following the state fiscal year's end. *A payment described in this subsection is not due to a hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer is made under subsection (d). hospital unless:*

(1) the hospital is licensed under IC 16-21 and is established and operated under IC 16-22-2 or IC 16-23; and

(2) an intergovernmental transfer is made under subsection (d).

(d) Subject to subsection (e), a hospital may make an

intergovernmental transfer under this subsection, or an intergovernmental transfer may be made on behalf of the hospital, after the close of each state fiscal year. An intergovernmental transfer under this subsection *shall must* be made to the Medicaid indigent care trust fund in *an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under STEP FIVE of subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP FIVE of subsection (b). The office shall use the intergovernmental transfer to fund payments made under this section and as otherwise provided under IC 12-15-20-2(5). an amount equal to eighty-five percent (85%) of the amount to be distributed to the hospital under STEP SEVEN of subsection (b).*

The intergovernmental transfer must be used to fund the state's share of payments under this section; a portion of the state's share of disproportionate share payments under IC 12-15-20-2(2); and a portion of the state's share of funding for the uninsured parents program as provided under IC 12-15-20-2(5).

(e) A hospital making an intergovernmental transfer under subsection (d) may appeal under IC 4-21.5 the amount determined by the office to be paid the hospital under STEP ~~SEVEN FIVE~~ of subsection (b). The periods described in subsections (c) and (d) for the hospital to make an intergovernmental transfer are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under STEP ~~SEVEN FIVE~~ of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP ~~SEVEN FIVE~~ of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based upon estimates and trends calculated by the office.

(f) The office may not implement this section until the federal Centers for Medicare and Medicaid Services has issued its approval of the amended state plan for medical assistance. The office may determine not to continue to implement this section if federal financial

~~participation is not available.~~ For purposes of this section:

(1) a hospital's Medicaid shortfall is calculated as follows:

STEP ONE: The office shall identify the inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the inpatient hospital services identified under *STEP ONE*, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate an amount equal to a percentage of a reasonable estimate of the amount that would have been paid by the office for the inpatient hospital services described in *STEP ONE* under Medicare payment principles. The office shall apply in this *STEP* the maximum percentage permitted for the state under federal Medicaid law; and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in *STEP THREE* of subdivision (1) is greater than the amount calculated in *STEP TWO* of subdivision (1).

~~(g) This subsection applies to the state fiscal year beginning July 1, 2000, and ending June 30, 2001. If federal law will not permit the percentage calculation in *STEP THREE* of subsection (b) to be applied to all services identified in *STEP ONE* of subsection (b) for the state fiscal year, the amount attributable to the excluded services to which the percentage calculation does not apply shall be the maximum amount available without causing the entire amount calculated in *STEP THREE* of subsection (b) to exceed the applicable Medicaid upper payment limit.~~

~~(h) For purposes of *STEP THREE* of subsection (b), if federal law limits the calculation of the Medicaid upper payment limit designated for nonstate government owned or operated hospitals to a percentage less than one hundred fifty percent (150%) of a reasonable estimate of reimbursement under Medicare payment principles, the applicable maximum percentage allowed under federal law will be applied.~~

SECTION 57. IC 12-15-15-9, AS AMENDED BY P.L.1-2002, SECTION 52, AND AS AMENDED BY P.L.120-2002, SECTION 15,

IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Subject to subsections (e), (f), (g), and (h), for each state fiscal year ending June 30, 1998, June 30, 1999, June 30, 2000, June 30, 2001, ~~and~~ June 30, 2002, *June 30, 2003, and June 30, 2004*, a hospital is entitled to a payment under this section.

(b) Subject to subsections (e), (f), (g), and (h), total payments to hospitals under this section for a state fiscal year shall be equal to all amounts transferred from the state hospital care for the indigent fund established under IC 12-16 or IC 12-16.1 for Medicaid current obligations during the state fiscal year, including amounts of the fund appropriated for Medicaid current obligations.

(c) The payment due to a hospital under this section must be based on a policy developed by the office. The policy:

- (1) is not required to provide for equal payments to all hospitals;
- (2) must attempt, to the extent practicable as determined by the office, to establish a payment rate that minimizes the difference between the aggregate amount paid under this section to all hospitals in a county for a state fiscal year and the amount of the county's hospital care for the indigent property tax levy for that state fiscal year; and
- (3) must provide that no hospital will receive a payment under this section less than the amount the hospital received under ~~IC 12-15-15-8~~ *section 8 of this chapter* for the state fiscal year ending June 30, 1997.

(d) Following the transfer of funds under subsection (b), an amount equal to the amount determined in the following STEPS shall be deposited in the Medicaid indigent care trust fund under IC 12-15-20-2(2) and used to fund a portion of the state's share of the disproportionate share payments to providers for the state fiscal year:

STEP ONE: Determine the difference between:

- (A) the amount transferred from the state hospital care for the indigent fund under subsection (b); and
- (B) thirty-five million dollars (\$35,000,000).

STEP TWO: Multiply the amount determined under STEP ONE by the federal medical assistance percentage for the state fiscal year.

(e) If funds are transferred under IC 12-16-14.1-2(e), those funds must be used for the state's share of funding for payments to hospitals

under this subsection. A payment under this subsection shall be made to all hospitals that received a payment under this section for the state fiscal year beginning July 1, ~~2001~~, 2003, and ending June 30, ~~2002~~: 2004. Payments under this subsection shall be in proportion to each hospital's payment under this section for the state fiscal year beginning July 1, ~~2001~~, 2003, and ending June 30, ~~2002~~: 2004.

(f) If the office does not implement an uninsured parents program as provided for in IC 12-17.7 before July 1, ~~2003~~, 2005, and funds are transferred under IC 12-16-14.1-3, a hospital is entitled to a payment under this section for the state fiscal year beginning on July 1, ~~2002~~: 2004. Payments under this subsection shall be made after July 1, ~~2003~~, 2005, but before December 31, ~~2003~~: 2005.

(g) If the office does not implement an uninsured parents program as provided for in IC 12-17.7 before July 1, ~~2003~~, 2005, a hospital is entitled to a payment under this section for state fiscal years ending after June 30, ~~2003~~: 2005.

(h) If funds are transferred under IC 12-17.7-9-2, those funds shall be used for the state's share of payments to hospitals under this subsection. A payment under this subsection shall be made to all hospitals that received a payment under this section for the state fiscal year beginning July 1, ~~2001~~, 2003, and ending June 30, ~~2002~~: 2004. Payments under this subsection shall be in proportion to each hospital's payment under this section for the state fiscal year beginning July 1, ~~2001~~, 2003, and ending June 30, ~~2002~~: 2004.

SECTION 58. IC 12-15-35-35, AS AMENDED BY P.L.6-2002, SECTION 3, AND AS AMENDED BY P.L.107-2002, SECTION 20, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) Before the board develops a program to place a single source drug on prior approval, restrict the drug in its use, or establish a drug monitoring process or program to measure or restrict utilization of single source drugs other than in the SURS program, the board must meet the following conditions:

(1) Make a determination, after considering evidence and credible information provided to the board by the office and the public, that placing a single source drug on prior approval or restricting the drug's use will not:

(A) impede the quality of patient care in the Medicaid program;

or

(B) increase costs in other parts of the Medicaid program, including hospital costs and physician costs.

(2) Meet to review a formulary or a restriction on a single source drug after the office provides at least ~~thirty (30)~~ fifteen (15) days notification to the public that the board will review the formulary or restriction on a single source drug at a particular board meeting. The notification shall contain the following information:

(A) A statement of the date, time, and place at which the board meeting will be convened.

(B) A general description of the subject matter of the board meeting.

(C) An explanation of how a copy of the formulary to be discussed at the meeting may be obtained.

The board shall meet to review the formulary or the restriction on a single source drug at least ~~thirty (30)~~ fifteen (15) days but not more than sixty (60) days after the notification.

(3) Ensure that:

(A) there is access to at least two (2) alternative drugs within each therapeutic classification, if available, on the formulary; and

(B) a process is in place through which a Medicaid recipient has access to medically necessary drugs.

(4) Reconsider the drug's removal from its restricted status or from prior approval not later than six (6) months after the single source drug is placed on prior approval or restricted in its use.

(5) Ensure that the program provides either telephone or FAX approval or denial Monday through Friday, twenty-four (24) hours a day. The office must provide the approval or denial within twenty-four (24) hours after receipt of a prior approval request. The program must provide for the dispensing of at least a seventy-two (72) hour supply of the drug in an emergency situation or on weekends.

(6) Ensure that any prior approval program or restriction on the use of a single source drug is not applied to prevent acceptable medical use for appropriate off-label indications.

(b) The board shall advise the office on the implementation of any program to restrict the use of brand name multisource drugs.

(c) The board shall consider:

- (1) health economic data;
- (2) cost data; and
- (3) the use of formularies in the non-Medicaid markets;

in developing its recommendations to the office.

SECTION 59. IC 14-22-11-3, AS AMENDED BY P.L.86-2002, SECTION 4, AND AS AMENDED BY P.L.176-2002, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) *An applicant for a hunting, trapping, or fishing license must provide the applicant's Social Security number in the space provided on the application for the license. Social Security numbers acquired under this subsection shall be kept confidential and used only to carry out the purposes of the Title IV-D program.*

(b) The director and agents appointed by the director ~~who are as~~ authorized representatives of the department shall issue hunting, trapping, and fishing licenses.

~~(b)~~ (c) The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses.

~~(c)~~ (d) Each hunting, trapping, or fishing license must be in a form prescribed by the director and shall be countersigned by the clerk or agent issuing the license. The director shall furnish the clerks and agents with all necessary blank forms.

(e) *A person who violates the confidentiality requirement of subsection (a) commits a Class A infraction.*

SECTION 60. IC 14-27-7.5-9, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The owner of a high hazard structure shall:

- (1) have a professional engineer licensed under IC 25-31 make a technical inspection of the high hazard structure and prepare or revise the emergency action plan for the structure at least one (1) time every two (2) years;
- (2) submit a report of the inspection in a form approved by the department to the department. The report must include at least the following information:
 - (A) An evaluation of the structure's condition, spillway capacity, operational adequacy, and structural integrity.

(B) A determination of whether deficiencies exist that could lead to the failure of the structure, and recommendations for maintenance, repairs, and alterations to the structure to eliminate deficiencies, including a recommended schedule for necessary upgrades to the structure.

(b) If after an inspection under subsection (a) the licensed professional engineer or ~~licensed professional geologist~~ who conducted the inspection determines that maintenance, repairs, or alterations to a high hazard structure are necessary to remedy deficiencies in the structure, the owner shall perform the recommended maintenance, repairs, or alterations.

(c) The department shall issue a notice of violation under section 11 of this chapter to the owner of a high hazard structure who fails to:

- (1) have the structure inspected under subsection (a);
- (2) perform recommended maintenance, repairs, or alterations to the structure under subsection (b); or
- (3) biennially submit the inspection report prepared under subsection (a).

(d) The department may make a technical inspection of a high hazard structure to ensure compliance with this chapter.

SECTION 61. IC 15-4-13-11, AS ADDED BY P.L.175-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "commissioner" refers to the state seed commissioner designated under IC 15-4-1-2.

(b) A seed contract may not give or be interpreted to give a seed supplier or an agent of a seed supplier the right to enter real property owned or occupied by the farmer to acquire samples of the crop grown from the seed or any other plant growing on the real property unless all of the following apply:

- (1) The seed supplier gives written notice to the farmer and the commissioner of the seed supplier's intent to enter the real property. The notice must be given not later than five (5) business days before the day the seed supplier or the seed supplier's agent enters the real property. The notice must include the following information:

- (A) The date and time of the entry upon the land.
- (B) The purpose for the entry upon the land.

(2) The seed supplier must permit the farmer, the commissioner, or the agents of the farmer or the commissioner to accompany the seed supplier or the seed supplier's agent while samples are taken.

(3) The seed supplier must permit the farmer, the commissioner, or the agents of the farmer or the commissioner to take matching samples or receive split samples of any samples taken by the seed supplier.

(c) The seed supplier must provide reasonable cooperation to the farmer, the commissioner, or the agents of the farmer or the commissioner during the course of activities described in subsection ~~(a)(2)~~ **(b)(2)** and ~~(a)(3)~~: **(b)(3)**.

(d) If the commissioner or an agent of the commissioner accompanies the seed supplier on the real property to take samples under this section, the seed supplier and the farmer shall each pay fifty percent (50%) of the reasonable costs incurred by the commissioner or the commissioner's agent, as determined by the commissioner, in connection with such activities.

(e) In an action on the seed contract between the seed supplier and the farmer, the prevailing party may recover the costs that the prevailing party paid under subsection (d) in addition to any other damages to which the prevailing party is entitled.

(f) A seed supplier may obtain an order from a court with jurisdiction authorizing the seed supplier or the seed supplier's agent to enter real estate owned or occupied by a farmer where seed that is the subject of a seed contract is growing. If the court issues such an order, the order may require that if any samples are taken, matching or split samples must be taken by a person who is independent from the seed supplier.

(g) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 62. IC 16-22-8-43, AS AMENDED BY P.L.192-2002(ss), SECTION 158, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43. (a) The board may issue general obligation bonds of the corporation to procure funds to pay the cost of acquiring real property or constructing, enlarging, improving, remodeling, repairing, or equipping buildings and other structures for use as or in connection with hospitals, clinics, health centers, dispensaries, or for administrative purposes. The issuance of the bonds shall be authorized by ordinance of the board providing for the amount,

terms, and tenor of the bonds, for the time and character of notice, and the mode of making the sale. The bonds shall be payable not more than forty (40) years after the date of issuance and shall be executed in the name of the corporation by the chairman of the board and attested by the executive director, who shall affix to each of the bonds the official seal of the corporation. The interest coupons attached to the bonds may be executed by facsimile signature of the chairman of the board.

(b) The executive director shall manage and supervise the preparation, advertisement, and sale of bonds, subject to the provisions of the authorizing ordinance. Before the sale of the bonds, the executive director shall publish notice of the sale in accordance with IC 5-3-1, setting out the time and place where bids will be received, the amount and maturity dates of the issue, the maximum interest rate, and the terms and conditions of sale and delivery of the bonds. The bonds shall be sold to the highest and best bidder. After the bonds have been sold and executed, the executive director shall deliver the bonds to the treasurer of the corporation and take the treasurer's receipt, and shall certify to the treasurer the amount that the purchaser is to pay, together with the name and address of the purchaser. On payment of the purchase price, the treasurer shall deliver the bonds to the purchaser, and the treasurer and executive director shall report the actions to the board.

(c) IC 5-1 and IC 6-1.1-20 apply to the following proceedings:

- (1) Notice and filing of the petition requesting the issuance of the bonds.
- (2) Notice of determination to issue bonds.
- (3) Notice of hearing on the appropriation of the proceeds of the bonds and the right of taxpayers to appeal and be heard.
- (4) Approval by the department of local government finance.
- (5) The right to remonstrate.
- (6) Sale of bonds at public sale for not less than the par value.

(d) The bonds are the direct general obligations of the corporation and are payable out of unlimited ad valorem taxes levied and collected on all the taxable property within the county of the corporation. All officials and bodies having to do with the levying of taxes for the corporation shall see that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for payment.

(e) The bonds are exempt from taxation for all purposes but the

interest is subject to **the** adjusted gross income tax.

SECTION 63. IC 16-41-39.4-4, AS ADDED BY P.L.99-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Notwithstanding IC 16-41-8-1, the state department, the **office of the secretary of** family and social services, ~~administration~~, and local health departments shall share among themselves and with the ~~federal~~ **United States** Department of Health and Human Services information, including a child's name, address, and demographic information, that is gathered after January 1, 1990, concerning the concentration of lead in the blood of a child less than seven (7) years of age to determine the prevalence and distribution of lead poisoning in children less than seven (7) years of age.

(b) Notwithstanding IC 16-41-8-1, the state department, the **office of the secretary of** family and social services, ~~administration~~, and local health departments shall share information described in subsection (a) that is gathered after July 1, 2002, with organizations that administer state and local programs covered by the United States Department of Housing and Urban Development regulations concerning lead-based paint poisoning prevention in certain residential structures under 24 CFR Subpart A, Part 35 to ensure that children potentially affected by lead-based paint and lead hazards are adequately protected from lead poisoning.

(c) A person who shares data under this section is not liable for any damages caused by compliance with this section.

SECTION 64. IC 20-5.5-1-15, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. "Sponsor" means, **for a charter school, one (1) of the following:**

- (1) ~~For a charter school, one (1) of the following:~~ (A) A governing body.
- ~~(B)~~ (2) A state educational institution (as defined in IC 20-12-0.5-1) that offers a four (4) year baccalaureate degree.
- ~~(C)~~ (3) The executive (as defined in IC 36-1-2-5) of a consolidated city.

SECTION 65. IC 20-9.1-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Transportation or Fleet Contracts, Alteration of Routes. The governing body may alter any school bus route at any time. If the altered route is longer than the

route in the original contract, the school bus driver ~~of~~ **or** fleet contractor shall be paid additional compensation for each additional mile or fraction of a mile. The additional compensation shall be based on the average rate per mile in the original contract.

SECTION 66. IC 20-9.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. School Bus Drivers, Physical Fitness Certificate. Every person who is or intends to become a school bus driver shall obtain a certificate that he possesses the physical characteristics required by section ~~†(g)~~ **1(7)** of this chapter. The certificate shall be made by an Indiana physician after the physician has conducted a physical examination of the driver or prospective driver. The physician shall be chosen by the driver or prospective driver who shall pay for the examination.

SECTION 67. IC 20-12-21-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. The executive director may engage personnel, and procure supplies and facilities necessary to carry out the commission's functions under ~~†C 20-12-21~~ **this chapter** and IC 20-12-21.1. The executive director shall, with commission approval, appoint a program director to administer ~~†C 20-12-21~~ **this chapter** and a program director to administer IC 20-12-21.1.

SECTION 68. IC 21-3-1.7-3.1, AS AMENDED BY P.L.85-2002, SECTION 4, AND AS AMENDED BY P.L.178-2002, SECTION 94, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

- (1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:
 - (A) special education grants;
 - (B) vocational education grants;
 - (C) at-risk programs;
 - (D) the enrollment adjustment grant;
 - (E) for 1999 and thereafter, the academic honors diploma award; and
 - (F) for 2001 and thereafter, the primetime distribution;
 plus
- (2) the school corporation's tuition support levy for the year that

precedes the current year before the reductions required under section 5(1) *and* 5(2) ~~and 5(3)~~ of this chapter; plus

(3) distributions received by the school corporation under IC 6-1.1-21.6 for the year that precedes the current year; plus

(4) the school corporation's excise tax revenue for the year that precedes the current year by two (2) years; minus

(5) an amount equal to the reduction in the school corporation's tuition support under subsection (b) or IC 20-10.1-2-1, or both;

plus

(6) *in calendar year 2003, the amount determined for calendar year 2002 under section 8 of this chapter, STEP TWO (C); plus*

(7) *in calendar year 2004, the amount determined for calendar year 2002 under section 8 of this chapter, STEP TWO (D).*

(b) A school corporation's previous year revenue shall be reduced if:

(1) the school corporation's state tuition support for special or vocational education was reduced as a result of a complaint being filed with the department of education after December 31, 1988, because the school program overstated the number of children enrolled in special or vocational education programs; and

(2) the school corporation's previous year revenue has not been reduced under this subsection more than one (1) time because of a given overstatement.

The amount of the reduction equals the amount the school corporation would have received in tuition support for special and vocational education because of the overstatement.

SECTION 69. IC 21-3-1.7-8, AS AMENDED BY P.L.85-2002, SECTION 7, AND AS AMENDED BY P.L.178-2002, SECTION 95, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

(A) For a school corporation not described in clause (B), determine the school corporation's result under STEP FIVE of section 6.7(b) of this chapter for the calendar year.

(B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount under STEP

ONE (A) of section 6.7(b) of this chapter, determine the sum of:

- (i) the school corporation's result under STEP ONE of section 6.7(b) of this chapter for the calendar year; plus
- (ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus
- (iii) the original amount of an excessive tax levy the school corporation imposed as a result of the passage, during the preceding year, of a referendum under IC 6-1.1-19-4.5(c) for taxes first due and payable during the year; plus*
- (iv) (iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.*

STEP TWO: Determine the *remainder of:*

(A) the STEP ONE amount; minus

(B) the sum of:

(i) (A) the school corporation's tuition support levy; plus

(ii) (B) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year;

(C) for the last six (6) months of calendar year 2002, the product of:

(i) the school corporation's assessed valuation for calendar year 2002 divided by one hundred (100); multiplied by

(ii) the lesser of three hundred twenty-eight ten-thousandths (0.0328) or the school corporation's capital projects fund tax rate for calendar year 2002 multiplied by five-tenths (0.5); and

(D) for the first six (6) months of calendar year 2003, the product of:

(i) the school corporation's assessed valuation for calendar year 2002 divided by one hundred (100); multiplied by

(ii) the lesser of three hundred twenty-eight ten-thousandths (0.0328) or the school corporation's capital projects fund tax rate for calendar year 2002 multiplied by five-tenths (0.5).

STEP THREE: Determine the remainder of the STEP ONE amount minus the STEP TWO result.

If the state tuition support determined for a school corporation under this section is negative, the school corporation is not entitled to any state tuition support. In addition, the school corporation's maximum general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount of the negative result.

SECTION 70. IC 22-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Employment" shall not include the following:

(a) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(b) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the board is authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in IC 22-4-19-2 for rules of the board, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or

who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(c) "Agricultural labor" as provided in section ~~2(1)~~ **2(1)(1)** of this chapter shall include only services performed:

(i) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(ii) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subdivision (A), but only if such operators produce more than one-half (1/2) of the commodity with respect to which such service is performed;

(C) the provisions of subdivisions (A) and (B) shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery

to a terminal market for distribution for consumption; or
(v) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(d) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in section 2(m) of this chapter.

(e) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

(f) Service performed by an individual in the employ of child or spouse, and service performed by a child under the age of twenty-one (21) in the employ of a parent.

(g) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for such service is fifty dollars (\$50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this subsection, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

(i) on each of some of twenty-four (24) days during such quarter such individual performs such service for some portion of the day;
or

(ii) such individual was regularly employed (as determined under clause (i)) by such employing unit in the performance of such service during the preceding calendar quarter.

(h) Service performed by an individual in any calendar quarter in the employ of any organization exempt from income tax under Section 501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter if the remuneration for such service is less than fifty dollars (\$50).

(i) Service performed in the employ of a hospital, if such service is

performed by a patient of such hospital.

(j) Service performed in the employ of a school, college, or university if such service is performed:

(i) by a student who is enrolled and is regularly attending classes at such school, college, or university; or

(ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

(A) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and

(B) such employment will not be covered by any program of unemployment insurance.

(k) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(l) Service performed in the employ of a government foreign to the United States of America, including service as a consular or other officer or employee or a nondiplomatic representative.

(m) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that performed in foreign countries by employees of the United States of America or of an instrumentality thereof, and if the board finds that the Secretary of State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such country by employees of the United States and of instrumentalities thereof.

(n) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is

regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four (4) year course in a medical school chartered or approved pursuant to state law.

(o) Service performed by an individual as an insurance agent or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

(p)(A) Service performed by an individual under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(B) Services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(q) Service performed in the employ of an international organization.

(r) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election.

(s) If the service performed during one-half (1/2) or more of any pay period by an individual for an employing unit constitutes employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by such an individual do not constitute employment, then none of the services of such individual for such period shall be deemed to be employment. As used in this subsection, "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This subsection shall not be applicable with respect to services performed in a pay period by any such individual where any such service is excepted by subsection (b).

(t) Service performed by an inmate of a custodial or penal institution.

(u) Service performed as a precinct election officer (as defined in IC 3-5-2-40.1).

SECTION 71. IC 22-12-6-6, AS AMENDED BY P.L.119-2002, SECTION 6, AND AS AMENDED BY P.L.123-2002, SECTION 26, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The commission may adopt rules under IC 4-22-2 setting a fee schedule for the following:

- (1) Fireworks display permits issued under IC 22-11-14-2.
- (2) Explosives magazine permits issued under ~~IC 22-14-4~~ IC 35-47.5-4.
- (3) Design releases issued under IC 22-15-3.
- (4) Certification of industrialized building systems and mobile structures under IC 22-15-4.
- (5) Inspection of regulated amusement devices under IC 22-15-7.
- (6) Application fees for variance requests under IC 22-13-2-11 and inspection fees for exemptions under IC 22-13-4-5.
- (7) *Permitting and inspection of regulated lifting devices under IC 22-15-5.*
- (8) *Permitting and inspection of regulated boiler and pressure vessels under IC 22-15-6.*
- (9) *Licensing of:*
 - (A) *boiler and pressure vessel inspectors under IC 22-15-6-5; and*
 - (B) *an owner or user boiler and pressure vessel inspection agency under IC 22-15-6-6.*
- (10) *Licensing of elevator contractors, elevator inspectors, and elevator mechanics under IC 22-15-5-6 through IC 22-15-5-16.*

(b) Fee schedules set under this section must be sufficient to pay all of the costs, direct and indirect, that are payable from the fund into which the fee must be deposited, after deducting other money deposited in the fund. In setting these fee schedules, the commission may consider differences in the degree or complexity of the activity being performed for each fee.

(c) The fee schedule set for design releases issued under subsection (a)(3) may not be changed more than one (1) time each year. The commission may include in this fee schedule a fee for the review of plans and specifications and, if a political subdivision does not have a

program to periodically inspect the construction covered by the design release, a fee for inspecting the construction.

(d) The fee schedule set under subsection (a) for design releases may provide that a portion of the fees collected shall be deposited in the statewide fire and building safety education fund established under section 3 of this chapter.

SECTION 72. IC 22-15-5-8, AS ADDED BY P.L.119-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) An applicant for an initial elevator contractor license must do the following:

- (1) Submit to the department an application on the form that the department provides.
- (2) Submit to the department any proof of eligibility the department requires.
- (3) Demonstrate proof of insurance as required by section 14 of this chapter.
- (4) Demonstrate proof of worker's compensation coverage under IC 22-3-2-5.
- (5) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application or applies to take the examination.
- (6) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(b) An applicant for a renewal elevator contractor license must do the following:

- (1) Submit an application on the form that the department provides.
- (2) Submit proof of completion of the continuing education required by section ~~12~~ **15** of this chapter.
- (3) Demonstrate proof of insurance as required by section 14 of this chapter.
- (4) Demonstrate proof of worker's compensation coverage under IC 22-3-2-5.
- (5) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.
- (6) Affirm under penalty of perjury that all information provided

to the department is true to the best of the applicant's knowledge and belief.

SECTION 73. IC 23-2-2.5-14, AS AMENDED BY P.L.30-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The commissioner may, without a hearing, issue a stop order denying the effectiveness of or suspending or revoking the effectiveness of a registration if the commissioner finds that the issuance of the order is in the public interest and also finds that:

- (1) there has been a failure to comply with this chapter or the rules or orders of the commissioner pertaining to this chapter;
- (2) the offer or sale of the franchise would constitute misrepresentation to, or deceit or fraud on, the purchasers or offerees;
- (3) the franchisor has failed to comply with any rule promulgated or order issued pursuant to section 12 of this chapter; or
- (4) the franchisor, or the franchisor's predecessor, or any of the franchisor's directors, trustees, general partners, chief executives, financial officers, accounting officers, franchise sales officers, or other principal officers, or, if the franchisor is a limited liability company, any member or manager of the franchisor:

(A) during the ten (10) year period immediately preceding the date of registration, has:

- (i) been convicted of a felony;
- (ii) pleaded nolo contendere to a felony charge; or
- (iii) been held liable in a civil action by final judgment;

if the felony or civil action involved fraud, embezzlement, misappropriation of property, or the violation of any state or federal statute involving the offer or sale of securities or franchises;

(B) is subject to any currently effective order affecting the franchise resulting from a proceeding or pending action brought by any individual or public agency or department;

(C) is a defendant in any pending criminal or material civil proceeding;

(D) during the ten (10) year period immediately preceding the date of registration, has been the defendant against whom a final judgment was entered in any material civil action; or

(E) is the franchisor or a principal executive officer or general partner of the franchisor and has, during the ten (10) year period immediately preceding the date of registration, reorganized due to insolvency or been adjudicated as a bankrupt.

(b) An order issued under this section based on a finding by the commissioner under subsection (a)(4)(A) must include a description of the charge, violation, or judgment referred to in subsection (a)(4)(A). An order issued under this section based on a finding by the commissioner under subsection (a)(4)(B) must include a copy of the order referred to in subsection (a)(4)(B). An order issued under this section based on a finding by the commissioner under subsection (a)(4)(D) must include a description of the judgment referred to in subsection (a)(4)(D). An order issued under this section based on a finding by the commissioner under subsection (a)(4)(E) must include a description of the insolvency or adjudication referred to in subsection (a)(4)(E).

(c) Before issuing a stop order under subsection (a)(4), such an order must be based on a finding by the commissioner that involvement of **such person(s) a person referred to in subsection (a)(4)** creates an unreasonable risk to prospective franchisees.

SECTION 74. IC 25-5.2-1-2, AS ADDED BY P.L.54-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The following definitions apply throughout this article:

(1) "Agency contract" means an agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the student athlete a professional sports services contract or an endorsement contract.

(2) "Applicant" means an individual who applies for a certificate of registration as an athlete agent under this article.

(3) "Athlete agent" means an individual who enters into an agency contract with a student athlete or, directly or indirectly, recruits or solicits a student athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

- (4) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.
- (5) "Contact" means a communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract.
- (6) "Endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the student athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance. The term includes the value of any part of the student athlete's right of publicity (as defined in ~~IC 32-13-1-7~~; **IC 32-36-1-7**).
- (7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics.
- (8) "Person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a government, a governmental subdivision, an agency, or an instrumentality, a public corporation, or any other legal or commercial entity.
- (9) "Professional sports services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.
- (10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (11) "Registration" means registration as an athlete agent under this article.
- (12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(13) "Student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport.

SECTION 75. IC 25-23.2-3-5, AS ADDED BY P.L.181-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A nurse who is licensed in a party state and who obtains employment as a nurse in Indiana shall file a multistate licensure privilege form with the health professions bureau and pay the fee established by the **licensing** board. Before commencing employment the nurse shall obtain approval from the **licensing** board.

(b) Each registered nurse and each licensed practical nurse who holds a multistate licensure privilege in Indiana shall notify the **licensing** board of a change of address within thirty (30) days after the change.

(c) Notification of multistate licensure privilege as a registered nurse expires on October 31 in each odd-numbered year. Failure to update the notification of multistate licensure privilege on or before the expiration date automatically renders the multistate licensure privilege invalid without any action by the **licensing** board.

(d) Notification of multistate licensure privilege to practice as a licensed practical nurse expires October 31 in each even-numbered year. Failure to update the notification of multistate licensure privilege on or before the expiration date automatically renders the multistate licensure privilege invalid without any action by the **licensing** board.

(e) Multistate licensure privileges invalidated under this section may not be reinstated.

(f) A nurse whose privileges have been invalidated under this section may obtain new multistate licensure privileges by complying with subsection (a).

(g) The procedures and fee for updating the multistate licensure privilege shall be set by the **licensing** board.

(h) At the time of updating the notification of multistate licensure privilege, each registered nurse and each licensed practical nurse shall pay the fee for updating the multistate licensure privilege.

(i) Sixteen percent (16%) of the amount of fees collected under this section shall be deposited in the impaired nurses account of the state general fund established by IC 25-23-1-34.

SECTION 76. IC 25-26-13-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) The board shall establish appropriate fees to carry out this chapter.

(b) All fees are nonrefundable. A receipt shall be issued for all fees and fines submitted.

(c) All fees collected under this section and, **except as provided in IC 25-23-1-34(b)(4)**, all fines collected under IC 25-1-9 shall be transferred to the treasurer of state and deposited in the general fund of the state.

(d) The board may adopt rules that provide that at the time of license renewal, each licensed pharmacist pay an additional fee not to exceed ten dollars (\$10). The amounts collected under this subsection shall be deposited in the impaired pharmacists account established under section 30 of this chapter.

SECTION 77. IC 31-34-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A law enforcement officer may take a person into custody if the law enforcement officer has probable cause to believe that the person is the alleged perpetrator of an act against a child who the law enforcement officer believes to be a child in need of services as a result of the alleged perpetrator's act. The law enforcement officer may take the alleged perpetrator into custody under this section only for the purpose of removing the alleged perpetrator from the residence where the child believed to be in need of services resides.

(b) The law enforcement officer shall immediately contact the attorney for the county department or another authorized person for the purpose of initiating a protective order under ~~IC 31-34-17~~ **IC 31-34-25** that will require the alleged perpetrator to refrain from having direct or indirect contact with the child.

SECTION 78. IC 31-34-21-5.6, AS AMENDED BY P.L.217-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of services proceeding.

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in

need of services has been convicted of:

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a victim who is:

- (i) a child described in IC 31-35-3-4(2); or
- (ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in need of services:

(A) has been convicted of:

- (i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or
- (ii) a comparable offense described in item (i) in any other state, territory, or country; or

(B) has been convicted of:

- (i) aiding, inducing, or causing another person;
- (ii) attempting; or
- (iii) conspiring with another person;

to commit an offense described in clause (A).

(3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

- (A) battery (IC 35-42-2-1(a)(5)) as a Class A felony;
- (B) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
- (C) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
- (D) aggravated battery (IC 35-42-2-1.5);
- (E) criminal recklessness (~~IC 35-42-2-2(c)~~) (**IC 35-42-2-2**) as a Class C felony;
- (F) neglect of a dependent (IC 35-46-1-4) as a Class B felony; or
- (G) a comparable offense described in clauses (A) through (F) in another state, territory, or country;

against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

- (A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);

(B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or

(C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

(5) The child is an abandoned infant, provided that the court:

(A) has appointed a guardian ad litem or court appointed special advocate for the child; and

(B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

SECTION 79. IC 31-37-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter, the juvenile court may:

(1) enter any dispositional decree specified in section 5 of this chapter; and

(2) take any of the following actions:

(A) Award wardship to:

(i) the department of correction for housing in a correctional facility for children; or

(ii) a community based correctional facility for children.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (**before its repeal**) or **IC 34-26-5** to refrain from direct or indirect contact with the child.

SECTION 80. IC 32-18-1-22, AS ADDED BY P.L.2-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (~~a~~) A surviving partner of a firm doing business in Indiana has full power to make assignments under this chapter.

SECTION 81. IC 32-21-4-1, AS ADDED BY P.L.2-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~A: (1) conveyance or mortgage of land or of any interest in land; and (2) a lease for more than three (3) years; The following~~ must be recorded in the recorder's office of the county where the land is situated:

(1) A conveyance or mortgage of land or of any interest in land.

(2) A lease for more than three (3) years.

(b) A conveyance, mortgage, or lease takes priority according to the time of its filing. The conveyance, mortgage, or lease is fraudulent and void as against any subsequent purchaser, lessee, or mortgagee in good faith and for a valuable consideration if the purchaser's, lessee's, or mortgagee's deed, mortgage, or lease is first recorded.

SECTION 82. IC 32-21-4-3, AS ADDED BY P.L.2-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON

PASSAGE]: Sec. 3. (a) This section applies when **a deed**:

- (1) ~~a deed~~ purports to contain an absolute conveyance of any estate in land; and
- (2) is made or intended to be made defeasible by: ~~a~~
 - (A) **a deed of defeasance**;
 - (B) **a bond**; or
 - (C) ~~other~~ **another** instrument.

(b) The original conveyance is not defeated or affected against any person other than:

- (1) the maker of the defeasance;
- (2) the heirs or devisees of the maker of the defeasance; or
- (3) persons having actual notice of the defeasance;

unless the instrument of defeasance is recorded in the manner provided by law within ninety (90) days after the date of the deed.

SECTION 83. IC 32-21-5-7, AS ADDED BY P.L.2-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

- (1) Disclosure by the owner of the known condition of the following: ~~areas~~:
 - (A) The foundation.
 - (B) The mechanical systems.
 - (C) The roof.
 - (D) The structure.
 - (E) The water and sewer systems.
 - (F) **Additions that may require improvements to the sewage disposal system.**
 - (G) Other areas that the Indiana real estate commission determines are appropriate.

(2) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

(3) A notice to the prospective buyer that contains substantially the

following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner."

(4) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

SECTION 84. IC 32-25-4-3, AS ADDED BY P.L.2-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Each condominium unit owner is entitled to an undivided interest in the common areas and facilities as designated in the declaration. Except as provided in subsection (b), the undivided interest must be expressed as a percentage interest based on:

- (1) the size of the unit in relation to the size of all units in the condominium;
- (2) the value of each condominium unit in relation to the value of all condominium units in the condominium; or
- (3) the assignment of an equal percentage undivided interest to each condominium unit.

An undivided interest allocated to each condominium unit in accordance with this subsection must be indicated in a schedule of undivided interests in the declaration. However, if the declaration does not specify the method of allocating the percentage undivided interests, an equal percentage undivided interest applies to each condominium unit. The total undivided interests allocated in accordance with subdivision (1) or (2) must equal one hundred percent (100%).

(b) With respect to an expandable condominium, the declaration may allocate undivided interests in the common area on the basis of value if:

- (1) the declaration prohibits the creation of any condominium units not substantially identical to the condominium units depicted on the recorded plans of the declaration; or
- (2) the declaration:
 - (A) prohibits the creation of any condominium units not

described in the initial declaration; and

(B) contains a statement on the value to be assigned to each condominium unit created after the date of the declaration.

(c) Interests in the common areas may not be allocated to any condominium units to be created within any additional land until the plats and plans and supplemental declaration depicting the condominium units to be created are recorded. Simultaneously with the recording of the plats and plans for the condominium units to be created, the declarant must execute and record an amendment to the initial declaration reallocating undivided interests in the common areas so that the future condominium units depicted on the plats and plans will be allocated undivided interests in the common areas on the same basis as the condominium units depicted in the prior recorded plats and plans.

(d) Except as provided in IC 32-25-8-3, the undivided interest of the owner of the condominium unit in the common areas and facilities, as expressed in the declaration, is permanent and may not be altered without the consent of the co-owners. A consent to alteration must be stated in an amended declaration, and the amended declaration must be recorded. The undivided interest may not be transferred, encumbered, disposed of, or separated from the condominium unit to which it appertains, and any purported transfer, encumbrance, or other disposition is void. The undivided interest is considered to be conveyed or encumbered with the condominium unit to which it appertains even though the undivided interest is not expressly mentioned or described in the conveyance or other instrument.

(e) The common areas and facilities shall remain undivided. A condominium unit owner or any other person may bring an action for partition or division of any part of the common areas and facilities if the property has been removed from this chapter as provided in IC 32-25-8-12 and IC 32-25-8-16. Any covenant to the contrary is void.

(f) Each condominium unit owner:

(1) may use the common areas and facilities in accordance with the purpose for which the common areas and facilities were intended; and

(2) may not, in the owner's use of the common areas and facilities, hinder or encroach upon the lawful rights of the other co-owners.

(g) The:

(1) necessary work of:

- (A) maintenance;
- (B) repair; and
- (C) replacement;

of the common areas and facilities; and

(2) ~~the~~ making of any additions or improvements to the common areas and facilities:

may be carried out only as provided in this chapter and in the bylaws.

(h) The association of condominium unit owners has the irrevocable right, to be exercised by the manager or board of directors, to have access to each condominium unit from time to time during reasonable hours as is necessary for:

(1) the maintenance, repair, or replacement of any of the common areas and facilities:

- (A) in the condominium unit; or
- (B) accessible from the condominium unit; or

(2) making emergency repairs in the condominium unit necessary to prevent damage to:

- (A) the common areas and facilities; or
- (B) another condominium unit.

SECTION 85. IC 32-30-5-5, AS ADDED BY P.L.2-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. If:

(1) in the exercise of its authority, a court or judge (+) has ordered the deposit or delivery of money or another thing; and

(2) the order is disobeyed;

the court or the judge, besides punishing the disobedience as contempt, may make an order requiring the sheriff to take the money or thing and deposit it or deliver it in conformity with the direction of the court or judge.

SECTION 86. IC 32-31-1-18, AS ADDED BY P.L.2-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. If a life tenant who has demised any lands dies on or after the day on which rent is due and payable, the executor or administrator of the life tenant's estate may recover from the under tenant the whole rent due. If the life tenant dies before the day on which rent is due:

(1) the executor or administrator of the life tenant's estate may

recover the proportion of rent that accrued before; and

(2) the remainderman may recover the ~~the~~ proportion of rent that accrued after;

the life tenant's death.

SECTION 87. IC 32-33-19-1, AS ADDED BY P.L.2-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Unless otherwise provided in this article, if the debt or obligation, including interest on the debt or obligation, that a lien on personal property secures has been fully paid, lawfully tendered, and discharged, the owner, holder, or custodian of the mortgage shall:

- ~~(A)~~ (1) release;
- ~~(B)~~ (2) discharge; and
- ~~(C)~~ (3) satisfy of record;

the mortgage as provided in IC 32-28-1.

SECTION 88. IC 34-6-2-38, AS AMENDED BY P.L.1-2002, SECTION 142, AS AMENDED BY P.L.151-2002, SECTION 4, AND AS AMENDED BY P.L.178-2002, SECTION 112, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) "Employee" and "public employee", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or formerly acting on behalf of a governmental entity, whether temporarily or permanently or with or without compensation, including members of boards, committees, commissions, authorities, and other instrumentalities of governmental entities, volunteer firefighters (as defined in IC 36-8-12-2), and elected public officials.

(b) The term also includes attorneys at law whether employed by the governmental entity as employees or independent contractors and physicians licensed under IC 25-22.5 and optometrists who provide medical or optical care to confined offenders (as defined in IC 11-8-1) within the course of their employment by or contractual relationship with the department of correction. However, the term does not include:

- (1) an independent contractor (other than an attorney at law, a physician, or an optometrist described in this section);
- (2) an agent or employee of an independent contractor;
- (3) a person appointed by the governor to an honorary advisory or honorary military position; or

(4) a physician licensed under IC 25-22.5 with regard to a claim against the physician for an act or omission occurring or allegedly occurring in the physician's capacity as an employee of a hospital.

(c) A physician licensed under IC 25-22.5 who is an employee of a governmental entity (as defined in ~~IC 34-6-2-49~~) **section 49 of this chapter**) shall be considered a public employee for purposes of ~~IC 34-13-3-3(21)~~. ~~IC 34-13-3-3(20)~~. **IC 34-13-3-3(21)**.

(d) For purposes of IC 34-13-3 and IC 34-13-4, the term includes a person that engages in an act or omission before July 1, 2004, in the person's capacity as:

- (1) a contractor under IC 6-1.1-4-32;*
- (2) an employee acting within the scope of the employee's duties for a contractor under IC 6-1.1-4-32;*
- (3) a subcontractor of the contractor under IC 6-1.1-4-32 that is acting within the scope of the subcontractor's duties; or*
- (4) an employee of a subcontractor described in subdivision (3) that is acting within the scope of the employee's duties.*

SECTION 89. IC 34-6-2-103, AS AMENDED BY P.L.2-2002, SECTION 89, AS AMENDED BY P.L.133-2002, SECTION 48, AND AS AMENDED BY P.L.153-2002, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 103. (a) "Person", for purposes of IC 34-14, has the meaning set forth in IC 34-14-1-13.

~~(b) "Person"; for purposes of IC 34-19-2, has the meaning set forth in IC 35-41-1.~~

~~(c)~~ (b) "Person", for purposes of IC 34-24-4, means:

- (1) an individual;
- (2) a governmental entity;
- (3) a corporation;
- (4) a firm;
- (5) a trust;
- (6) a partnership; or
- (7) an incorporated or unincorporated association that exists under or is authorized by the laws of this state, another state, or a foreign country.

~~(d) (c) "Person", for purposes of IC 34-26-2, includes individuals at least eighteen (18) years of age and emancipated minors. section 44.8 of this chapter, means an adult or a minor.~~

~~(e)~~ (d) "Person", for purposes of IC 34-26-4, has the meaning set forth in IC 35-41-1-22.

~~(f)~~ (e) "Person", for purposes of IC 34-30-5, means any of the following:

- (1) An individual.
- (2) A corporation.
- (3) A partnership.
- (4) An unincorporated association.
- (5) The state (as defined in IC 34-6-2-140).
- (6) A political subdivision (as defined in IC 34-6-2-110).
- (7) Any other entity recognized by law.

~~(g)~~ (f) "Person", for purposes of IC 34-30-6, means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity that:

- (1) has qualifications or experience in:
 - (A) storing, transporting, or handling a hazardous substance or compressed gas;
 - (B) fighting fires;
 - (C) emergency rescue; or
 - (D) first aid care; or
- (2) is otherwise qualified to provide assistance appropriate to remedy or contribute to the remedy of the emergency.

~~(h)~~ (g) "Person", for purposes of IC 34-30-18, includes:

- (1) an individual;
- (2) an incorporated or unincorporated organization or association;
- (3) the state of Indiana;
- (4) a political subdivision (as defined in IC 36-1-2-13);
- (5) an agency of the state or a political subdivision; or
- (6) a group of such persons acting in concert.

~~(i)~~ (h) "Person", for purposes of sections 42, 43, 69, and 95 of this chapter, means an individual, an incorporated or unincorporated organization or association, or a group of such persons acting in concert.

~~(j)~~ (i) "Person", for purposes of IC 34-30-10.5, means the following:

- (1) A political subdivision (as defined in IC 36-1-2-13).
- (2) A volunteer fire department (as defined in IC 36-8-12-2).
- (3) An employee of an entity described in subdivision (1) or (2) who acts within the scope of the employee's responsibilities.

(4) A volunteer firefighter (as defined in IC 36-8-12-2) who is acting for a volunteer fire department.

(5) *After March 31, 2002, a corporation, a limited liability company, a partnership, an unincorporated association, or any other entity recognized by law.*

SECTION 90. IC 34-6-2-130.7, AS AMENDED BY P.L.133-2002, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 130.7. "Respondent", for purposes of ~~section 86.4 of this chapter~~ and IC 34-26-5, means the individual against whom the enforcement of a protection order is sought.

SECTION 91. IC 35-33-8-3.2, AS AMENDED BY P.L.1-2001, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

(1) Require the defendant to:

- (A) execute a bail bond with sufficient solvent sureties;
- (B) deposit cash or securities in an amount equal to the bail;
- (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; **or**
- (D) post a real estate bond.

(2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:

- (A) Fines, costs, fees, and restitution as ordered by the court.
- (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
- (C) In the event of the posting of a real estate bond, the bond

shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.

The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-9-11.5.

(c) For purposes of subsection (b), "disposition" occurs when the

indictment or information is dismissed, or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 92. IC 35-41-1-10.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: **Sec. 10.6. (a) An individual is a "family or household member" of another person if the individual:**

- (1) is a current or former spouse of the other person;**
- (2) is dating or has dated the other person;**
- (3) is or was engaged in a sexual relationship with the other person;**
- (4) is related by blood or adoption to the other person;**
- (5) is or was related by marriage to the other person;**
- (6) has or previously had an established legal relationship:**
 - (A) as a guardian of the other person;**
 - (B) as a ward of the other person;**
 - (C) as a custodian of the other person;**
 - (D) as a foster parent of the other person; or**
 - (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D); or**
- (7) has a child in common with the other person.**

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of one (1) of the persons.

SECTION 93. IC 35-41-1-10.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: **Sec. 10.8. "Food processing facility" means a facility used to prepare or process**

animal, plant, or other food ingredients into food products intended for sale or distribution to the general public for human consumption.

SECTION 94. IC 35-42-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "hazing" means forcing or requiring another person:

- (1) with or without the consent of the other person; and
- (2) as a condition of association with a group or organization;

to perform an act that creates a substantial risk of bodily injury.

(b) A person who recklessly, knowingly, or intentionally performs:

- (1) an act that creates a substantial risk of bodily injury to another person; or
- (2) hazing;

commits criminal recklessness. **Except as provided in subsection (c), criminal recklessness is a Class B misdemeanor.**

(c) However, The offense of criminal recklessness as defined in subsection (b) is:

- (1) a Class A misdemeanor if the conduct includes the use of a vehicle;
- (2) a Class D felony if it is committed while armed with a deadly weapon; or
- (3) a Class C felony if it is committed by shooting a firearm from a vehicle into an inhabited dwelling or other building or place where people are likely to gather.

~~(c)~~ **(d)** A person who recklessly, knowingly, or intentionally:

- (1) inflicts serious bodily injury on another person; or
- (2) performs hazing that results in serious bodily injury to a person;

commits criminal recklessness, a Class D felony. However, the offense is a Class C felony if committed by means of a deadly weapon.

~~(d)~~ **(e)** A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under this section if the violator was an adult, who:

- (1) makes a report of hazing in good faith;
- (2) participates in good faith in a judicial proceeding resulting from a report of hazing;
- (3) employs a reporting or participating person described in subdivision (1) or (2); or
- (4) supervises a reporting or participating person described in

subdivision (1) or (2);
is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.

~~(e)~~ **(f)** A person described in subsection ~~(d)(1)~~ **(e)(1)** or ~~(d)(2)~~ **(e)(2)** is presumed to act in good faith.

~~(f)~~ **(g)** A person described in subsection ~~(d)(1)~~ **(e)(1)** or ~~(d)(2)~~ **(e)(2)** may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:

- (1) an offense under this section; or
- (2) a delinquent act that would be an offense under this section if the offender was an adult.

SECTION 95. IC 35-43-1-2, AS AMENDED BY P.L.108-2002, SECTION 1, AS AMENDED BY P.L.116-2002, SECTION 24, AND AS AMENDED BY P.L.123-2002, SECTION 37, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person who:

- (1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
- (2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

- (A) a Class A misdemeanor if:
 - (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);
 - (ii) the property damaged was a moving motor vehicle;
 - (iii) *the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) and the person is not a sex offender or was not required to register as a sex offender;*
 - (iv) *the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way; or*
 - (v) *the property damaged was a part of any railroad signal system, train control system, centralized dispatching system,*

or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;

~~(v)~~ **(vi)** *the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or*

~~(iv)~~ ~~(v)~~ ~~(vi)~~ **(vii)** *the property damage or defacement was caused by paint or other markings; and*

(B) a Class D felony if:

(i) the pecuniary loss is at least two thousand five hundred dollars (\$2,500);

(ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;

(iii) the damage is to a public record;

(iv) *the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) and the person is a sex offender or was required to register as a sex offender;*

~~(v)~~ *the damage causes substantial interruption or impairment of work conducted in a scientific research facility; or*

~~(v)~~ *(vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or*

~~(vi)~~ **(vii)** *the damage causes substantial interruption or impairment of work conducted in a food processing facility.*

(b) A person who recklessly, knowingly, or intentionally damages:

(1) a structure used for religious worship;

(2) a school or community center;

(3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with;

a structure or facility identified in subdivision (1) or (2); or

(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the

pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

(1) the person has removed or painted over the graffiti or has made other suitable restitution; and

(2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

SECTION 96. IC 35-46-4-1.5, AS ADDED BY P.L.54-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. As used in this chapter, "endorsement contract" means an agreement under which a student athlete is employed or receives consideration to use, on behalf of the other party, any value that the student athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance. The term includes the value of any part of the student athlete's right of publicity (as defined in ~~IC 32-13-1-7~~; **IC 32-36-1-7**).

SECTION 97. IC 35-50-2-9, AS AMENDED BY P.L.117-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing

the victim while committing or attempting to commit any of the following:

- (A) Arson (IC 35-43-1-1).
 - (B) Burglary (IC 35-43-2-1).
 - (C) Child molesting (IC 35-42-4-3).
 - (D) Criminal deviate conduct (IC 35-42-4-2).
 - (E) Kidnapping (IC 35-42-3-2).
 - (F) Rape (IC 35-42-4-1).
 - (G) Robbery (IC 35-42-5-1).
 - (H) Carjacking (IC 35-42-5-2).
 - (I) Criminal gang activity (IC 35-45-9-3).
 - (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- (2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.
- (3) The defendant committed the murder by lying in wait.
- (4) The defendant who committed the murder was hired to kill.
- (5) The defendant committed the murder by hiring another person to kill.
- (6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:
- (A) the victim was acting in the course of duty; or
 - (B) the murder was motivated by an act the victim performed while acting in the course of duty.
- (7) The defendant has been convicted of another murder.
- (8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.
- (9) The defendant was:
- (A) under the custody of the department of correction;
 - (B) under the custody of a county sheriff;
 - (C) on probation after receiving a sentence for the commission of a felony; or
 - (D) on parole;
- at the time the murder was committed.
- (10) The defendant dismembered the victim.

- (11) The defendant burned, mutilated, or tortured the victim while the victim was alive.
 - (12) The victim of the murder was less than twelve (12) years of age.
 - (13) The victim was a victim of any of the following offenses for which the defendant was convicted:
 - (A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.
 - (B) Kidnapping (IC 35-42-3-2).
 - (C) Criminal confinement (IC 35-42-3-3).
 - (D) A sex crime under IC 35-42-4.
 - (14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.
 - (15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):
 - (A) into an inhabited dwelling; or
 - (B) from a vehicle.
 - (16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).
- (c) The mitigating circumstances that may be considered under this section are as follows:
- (1) The defendant has no significant history of prior criminal conduct.
 - (2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
 - (3) The victim was a participant in or consented to the defendant's conduct.
 - (4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
 - (5) The defendant acted under the substantial domination of another person.
 - (6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or

defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (k) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (k). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed

as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;
only if it makes the findings described in subsection (k).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence;
and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

- (1) the state has proved beyond a reasonable doubt that at least one
 - (1) of the aggravating circumstances listed in subsection (b) exists; and
 - (2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.

SECTION 98. IC 36-3-2-11, AS AMENDED BY P.L.170-2002, SECTION 140, AND AS AMENDED BY P.L.179-2002, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:

- (1) Assessed value.
- (2) Exemption.
- (3) Owner.
- (4) Person.
- (5) Property taxation.
- (6) Real property.
- (7) Township assessor.

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7 that is located in a county

~~(1) with a consolidated city. or~~

~~(2) having a population of more than~~

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an

amount *that is*:

(1) *agreed upon by the property owner and the legislative body of the consolidated city;*

(2) *a percentage of the property taxes that would have been levied by the legislative body for the consolidated city and the county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation; and*

(3) ~~equal to~~ *not more than* the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). The township assessors shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property. PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

SECTION 99. IC 36-7-14-22.2, AS ADDED BY P.L.113-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.2. (a) The commission may sell or grant, at no cost, title to real property to an urban enterprise association for the purpose of developing the real property if the following requirements are met:

(1) The urban enterprise association has incorporated as a not-for-profit corporation under IC 4-4-6.1-5(b)(3).

(2) The parcel of property to be sold or granted is located entirely within the enterprise zone for which the urban enterprise association was created under IC 4-4-6.1-4.

(3) The urban enterprise association agrees to cause development on the parcel of property within a specified period that may not exceed five (5) years from the date of the sale or grant.

(4) The urban enterprise association agrees to rehabilitate or otherwise develop the property in a manner that is similar to and

consistent with the use of the other properties in the enterprise zone.

(b) The commission may sell or grant, at no cost, title to real property to a community development corporation (as defined in ~~IC 4-4-28-13~~) **IC 4-4-28-2**) for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:

(1) The community development corporation has as a major corporate purpose and function the provision of housing for low and moderate income families within the geographic area in which the parcel of real property is located.

(2) The community development corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of real property within a specified period, which may not exceed five (5) years from the date of the sale or grant.

(3) The community development corporation agrees that the community development corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:

(A) use lower income project area residents as trainees and as employees; and

(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The community development corporation agrees to rehabilitate or otherwise develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the community development corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined by an appraiser, who may be an employee of the department. However, if the commission has obtained the parcel in the manner described in

subsection (c), an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide at a public meeting whether the commission will sell or grant the parcel of real property. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the urban enterprise association or community development corporation will cause development on the property.

(f) Before conducting a meeting under subsection ~~(d)~~, (g), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address, if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the commission to be sold or granted under this section, the commission may conduct a meeting to sell or grant the parcel to an urban enterprise zone or to a community development corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the urban enterprise association or to the community development corporation.

(h) A conveyance of property under this section shall be made in accordance with section 22(i) of this chapter.

(i) An urban enterprise association that purchases or receives real property under this section shall report the terms of the conveyance to the enterprise zone board created under IC 4-4-6.1-1 not later than thirty (30) days after the date the conveyance of the property is made.

SECTION 100. IC 36-8-3.5-1, AS AMENDED BY P.L.180-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to each municipality or township that has a full-time paid police or fire department. A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. A township may exercise the

power of establishing a merit system for its fire department under this chapter or by resolution ~~established~~ under IC 36-1-4-14. This chapter does not affect merit systems established:

- (1) by ordinance under IC 36-1-4-14, except as provided by subsection (e);
- (2) by resolution under IC 36-1-4-14, except as provided by subsection (f); or
- (3) by a prior statute, except as provided by subsection (b).

(b) If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

- (1) be a person of good moral character; and
- (2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member of a police or fire department or agency.

(c) After December 31, 1984, the legislative body also may repeal the ordinance described in subsection (b), but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection (b).) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(d) If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection (b), the city legislative body shall, before July 1, 1983, pass an ordinance to establish a new merit system under section 3 of this chapter. If the new

merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(e) An ordinance adopted under IC 36-1-4-14 to establish a police or fire merit system must include a provision under which the commission, or governing board of the merit system, has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must be a person of good moral character who is not an active member of a police or fire department or agency. If an ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the ordinance must be amended to include this requirement.

(f) This chapter does not prevent a township or other unit that has adopted a merit system under section 3 of this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active members of the department, as set forth in section 8 of this chapter and a provision that incorporates the requirements of section 6(a) of this chapter. This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend under this subsection.

SECTION 101. IC 36-8-7.5-10, AS AMENDED BY P.L.90-2002, SECTION 490, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If the local board determines that the total amount of money available for a year will be insufficient to pay the benefits, pensions, and retirement allowances the local board is obligated to pay under this chapter, the local board shall, before the date on which the budget of the police special service district is adopted, prepare an itemized estimate in the form prescribed by the state board of accounts of the amount of money that will be receipted into and disbursed from the 1953 fund during the next fiscal year. The

estimated receipts consist of the items enumerated in section 8 of this chapter. The estimated disbursements consist of an estimate of the amount of money that will be needed by the local board during the next fiscal year to defray the expenses and obligations incurred and that will be incurred by the local board in making the payments prescribed by this chapter to retired members, to members who are eligible and expect to retire during the ensuing fiscal year, and to the dependents of deceased members.

(b) At the time when the estimates are prepared and submitted, the local board shall also prepare and submit a certified statement showing:

(1) the estimated number of beneficiaries from the 1953 fund during the ensuing fiscal year in each of the various classifications of beneficiaries as prescribed in this chapter, and the names and amount of benefits being paid to those actively on the list of beneficiaries at that time;

(2) the name, age, and length of service of each member of the police department who is eligible to and expects to retire during the ensuing fiscal year, and the monthly and yearly amounts of the payment that the member will be entitled to receive; **and**

(3) the name and age of each dependent of a member of the police department who is then receiving benefits, the date on which the dependent commenced drawing benefits, and the date on which the dependent will cease to be a dependent by reason of attaining the age limit prescribed by this chapter, and the monthly and yearly amounts of the payments to which each of the dependents is entitled.

(c) After the amounts of receipts and disbursements shown in the itemized estimate are fixed and approved by the executive, fiscal officer, legislative body and other bodies, as provided by law for other municipal funds, the total receipts shall be deducted from the total expenditures stated in the itemized estimate, and the amount of the excess shall be paid by the police special service district in the same manner as other expenses of the district are paid. The legislative body shall levy a tax and the money derived from the levy shall, when collected, be credited exclusively to the 1953 fund. The tax shall be levied in the amount and at the rate that is necessary to produce sufficient revenue to equal the deficit. Notwithstanding any other law, neither the county board of tax adjustment nor the department of local

government finance may reduce the tax levy.

SECTION 102. IC 36-8-16.5-39, AS AMENDED BY P.L.16-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39. (a) Except as provided by section 26 of this chapter and subsection (b), the fund must be managed in the following manner:

(1) Three cents (\$0.03) of the wireless emergency 911 fee collected from each subscriber must be deposited in an escrow account to be used to reimburse CMRS providers and PSAPs for costs associated with implementation of phase two (2) of the FCC order. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers and PSAPs under this subdivision. The board shall reevaluate the fees placed into escrow not later than May 1, 2000. The board shall determine if the fee should be reduced, remain the same, or be increased based on the latest information available concerning the costs associated with phase two (2) of the FCC order.

(2) At least twenty-five cents (\$0.25) of the wireless emergency 911 fee collected from each subscriber must be deposited in an escrow account and used to reimburse CMRS providers for the actual costs incurred by the CMRS providers in complying with the wireless 911 requirements established by the FCC order and rules that are adopted by the FCC under the FCC order, including costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the costs of operating the service. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers under this subdivision. Except as provided by section 38 of this chapter, the CMRS provider may only request funds for true cost recovery. The board may increase the amount held in escrow under this subdivision not more than one (1) time a calendar year. If the board adjusts the wireless emergency 911 fee under section 26 of this chapter within a calendar year, an adjustment to the amount held in escrow under this subdivision for the calendar year must be made at that time.

(3) Two percent (2%) of the wireless emergency 911 fee collected from each subscriber may be used by the board to recover the board's expenses in administering this chapter. However, the board may increase this percentage at the time the board may adjust the monthly fee assessed against each subscriber to allow for full recovery of administration expenses.

(4) The remainder of the wireless emergency 911 fee collected from each subscriber must be distributed in the following manner:

(A) The board shall distribute on a monthly basis to each county containing one (1) or more eligible PSAPs, as identified by the county in the notice required under section 40 of this chapter, a part of the remainder based upon the county's percentage of the state's population (as reported in the most recent official United States census). A county must use a distribution received under this clause to reimburse PSAPs that:

(i) are identified by the county under section 40 of this chapter as eligible for distributions; and

(ii) accept wireless enhanced 911 service;

for actual costs incurred by the PSAPs in complying with the wireless enhanced 911 requirements established by the FCC order and rules.

(B) The amount of the fee remaining, if any, after the distributions required under clause (A) must be distributed in equal shares between the escrow accounts established under subdivisions (1) and (2).

(b) Notwithstanding the requirements described in subsection (a), the board may transfer money between and among the accounts in subsection (a) in accordance with the following procedures:

(1) For purposes of acting under this subsection, the board must have a quorum consisting of at least one (1) member appointed under section 18(c)(2) of this ~~section~~ **chapter** and at least one (1) member appointed under section 18(c)(3) of this ~~section~~ **chapter**.

(2) A transfer under this subsection must be approved by the affirmative vote of:

(A) at least fifty percent (50%) of the members present at a duly called meeting of the board who are appointed under section 18(c)(2) of this chapter; and

(B) at least fifty percent (50%) of the members present at a duly

called meeting of the board who are appointed under section 18(c)(3) of this chapter.

(3) The board may make transfers only one (1) time during a calendar year.

(4) The board may not make a transfer that:

(A) impairs cost recovery by CMRS providers or PSAPs; or

(B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.

SECTION 103. IC 36-11-6-1, AS ADDED BY P.L.161-2002, SECTION 2, AND AS ADDED BY P.L.172-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A district plan for the operation of the district must include:

(1) a detailed statement of the activities under ~~IC 13-26-5-2-1~~ **IC 36-11-2-1** that the district plans to undertake; and

(2) a timetable for the activities under subdivision (1).

SECTION 104. IC 12-10-6-2 IS REPEALED [EFFECTIVE JULY 1, 2002 (RETROACTIVE)].

SECTION 105. IC 34-6-2-21.2 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 106. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: IC 35-41-1-10.7, AS ADDED BY P.L.123-2002, SECTION 35; IC 35-41-1-10.7, AS ADDED BY P.L.133-2002, SECTION 63.

SECTION 107. P.L.133-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 70. (a) IC 35-46-1-15.1, as amended by this act, ~~and IC 35-47-4-6, as added by this act,~~ **apply applies** only to an offense committed after June 30, 2002.

(b) A protective order issued before July 1, 2002, under IC 31-34-17, IC 31-37-16, or IC 34-26-2, all as repealed by this act, remains in effect for the period indicated in the court order granting the protective order.

(c) A protective order issued before July 1, 2002, under IC 31-14-16 or IC 31-15-5, as amended by this act, remains in effect for the period indicated in the court order granting the protective order.

(d) After June 30, 2002, a protected person must use the forms developed by the division of state court administration under IC 34-26-5-3, as added by this act, if the person is seeking an extension

or a modification of an order issued under subsection (b) or (c).

SECTION 108. P.L.162-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 10. (a) The definitions in IC 25-23.7-2, as added by this act, apply throughout this SECTION.

(b) An individual who applies for a license as an installer of a manufactured home under ~~IC 25-23.7-2~~; **IC 25-23.7-5**, as added by this act, is not required to comply with IC 25-23.7-5-2(1)(D), as added by this act. Such an individual is required to do the following:

(1) Show to the satisfaction of the board that the individual is an experienced installer.

(2) Comply with the other requirements of IC 25-23.7-5-2, as added by this act.

(c) This SECTION expires July 1, 2006.

SECTION 109. P.L.173-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 6. (a) As used in this SECTION, "commissioner" refers to the commissioner of the Indiana department of administration.

(b) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(c) As used in this SECTION, "grantee" refers to Ivy Tech State College.

(d) As used in this SECTION, "parcel 1" refers to the following described real estate:

Part of the Southwest Quarter of Section 20, Township 31 North, Range 13 East of the Second Principal Meridian in Allen County, Indiana, more particularly described as follows:

Commencing at a 1 inch brass pin found at the Southwest corner of the Southwest Quarter; thence North 00 degrees, 42 minutes, 00 seconds West, (assumed bearing and basis of bearings to follow), a distance of 875.00 feet along the West line of the Southwest Quarter and the centerline of St. Joe Road; thence North 89 degrees, 18 minutes, 00 seconds East, a distance of 81.20 feet to an east right-of-way line of St. Joe Road; thence North 65 degrees, 31 minutes, 43 seconds East, a distance of 12.80 feet along the right-of-way line to an east right-of-way line of St. Joe Road; thence North 00 degrees, 30 minutes, 32 seconds West, a distance of 54.84 feet along the right-of-way line to a 5/8 inch steel rebar set

at the POINT OF BEGINNING of this description; thence continuing North 00 degrees, 30 minutes, 32 seconds West, a distance of 2.16 feet along the right-of-way line to a 5/8 inch steel rebar set; thence North 66 degrees, 32 minutes, 47 seconds West, a distance of 49.24 feet along the right-of-way line to a 5/8 inch steel rebar set; thence North 00 degrees, 30 minutes, 32 seconds West, a distance of 25.65 feet along the right-of-way line to a tangent curve, concave to the East, having a radius of 3774.72 feet; thence northerly along the curve and the right-of-way line a distance of 245.63 feet, having a central angle of 03 degrees, 43 minutes, 42 seconds, and a chord of 245.58 feet bearing North 01 degrees, 21 minutes, 19 seconds East to a 5/8 inch steel rebar set at the point of tangency; thence North 03 degrees, 13 minutes, 10 seconds East, a distance of 39.33 feet along the right-of-way line to a 5/8 inch steel rebar set on a tangent curve, concave to the West, having a radius of 3864.72 feet; thence northerly along the curve and the right-of-way line a distance of 66.73 feet, having a central angle of 00 degrees, 59 minutes, 21 seconds, and a chord of 66.72 feet bearing North 02 degrees, 43 minutes, 29 seconds East to a 5/8 inch steel rebar set; thence North 89 degrees, 18 minutes, 00 seconds East, a distance of 95.95 feet to a 5/8 inch steel rebar set; thence North 00 degrees, 42 minutes, 00 seconds West, a distance of 50.00 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 18 minutes, 00 seconds West, a distance of 93.72 feet to a 5/8 inch steel rebar set on the east right-of-way line of St. Joe Road, also being a nontangent curve, concave to the West, having a radius of 3864.72 feet; thence northerly along the curve and the right-of-way line a distance of 160.56 feet, having a central angle of 02 degrees, 22 minutes, 50 seconds, and a chord of 160.56 feet bearing North 00 degrees, 17 minutes, 53 seconds East to a 5/8 inch steel rebar set at the point of tangency; thence North 00 degrees, 53 minutes, 32 seconds West, a distance of 476.10 feet along the east right-of-way line to a 5/8 inch steel rebar set; thence South 86 degrees, 42 minutes, 36 seconds East, a distance of 343.35 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 07 minutes, 22 seconds East, a distance of 223.92 feet to a 5/8 inch steel rebar set; thence South 00 degrees, 52 minutes, 38 seconds West, a distance of 46.59 feet to a 5/8 inch steel rebar

set; thence North 89 degrees, 17 minutes, 51 seconds East, a distance of 44.11 feet to a 5/8 inch steel rebar set; thence South 00 degrees, 42 minutes, 09 seconds East, a distance of 360.32 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 17 minutes, 51 seconds West, a distance of 65.00 feet; thence South 00 degrees, 42 minutes, 09 seconds East, a distance of 60.00 feet; thence North 89 degrees, 17 minutes, 51 seconds East, a distance of 65.00 feet to a 5/8 inch steel rebar set; thence South 00 degrees, 42 minutes, 09 seconds East, a distance of 264.24 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 17 minutes, 51 seconds West, a distance of 41.74 feet to a 5/8 inch steel rebar set; thence South 01 degrees, 02 minutes, 54 seconds East, a distance of 38.87 feet to a 5/8 inch steel rebar set; thence North 89 degrees, 17 minutes, 51 seconds East, a distance of 41.66 feet; thence North 01 degrees, 02 minutes, 54 seconds West, a distance of 25.48 feet to a 5/8 inch steel rebar set; thence North 88 degrees, 57 minutes, 06 seconds East, a distance of 657.00 feet to a 5/8 inch steel rebar set; thence South 01 degrees, 06 minutes, 51 seconds East, a distance of 250.49 feet to a 5/8 inch steel rebar set; thence South 88 degrees, 58 minutes, 30 seconds West, a distance of 656.47 feet to a 5/8 inch steel rebar set at a tangent curve, concave to the South, having a radius of 860.00 feet, thence westerly along the curve, a distance of 211.44 feet, having a central angle of 14 degrees, 05 minutes, 11 seconds, and a chord of 210.90 feet bearing South 81 degrees, 55 minutes, 54 seconds West to a 5/8 inch steel rebar set at the point of tangency; thence South 74 degrees, 53 minutes, 19 seconds West, a distance of 55.77 feet to a 5/8 inch steel rebar set at a tangent curve, concave to the North, having a radius of 640.00 feet, thence westerly along the curve, a distance of 160.98 feet, having a central angle of 14 degrees, 24 minutes, 42 seconds, and a chord of 160.56 feet bearing South 82 degrees, 05 minutes, 39 seconds West to a 5/8 inch steel rebar set at the point of tangency; thence South 89 degrees, 18 minutes, 00 seconds West, a distance of 163.18 feet to the POINT OF BEGINNING. Containing 18.224 acres, more or less.

(e) As used in this SECTION, "parcel 2" refers to the following described real estate:

Part of the Southwest Quarter of Section 20, Township 31 North,

Range 13 East of the Second Principal Meridian in Allen County, Indiana, more particularly described as follows:

Commencing at a 1 inch brass pin found at the Southwest corner of the Southwest Quarter; thence North 00 degrees, 42 minutes, 00 seconds West, (assumed bearing and basis of bearings to follow), a distance of 875.00 feet along the West line of the Southwest Quarter and the centerline of St. Joe Road; thence North 89 degrees, 18 minutes, 00 seconds East, a distance of 81.20 feet to a east right-of-way line of St. Joe Road, also being the POINT OF BEGINNING of this description; thence North 65 degrees, 31 minutes, 43 seconds East, a distance of 12.80 feet along the right-of-way line to a east right-of-way line of St. Joe Road to a 5/8 inch steel rebar set; thence North 00 degrees, 30 minutes, 32 seconds West, a distance of 54.84 feet along the right-of-way line to a 5/8 inch steel rebar set; thence North 89 degrees, 18 minutes, 00 seconds East, a distance of 163.18 feet to a 5/8 inch steel rebar set at a tangent curve, concave to the North, having a radius of 640.00 feet, thence easterly along the curve a distance of 160.98 feet, having a central angle of 14 degrees, 24 minutes, 42 seconds, and a chord of 160.56 feet bearing North 82 degrees, 05 minutes, 39 seconds East to a 5/8 inch steel rebar set at the point of tangency; thence North 74 degrees, 53 minutes, 19 seconds East, a distance of 55.77 feet to a 5/8 inch steel rebar set at a tangent curve, concave to the South, having a radius of 860.00 feet; thence easterly along the curve a distance of 211.44 feet, having a central angle of 14 degrees, 05 minutes, 11 seconds, and a chord of 210.90 feet bearing North 81 degrees, 55 minutes, 54 seconds East to a 5/8 inch steel rebar set at the point of tangency; thence North 88 degrees, 58 minutes, 30 seconds East, a distance of 656.47 feet to a 5/8 inch steel rebar set; thence North 01 degrees, 06 minutes, 51 seconds West, a distance of 250.49 feet to a 5/8 inch steel rebar set; thence North 88 degrees, 57 minutes, 06 seconds East, a distance of 50.00 feet to a 5/8 inch steel rebar set; thence South 01 degrees, 06 minutes, 51 seconds East, a distance of 310.56 feet to a 5/8 inch steel rebar set; thence South 88 degrees, 58 minutes, 30 seconds West, a distance of 706.56 feet to a 5/8 inch steel rebar set at a tangent curve, concave to the South, having a radius of 800.00 feet, thence westerly along the curve, a distance of 196.68 feet,

having a central angle of 14 degrees, 05 minutes, 11 seconds, and a chord of 196.19 feet bearing South 81 degrees, 55 minutes, 54 seconds West to a 5/8 inch steel rebar set at the point of tangency; thence South 74 degrees, 53 minutes, 19 seconds West, a distance of 55.77 feet to a 5/8 inch steel rebar set at a tangent curve, concave to the North, having a radius of 700.00 feet, thence westerly along the curve, a distance of 176.07 feet, having a central angle of 14 degrees, 24 minutes, 42 seconds, and a chord of 175.61 feet bearing South 82 degrees, 05 minutes, 39 seconds West to a 5/8 inch steel rebar set at the point of tangency; thence South 89 degrees, 18 minutes, 00 seconds West, a distance of 175.07 feet to the POINT OF BEGINNING. Containing 2.076 acres, more or less.

(f) As used in this SECTION, "parcel 3" refers to the following described real estate:

Part of the Southwest Quarter of Section 20, Township 31 North, Range 13 East of the Second Principal Meridian in Allen County, Indiana, more particularly described as follows:

Commencing at a 1 inch brass pin found at the Southwest corner of the Southwest Quarter; thence North 00 degrees, 42 minutes, 00 seconds West, (assumed bearing and basis of bearings to follow), a distance of 2303.57 feet along the West line of the Southwest Quarter and the centerline of St. Joe Road; thence North 89 degrees, 06 minutes, 28 seconds East, a distance of 66.22 feet to a 5/8 inch steel rebar set on the east right-of-way line of St. Joe Road, also being the POINT OF BEGINNING of this description; thence North 00 degrees, 53 minutes, 32 seconds West, a distance of 50.00 feet along the right-of-way line to a 5/8 inch steel rebar set; thence North 89 degrees, 06 minutes, 28 seconds East, a distance of 198.29 feet; thence South 01 degrees, 15 minutes, 11 seconds East, a distance of 297.44 feet to a 5/8 inch steel rebar set; thence South 86 degrees, 42 minutes, 36 seconds East, a distance of 145.25 feet to a PK Nail set; thence South 89 degrees, 07 minutes, 22 seconds East, a distance of 314.36 feet to a 5/8 inch steel rebar set; thence South 00 degrees, 42 minutes, 09 seconds East, a distance of 791.69 feet to a 5/8 inch steel rebar set; thence South 88 degrees, 57 minutes, 06 seconds West, a distance of 50.00 feet to a 5/8 inch steel rebar set; thence South 01 degrees, 02 minutes, 54 seconds East, a distance of 25.48 feet to a 5/8 inch

steel rebar set; thence South 89 degrees, 17 minutes, 51 seconds West, a distance of 41.66 feet to a 5/8 inch steel rebar set; thence North 01 degrees, 02 minutes, 54 seconds West, a distance of 38.87 feet to a 5/8 inch steel rebar set; thence North 89 degrees, 17 minutes, 51 seconds East, a distance of 41.74 feet to a 5/8 inch steel rebar set; thence North 00 degrees, 42 minutes, 09 seconds West, a distance of 264.24 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 17 minutes, 51 seconds West, a distance of 65.00 feet to a 5/8 inch steel rebar set; thence North 00 degrees, 42 ~~seconds~~ **minutes**, 09 seconds West, a distance of 60.00 feet to a 5/8 inch steel rebar set; thence North 89 degrees, 17 minutes, 51 seconds East, a distance of 65.00 feet to a 5/8 inch steel rebar set; thence North 00 degrees, 42 minutes, 09 seconds West, a distance of 743.35 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 17 minutes, 51 seconds West, a distance of 44.11 feet to a 5/8 inch steel rebar set; thence North 00 degrees, 52 minutes, 38 seconds East, a distance of 46.59 feet to a 5/8 inch steel rebar set; thence North 89 degrees, 07 minutes, 22 seconds West, a distance of 223.93 feet to a PK Nail set; thence North 86 degrees, 42 minutes, 36 seconds West, a distance of 303.54 feet to a 5/8 inch steel rebar set; thence North 03 degrees, 17 minutes, 24 seconds East, a distance of 50.00 feet to a 5/8 inch steel rebar set; thence South 86 degrees, 42 minutes, 36 seconds East, a distance of 107.08 feet to a 5/8 inch steel rebar set; thence North 01 degrees, 15 minutes, 11 seconds West, a distance of 243.78 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 06 minutes, 28 seconds West, a distance of 148.61 feet to the POINT OF BEGINNING. Containing 2.245 acres, more or less.

(g) As used in this SECTION, "parcel 4" refers to the following described real estate:

Part of the Southwest Quarter of Section 20, Township 31 North, Range 13 East of the Second Principal Meridian in Allen County, Indiana, more particularly described as follows:

Commencing at a 1 inch brass pin found at the Southwest corner of the Southwest Quarter; thence North 00 degrees, 42 minutes, 00 seconds West, (assumed bearing and basis of bearings to follow), a distance of 1334.23 feet along the west line of the Southwest Quarter and the centerline of St. Joe Road; thence North 89

degrees, 18 minutes, 00 seconds East, a distance of 63.73 feet to a 5/8 inch steel rebar set on the east right-of-way line of St. Joe Road, this point also being the POINT OF BEGINNING of this description, also being on a non-tangent curve, concave to the West, having a radius of 3864.72 feet; thence northerly along the curve and the right-of-way line a distance of 50.05 feet, having a central angle of 00 degrees, 44 minutes, 31 seconds, and a chord of 50.05 feet bearing North 01 degrees, 51 minutes, 33 seconds East to a 5/8 inch steel rebar set; thence North 89 degrees, 18 minutes, 00 seconds East, a distance of 93.72 feet to a 5/8 inch steel rebar set; thence South 00 degrees, 42 minutes, 00 seconds East, a distance of 50.00 feet to a 5/8 inch steel rebar set; thence South 89 degrees, 18 minutes, 00 seconds West, a distance of 95.95 feet to the POINT OF BEGINNING. Containing 0.109 acres, more or less.

(h) The governor and the commissioner are authorized and directed on behalf of and in the name of the state of Indiana to convey parcel 1 to the grantee. The conveyance of parcel 1 shall be made without consideration.

(i) Conveyance of parcel 1 is subject to the following:

(1) Highways, easements, and restrictions of record.

(2) Use of parcel 1 by the grantee for the future growth and development of Ivy Tech State College in Fort Wayne, Indiana.

(j) If parcel 1 is used for any purpose other than for the future growth and development of Ivy Tech State College in Fort Wayne, Indiana, title to parcel 1 reverts to the state of Indiana, subject to subsection (k).

(k) The reversionary interest of the state described in subsection (j) is subject to any recorded liens and encumbrances on parcel 1 that result from an unsatisfied indebtedness incurred by the grantee to improve parcel 1 to carry out the purposes stated in subsection (i)(2).

(l) The conveyance under this SECTION must comply with IC 4-20.5-7 to the extent that IC 4-20.5-7 does not conflict with the intent of this SECTION, which is to provide for the transfer of parcel 1 to the grantee. The department shall have a quitclaim deed prepared to convey parcel 1 to the grantee. The deed must state the restrictions and conditions contained in subsections (i), (j), and (k). The commissioner and the governor shall sign the deed, and the seal of the state shall be affixed to the deed.

(m) The department shall deliver the completed deed to the grantee. The grantee shall have the deed recorded in Allen County, Indiana.

(n) The governor and the commissioner are authorized and directed on behalf of and in the name of the state of Indiana to grant easements to the grantee in parcel 2, parcel 3, and parcel 4 for the grantee and its invitees to have ingress to and egress from parcel 1 and to have access to utilities. The grant shall be made without consideration. The easements are subject to highways, other easements, and restrictions of record.

(o) The grantee shall have the easements recorded in Allen County, Indiana.

(p) The easements granted under subsection (n) must comply with IC 4-20.5-7 to the extent that IC 4-20.5-7 does not conflict with the intent of this SECTION for the grantee and its invitees to have adequate ingress to and egress from parcel 1 and to have access to utilities.

(†) (q) This SECTION expires July 1, 2007.

SECTION 110. P.L.178-2002, SECTION 155, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 28, 2002 (RETROACTIVE)]: SECTION 155. (a) Notwithstanding ~~P.L.29-2001~~, **P.L.291-2001**, SECTION 5, the total operating expense for all universities shall be reduced by \$29,000,000 for FY 2002-2003. The amount of the reduction for each main and regional campus equals the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of the total operating appropriation to the campus.

STEP TWO: Determine the amount of the total operating appropriations for all university campuses.

STEP THREE: Divide the STEP ONE amount by the STEP TWO amount.

STEP FOUR: Multiply the STEP THREE amount by \$29,000,000.

(b) Notwithstanding ~~P.L.29-2001~~, **P.L.291-2001**, SECTIONS 5 and 38, and any other law, universities may use a part of the money allocated to them from the appropriation from the BUILD INDIANA FUND (BIF) (~~IC 4-30-27~~), (**IC 4-30-17**), FOR THE BUDGET AGENCY, Higher Education Technology, for operating expenses to defray the reductions under subsection (a). The amount available for operating expense may not exceed a total of \$29,000,000. The formula

in subsection (a) shall be used to determine the amount main and regional campuses shall receive.

SECTION 111. P.L.220-2001, SECTION 1, AS AMENDED BY P.L.137-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 1. (a) As used in this SECTION, "commission" refers to the Indiana commission on excellence in health care established by subsection (d).

(b) As used in this SECTION, "health care professional" has the meaning set forth in IC 16-27-1-1.

(c) As used in this SECTION, "health care provider" includes the following:

- (1) A hospital or an ambulatory outpatient surgical center licensed under IC 16-21.
- (2) A hospice program (as defined in IC 16-25-1.1-4).
- (3) A home health agency licensed under IC 16-27-1.
- (4) A health facility licensed under IC 16-28.

(d) There is established the Indiana commission on excellence in health care.

(e) The commission consists of the following members:

- (1) Four (4) members appointed from the house of representatives by the speaker of the house of representatives. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.
- (2) Four (4) members appointed from the senate by the president pro tempore of the senate. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.
- (3) The governor or the governor's designee.
- (4) The state health commissioner appointed under IC 16-19-4-2 or the commissioner's designee.
- (5) One (1) member appointed by the governor who is a former dean or former faculty member of the Indiana University School of Medicine.
- (6) One (1) member appointed by the governor who is a former dean or former faculty member of an Indiana school of nursing.
- (7) One (1) member appointed by the governor who is a health care provider or a representative for individuals who have both a mental illness and a developmental disability.

(f) The commission shall operate under the rules of the legislative council. The commission shall meet upon the call of the chairperson.

(g) The affirmative votes of at least seven (7) voting members of the commission are required for the commission to take any action, including the approval of a final report.

(h) The speaker of the house of representatives shall appoint the chairperson of the commission during odd-numbered years beginning January 1. The president pro tempore of the senate shall appoint the chairperson of the commission during even-numbered years beginning January 1.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(l) The legislative services agency shall provide staff to support the commission. The legislative services agency is not required to provide staff assistance to the subcommittees of the commission except to the extent the subcommittees require copying services.

(m) The expenses of the commission shall be paid from funds appropriated to the legislative services agency.

(n) The commission shall study the quality of health care, including mental health, and develop a comprehensive statewide strategy for improving the health care delivery system. The commission shall do the following:

(1) Identify existing data sources that evaluate quality of health

- care in Indiana and collect, analyze, and evaluate this data.
- (2) Establish guidelines for data sharing and coordination.
 - (3) Identify core sets of quality measures for standardized reporting by appropriate components of the health care continuum.
 - (4) Recommend a framework for quality measurement and outcome reporting.
 - (5) Develop quality measures that enhance and improve the ability to evaluate and improve care.
 - (6) Make recommendations regarding research and development needed to advance quality measurement and reporting.
 - (7) Evaluate regulatory issues relating to the pharmacy profession and recommend changes necessary to optimize patient safety.
 - (8) Facilitate open discussion of a process to ensure that comparative information on health care quality is valid, reliable, comprehensive, understandable, and widely available in the public domain.
 - (9) Sponsor public hearings to share information and expertise, identify best practices, and recommend methods to promote their acceptance.
 - (10) Evaluate current regulatory programs to determine what changes, if any, need to be made to facilitate patient safety.
 - (11) Review public and private health care purchasing systems to determine if there are sufficient mandates and incentives to facilitate continuous improvement in patient safety.
 - (12) Analyze how effective existing regulatory systems are in ensuring continuous competence and knowledge of effective safety practices.
 - (13) Develop a framework for organizations that license, accredit, or credential health care professionals and health care providers to more quickly and effectively identify unsafe providers and professionals and to take action necessary to remove an unsafe provider or professional from practice or operation until the professional or provider has proven safe to practice or operate.
 - (14) Recommend procedures for development of a curriculum on patient safety and methods of incorporating the curriculum into training, licensure, and certification requirements.
 - (15) Develop a framework for regulatory bodies to disseminate information on patient safety to health care professionals, health

care providers, and consumers through conferences, journal articles and editorials, newsletters, publications, and Internet web sites.

(16) Recommend procedures to incorporate recognized patient safety considerations into practice guidelines and into standards related to the introduction and diffusion of new technologies, therapies, and drugs.

(17) Recommend a framework for development of community based collaborative initiatives for error reporting and analysis and implementation of patient safety improvements.

(18) Evaluate the role of advertising in promoting or adversely affecting patient safety.

(19) Evaluate and make recommendations regarding the need for licensure of additional persons who participate in the delivery of health care to Indiana residents.

(20) Evaluate the benefits and problems of the current disciplinary systems and make recommendations regarding alternatives and improvements.

(21) Study and make recommendations concerning the long term care system, including self-directed care plans and the regulation and reimbursement of public and private facilities that provide long term care.

(22) Study and make recommendations concerning increasing the number of:

(1) (A) nurses;

(2) (B) respiratory care practitioners;

(3) (C) speech pathologists; and

(4) (D) dental hygienists.

(23) Study any other topic required by the chairperson.

(o) The commission may create subcommittees to study topics, receive testimony, and prepare reports on topics assigned by the commission. The chairperson shall select from the topics listed under subsection (n) the topics to be studied by the commission and subcommittees each year. The chairperson shall appoint persons to act as chairperson and secretary of each subcommittee. The commission shall by majority vote appoint initial members to each subcommittee. Each subcommittee may by a majority vote of the members appointed to the subcommittee make a recommendation to the commission to

appoint additional members to the subcommittee. The commission may by a majority vote of the members appointed to the commission appoint or remove members of a subcommittee. A member of a subcommittee, including a commission member while serving on a subcommittee, is not entitled to per diem, mileage, or travel allowances.

(p) The commission shall submit:

(1) interim reports not later than October 1, 2001, and October 1, 2002; and

(2) a final report not later than October 1, 2003;

to the governor, members of the health finance commission, and the legislative council. With the consent of the chairperson of the commission and the chairperson of the health finance commission, the commission and the health finance commission may conduct joint meetings.

(q) This SECTION expires July 1, 2004.

SECTION 112. P.L.37-1998, SECTION 3, AS AMENDED BY P.L.95-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 3. (a) As used in this SECTION, "commission" refers to the Indiana commission on mental health established by this SECTION.

(b) The Indiana commission on mental health is established.

(c) The commission consists of ~~sixteen (16)~~ **seventeen (17)** members determined as follows:

(1) The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the commission.

(2) The governor shall appoint thirteen (13) lay members, not more than seven (7) of whom may be from the same political party, to serve on the commission as follows:

(A) Four (4) at-large members, not more than two (2) of whom may be from the same political party.

(B) Two (2) consumers of mental health services.

(C) Two (2) representatives of different advocacy groups for consumers of mental health services.

(D) Two (2) members of families of consumers of mental health services.

(E) Three (3) members who represent mental health providers.

One (1) of the members appointed under this clause must be a representative of a for-profit psychiatric provider. One (1) of the members appointed under this clause must be a physician licensed under IC 25-22.5.

(d) Except for the members appointed under subsection (c)(2)(E), the members of the commission may not have a financial interest in the subject matter to be studied by the commission.

(e) The chairman of the legislative council shall designate a legislative member of the commission to serve as chairman of the commission.

(f) Each legislative member and each lay member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on interim study committees established by the legislative council.

(g) The commission shall do the following:

(1) Study and evaluate the funding system for managed care providers of mental health services.

(2) Review and make specific recommendations regarding the provision of mental health services delivered by community managed care providers and state operated hospitals.

(3) Review and make recommendations regarding any unmet need for public supported mental health services in any specific geographic area or throughout Indiana. In formulating these recommendations, the commission shall consider the need, feasibility, and desirability of including additional organizations in the network of managed care providers.

(4) Review the results of the actuarial study which must be submitted by the division of mental health and addiction to the commission not later than thirty (30) days after completion of the actuarial study.

(5) Make recommendations regarding the application of the actuarial study by the division of mental health and addiction to the determination of service needs, eligibility criteria, payment, and prioritization of service.

(h) The commission shall:

(1) monitor the implementation of managed care programs for all populations of the mentally ill that are eligible for care that is paid for in part or in whole by the state; and

(2) make recommendations regarding the commission's findings under subdivision (1) to the appropriate division or department.

(i) This SECTION expires January 1, 2004.

SECTION 113. P.L.178-2002, SECTION 147, IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 114. **An emergency is declared for this act.**

P.L.2-2003

[S.257. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 10-10 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 10. EFFECT OF RECODIFICATION OF TITLE 10

Chapter 1. Effect of Recodification by the Act of the 2003 Regular Session of the General Assembly

Sec. 1. As used in this chapter, "prior law" refers to the statutes concerning state police, civil defense, emergency management, military affairs, veterans affairs, and war memorials that are repealed or amended in the recodification act of the 2003 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2003 regular session of the general assembly.

Sec. 2. The purpose of the recodification act of the 2003 regular session of the general assembly is to recodify prior law in a style that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2003 regular session of the general assembly is amended to reflect the changes made in a

provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2003 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2002 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2003 regular session of the general assembly had not been enacted.

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 2003 regular session of the general assembly.

Sec. 4. (a) The recodification act of the 2003 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made or authorized;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of any contracts, easements, or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2003 regular session of the general assembly (July 1, 2003). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration,

grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2003 regular session of the general assembly had not been enacted.

(b) The recodification act of the 2003 regular session of the general assembly does not:

- (1) extend or cause to expire a permit, license, certificate of registration, or other grant or limitation of authority; or
- (2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior law.

(c) The recodification act of the 2003 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior law or the rules adopted under the prior law.

Sec. 5. The recodification act of the 2003 regular session of the general assembly shall be construed as a recodification of prior law. Except as provided in section 2(1) and 2(2) of this chapter, if the literal meaning of the recodification act of the 2003 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a substantive change in the prior law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

- (1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 2003 regular session of the general assembly; or
- (2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 2003 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 2003 regular session of the general assembly to the extent that the recodification act of the 2003 regular session of the general assembly is not substantively identical to the prior law.

Sec. 6. Subject to section 9 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same or a different form in the recodification act of the 2003 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

Sec. 7. A citation reference in the recodification act of the 2003 regular session of the general assembly to another provision of the recodification act of the 2003 regular session of the general assembly shall be treated as including a reference to the provision of prior law that is substantively equivalent to the provision of the recodification act of the 2003 regular session of the general assembly that is referred to by the citation reference.

Sec. 8. (a) As used in the recodification act of the 2003 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 2003 regular session of the general assembly refers to either:

- (1) rules adopted under the recodification act of the 2003 regular session of the general assembly; or
- (2) rules adopted under the prior law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior law continue in effect after June 30, 2003, until the rules are amended, repealed, or suspended.

Sec. 9. (a) A reference in the recodification act of the 2003 regular session of the general assembly to a citation in the prior law before its repeal is added in certain sections of the recodification act of the 2003 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 2003 regular session of the general assembly of a reference to a citation in the prior law before its repeal does not affect:

- (1) any rights or liabilities accrued;
- (2) any penalties incurred;
- (3) any violations committed;
- (4) any proceedings begun;
- (5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;
- (6) any tax levies made;
- (7) any funds established;

- (8) any patents issued;**
- (9) the validity, continuation, or termination of contracts, easements, or leases executed;**
- (10) the validity, continuation, scope, termination, suspension, or revocation of:**
 - (A) permits;**
 - (B) licenses;**
 - (C) certificates of registration;**
 - (D) grants of authority; or**
 - (E) limitations of authority; or**
- (11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;**

before the effective date of the recodification act of the 2003 regular session of the general assembly (July 1, 2003). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2003 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 2003 regular session of the general assembly of a citation to a provision in the prior law does not affect the use of a prior conviction, violation, or noncompliance under the prior law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 2003 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 2003 regular session of the general assembly in a manner that does not result in a substantive change in the law.

SECTION 2. IC 10-11 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 11. STATE POLICE

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Board" refers to the state police board established by

IC 10-11-2-5.

Sec. 3. "Department" refers to the state police department established by IC 10-11-2-4.

Sec. 4. "Superintendent" refers to the superintendent of the department appointed under IC 10-11-2-6.

Chapter 2. State Police Department

Sec. 1. As used in this chapter, "civilian employee" means an employee assigned to a position other than a position having police rank as a peace officer.

Sec. 2. (a) As used in this chapter, "employee" means an employee of the department.

(b) The term includes police employees.

Sec. 3. As used in this chapter, "police employee" means an employee who is assigned police work as a peace officer under section 21 of this chapter.

Sec. 4. The state police department is established.

Sec. 5. (a) The state police board is established. The board shall administer, manage, and control the department.

(b) The board consists of six (6) members appointed by the governor, not more than three (3) of whom may belong to the same political party. A member of the board appointed by the governor shall serve for a term of four (4) years except when appointed to fill a vacancy for an unexpired term. In making appointments to the board, the governor shall select one (1) member from each of six (6) geographical regions in Indiana as described in subsection (d). Each member must be a permanent resident of the region from which the member is appointed.

(c) As vacancies occur, the governor shall select new members by region, beginning with the lowest numbered region that is not represented and continuing in that manner until each region is represented.

(d) For purposes of appointments to the state police board, the geographical regions described in subsections (b) and (c) are as follows:

(1) Region I is comprised of Lake, Porter, LaPorte, Newton, Jasper, Starke, Pulaski, Benton, White, Warren, and Fountain counties.

(2) Region II is comprised of St. Joseph, Elkhart, LaGrange, Steuben, Marshall, Kosciusko, Noble, DeKalb, Whitley, and

Allen counties.

(3) Region III is comprised of Fulton, Cass, Miami, Wabash, Huntington, Wells, Adams, Carroll, Howard, Grant, Blackford, Tippecanoe, Clinton, Tipton, Madison, Montgomery, Boone, Hamilton, and Jay counties.

(4) Region IV is comprised of Hendricks, Marion, and Hancock counties.

(5) Region V is comprised of Vermillion, Parke, Putnam, Morgan, Vigo, Clay, Owen, Monroe, Brown, Sullivan, Greene, Knox, Daviess, Martin, Lawrence, Gibson, Pike, Dubois, Orange, Crawford, Posey, Vanderburgh, Warrick, Spencer, and Perry counties.

(6) Region VI is comprised of Delaware, Randolph, Henry, Wayne, Johnson, Shelby, Rush, Fayette, Union, Bartholomew, Decatur, Franklin, Jackson, Jennings, Ripley, Dearborn, Ohio, Washington, Scott, Jefferson, Switzerland, Clark, Harrison, and Floyd counties.

(e) Members appointed to the board shall serve during their respective terms and until their respective successors have been appointed and qualified. A member of the board may be removed by the governor for inefficiency, incompetency, or neglect of duty after the member has been accorded a hearing by the governor upon reasonable notice of the charge being made against the member.

(f) As compensation for service on the board, each member of the board is entitled to receive the following:

(1) Twenty-five dollars (\$25) per day for each day or part of a day during which the member is engaged in transacting the business of the board.

(2) The member's actual traveling and other expenses necessarily incurred in discharging the duties of the member's office.

(g) The members of the board shall organize by the election of a president and a secretary from among their own membership, each of whom shall serve a term of one (1) year.

(h) Four (4) members of the board constitute a quorum for the transaction of business. The board shall hold regular monthly meetings and special meetings throughout the year as necessary to transact the business of the department.

Sec. 6. (a) The governor shall appoint a superintendent of the department.

(b) The superintendent:

(1) shall be selected on the basis of training and experience; and

(2) must:

(A) have:

(i) served at least five (5) years as a police executive; or

(ii) had five (5) years experience in the management of military, semi-military, or police bodies;

to equip the superintendent for the position; and

(B) have been trained in police affairs or public administration.

(c) The superintendent:

(1) is the executive officer; and

(2) has general charge of the work of the department.

(d) The superintendent shall serve at the pleasure of the governor.

(e) The governor shall fix the salary of the superintendent.

(f) The superintendent may be removed by the governor with or without cause.

Sec. 7. The department shall be organized in conformity with the rules adopted by the board.

Sec. 8. (a) The state purchasing agent shall purchase all personal property, supplies, and equipment the department needs.

(b) All capital expenditures shall be made with the approval of the budget committee.

(c) The salaries and compensation of police employees and other employees shall be fixed by the board with the approval of the governor.

Sec. 9. The superintendent, with the approval of the board, may adopt rules for the government of the department.

Sec. 10. (a) The superintendent, with the approval of the board, shall establish a classification of ranks, grades, and positions in the department.

(b) For each rank, grade, and position established, the superintendent shall designate the authority and responsibility within the limits of this chapter.

(c) For each rank, grade, and position established, the

superintendent shall set standards of qualifications in conformity with the plans and standards most widely adopted in other states, dominions, and provinces. The superintendent shall fix the prerequisites of training, education, and experience for each rank, grade, and position.

(d) The board, with the approval of the budget agency and the governor, shall prescribe the salaries to be paid for each rank, grade, and position.

(e) The superintendent, with the approval of the board and in accordance with the rules adopted by the superintendent, shall designate the rank, grade, and position held by each employee of the department until the superintendent designates an employee to hold another rank, grade, or position. The superintendent may assign and reassign each employee of the department to serve at stations and to perform within the limits of this chapter the duties the superintendent designates to the employee. The superintendent may determine the conditions and amounts of bonds required in appropriate cases.

Sec. 11. (a) The superintendent, with the approval of the board and the budget agency, may accept for use by the department a motor vehicle forfeited under IC 16-42-20-5.

(b) If the department accepts a vehicle described in subsection (a), the department shall pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, and advertising and court costs.

Sec. 12. (a) The superintendent:

- (1) with the approval of the board;
- (2) within the limits of any appropriation made available for the purpose; and
- (3) subject to section 14 of this chapter;

shall appoint personnel to the ranks, grades, and positions of the department that the superintendent considers necessary for the efficient administration of the department.

(b) The superintendent, consistent with prescribed standards and prerequisites, shall make appointments to the ranks, grades, and positions of the department in a manner that creates and maintains in the ranks, grades, and positions personnel not more than fifty percent (50%) of whom belong to any one (1) political party. If any of the ranks, grades, or positions contains personnel

more than fifty percent (50%) of whom belong to any one (1) political party, a person who belongs to the party containing more than fifty percent (50%) of the personnel may not be appointed or promoted to the rank, grade, or position if the condition exists.

(c) The superintendent shall:

(1) devise and administer examinations designed to test applicants in the qualifications required for each rank, grade, or position; and

(2) appoint only those applicants who best meet the prescribed standards and prerequisites.

(d) An employee appointed to the department is on probation for one (1) year from the date of appointment. The board may extend the employee's probationary status for cause for a period of not more than one (1) additional year.

(e) An employee may:

(1) be a candidate for elected office or a political party office if permitted under 5 U.S.C. 1502 and serve in that office if elected;

(2) be appointed to or selected for a pro tempore appointment to any office and serve in that office if appointed or selected; and

(3) if the employee is not on duty, solicit votes and campaign funds and challenge voters for the office for which the person is a candidate.

An employee may serve in a part-time local elected office. However, service in a part-time local elected office must be in accordance with IC 4-2-6 and the rules and employee policies of the department. If elected to other than a part-time local elected office, the employee or appointee shall resign as an employee or appointee before assuming elected office.

Sec. 13. (a) The board shall categorize salaries of police employees within each rank based upon the rank held and the number of years of service in the department through the tenth year. The salary ranges the board assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary, with:

(1) the base salary in the rank paid to a person with less than one (1) year of service in the department; and

(2) the highest salary in the rank paid to a person with at least

ten (10) years of service in the department.

(b) For purposes of creating the salary matrix prescribed by this section, the board may not approve salary ranges for any rank that are less than the salary ranges effective for that rank on January 1, 1995.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation.

Sec. 14. (a) The superintendent, with the approval of the board, shall organize and maintain a training school for police employees of the department.

(b) A police employee may not be assigned to regular active duty until the police employee receives the training and successfully passes the course for probationers prescribed by the superintendent.

(c) Training courses, other than for probationers, shall be prescribed and conducted by the superintendent for all police employees of the department.

Sec. 15. (a) The superintendent may discharge, demote, or temporarily suspend an employee of the department for cause, after setting forth charges in writing.

(b) The charges may be based on any violation of the laws of Indiana or any violation of the rules of the department approved by the board. A copy of the charges shall be personally delivered to the employee by the employee's immediate commanding officer.

(c) An employee who is charged under this section has a right to answer the charges in a personal appearance before the superintendent. The superintendent shall set the appearance not less than five (5) days after the delivery of the copy of the written charges to the employee.

(d) Under the charges and after the personal appearance under this section, disciplinary action taken by the superintendent is subject to review at a public hearing before the board if the hearing is demanded by the disciplined employee not later than fifteen (15) days after receiving notice of the disciplinary action. The notice shall be by certified mail, return receipt requested, and shall be addressed to the employee at the employee's last known place of residence. If the employee fails to request a hearing before the board not later than fifteen (15) days after receiving notice of

disciplinary action, as provided in this section, the decision and action of the superintendent are final and not subject to review.

(e) An employee who requests a hearing before the board under this section may be represented by counsel. The attorney general shall appear in the case to represent the interests of the people of the state.

(f) The state has the burden of proving the charges giving rise to the hearing. The procedure in a hearing before the board is informal and without recourse to the technical common law rules of evidence required in proceedings in courts.

(g) The board shall:

(1) designate a reporter for the hearing; and

(2) after all evidence has been introduced, make an informal finding of facts and a determination based upon the facts.

(h) The board shall notify the employee of its findings and determination by certified mail, return receipt requested, addressed to the employee at the employee's last known place of residence. If aggrieved by the determination, an employee may seek judicial review under IC 4-21.5-5.

(i) Probationers may be discharged, demoted, or temporarily suspended without right to a hearing before the board.

(j) An employee may not be discharged, demoted, temporarily suspended, or disciplined:

(1) because of political affiliation; or

(2) after the employee's probationary period, except as provided in this chapter.

(k) This chapter may not be construed to prevent the exercise of disciplinary measures by commanding officers within the department under the rules approved by the board.

Sec. 16. (a) This section applies to the issuance of a citation for a traffic violation under:

(1) IC 9; or

(2) a local ordinance that corresponds to a provision under IC 9.

(b) The department may not give greater consideration to the number of citations (as defined in IC 9-28-2-1), including:

(1) a summons;

(2) a ticket; or

(3) any other official document;

arising from a parking or standing violation that a law enforcement officer issues than to any other factor in the evaluation of the law enforcement officer's performance.

Sec. 17. (a) The board shall provide, within amounts appropriated for the purpose, the uniforms and equipment necessary for the employees of the department to perform their respective duties.

(b) The uniforms and equipment provided to employees under this section remain the property of the state.

(c) The board may sell uniforms and equipment, with the consent of the governor, if the uniforms and equipment become unfit for use. Money received from a sale under this section must be paid into the state treasury and credited to the state general fund.

(d) The board shall charge against an employee of the department the value of any property of the department lost or destroyed through carelessness or neglect of the employee. If the board determines that the loss or destruction of the department's property was due to carelessness or neglect of an employee, the value of the equipment shall be deducted from the pay of the employee.

Sec. 18. (a) The superintendent shall file with the secretary of state a drawing or photograph and a worded description, including the color, of the official uniform hat and insignia to be worn by state police officers while on duty.

(b) A person who wears or uses in public the hat or insignia or any imitation, reproduction, or facsimile of the hat or insignia, except an appointed member of the department authorized by the superintendent to wear the hat or insignia, commits a Class C infraction.

(c) After the drawing or photograph and worded description of the hat and insignia are filed with the secretary of state, the hat and insignia may not be changed by the department.

Sec. 19. (a) The superintendent may approve vouchers to pay expenses incurred by employees of the department in the discharge of their duties.

(b) The vouchers shall be audited and paid out of the appropriations for the department in the manner provided by law.

(c) Allowances for lodging and subsistence while away from

official station may be paid to the employees of the department under the terms and conditions that the superintendent may prescribe. The superintendent may provide lodging and subsistence for employees of the department at their official stations.

Sec. 20. (a) The superintendent shall establish headquarters and stations in localities the superintendent considers advisable for the enforcement of the laws of the state.

(b) Within the limits of appropriations, the superintendent may do the following:

(1) Purchase, lease, or otherwise acquire suitable places, lands, buildings, or rooms as local headquarters.

(2) Erect and equip buildings and headquarters as necessary.

(3) Purchase or otherwise acquire motor equipment, horses, and other services, commodities, and equipment the superintendent considers essential for the needs of the employees of the department in carrying out their duties.

(4) Discontinue any headquarters or stations if the superintendent considers it desirable for the proper enforcement of the laws of the state.

(5) Purchase and install any approved standard mechanical devices or equipment for the instantaneous or rapid transmission or broadcasting of any information concerning crime or the apprehension of criminals.

(c) The superintendent, with the approval of the board, may sell, dispose of, or destroy property that becomes unnecessary or unfit for further use by the department. Any money received from a sale under this subsection shall be deposited in the state treasury as a special fund to be used for the purchase of new equipment. The fund does not revert to the state general fund.

(d) Authority vested in the superintendent under this section shall be exercised with the approval of the board.

Sec. 21. (a) The officers and police employees of the department have all necessary police powers:

(1) to enforce the laws of the state for the regulation and use of vehicles;

(2) for the protection of the surface or other physical part of the highways in Indiana; and

(3) without writ or warrant, to make an arrest for violation of the laws of the state for the regulation and use of vehicles

when the violation is committed in their presence.

(b) The police employees of the department shall:

- (1) prevent and detect offenses;**
- (2) apprehend offenders;**
- (3) enforce the laws; and**
- (4) perform other duties imposed upon them by law.**

(c) Police employees of the department have:

- (1) in any part of Indiana, the same powers concerning criminal matters and the enforcement of related laws as sheriffs, constables, and police officers have in their respective jurisdictions; and**
- (2) power to act as agents for the state on return of parolees, fugitives from justice, and persons extradited to Indiana for offenses.**

(d) A warrant of arrest or search warrant may be executed by any police employee of the department in any part of the state, according to the terms of the warrant without endorsement.

(e) Police employees are subject to the call of the governor. The governor may assign to the department other police duties that the executive department considers advisable, including the duties performed by deputy fire marshals.

(f) Police employees have power to arrest, without warrant, a person who is committing or attempting to commit in their presence or view a violation of the laws of the state.

(g) Under order of the superintendent, police employees may cooperate with any other department of the state or with local authorities.

(h) Police employees may not:

- (1) exercise their powers within the limits of a city in labor disputes; or**
- (2) suppress rioting and disorder;**

except by direction of the governor or upon the request of the mayor of the city with the approval of the governor or, if the governor is not available, with the approval of the lieutenant governor. Outside the limits of a city, police employees may not exercise their power in labor disputes except by direction of the governor or upon the request of the judge of the circuit court of the county, with the approval of the governor or, if the governor is not available, with the approval of the lieutenant governor.

(i) The control or direction of the officers or members of the department may not be transferred or delegated to any other agency or officer of the state or any subdivision of the state.

Sec. 22. (a) The members of the department:

(1) shall take fingerprints and any other identification data prescribed by the superintendent of persons taken into custody for felonies; and

(2) may, if they consider it advisable, take the fingerprints and other data of persons taken into custody for offenses other than felonies.

(b) Members of the department shall promptly transmit and file fingerprints and other data collected under this section.

Sec. 23. The employees of the department shall cooperate and exchange information with:

(1) any other department or authority of the state or with other police forces, both within and outside Indiana; and

(2) federal police forces;

to achieve greater success in preventing and detecting crimes and apprehending criminals.

Sec. 24. (a) Except as provided in subsection (b), a person who has charge of a jail, prison, correctional facility, or other place of detention shall:

(1) receive a prisoner arrested by a police employee of the department within the jurisdiction served by the jail; and

(2) detain the prisoner in custody until otherwise ordered by a court or by the superintendent.

A person who refuses to receive a prisoner or who releases a prisoner except as directed may be removed from office by the governor.

(b) A person who has charge of a jail, prison, correctional facility, or other place of detention may not receive or detain a prisoner in custody under subsection (a) until the arresting police employee has had the prisoner examined by a physician or competent medical personnel if the prisoner appears to be:

(1) unconscious;

(2) suffering from a serious illness;

(3) suffering from a serious injury; or

(4) seriously impaired by alcohol, a controlled substance (as defined in IC 35-48-1-9), a drug other than a controlled

substance, or a combination of alcohol, a controlled substance, or drugs.

(c) Except as provided in subsection (d), the cost of the examination and resulting treatment under subsection (b) is the financial responsibility of the prisoner receiving the examination or treatment.

(d) If a prisoner is unable to bear the financial responsibility for the cost of the examination and treatment under subsection (b), the prisoner may apply for indigent medical assistance.

Sec. 25. All rights, duties, and liabilities of the state police department and its employees provided by IC 10-1-2 (before its repeal) and IC 10-12-2 are continued and preserved in the state police department established by this chapter and in those eligible to receive its benefits as though this chapter had not been enacted.

Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least eleven thousand (11,000) pounds and buses at a permanent or portable weigh station or while operating a clearly marked Indiana state police vehicle for violations of the following:

- (1) IC 6-1.1-7-10.
- (2) IC 6-6-1.1-1202.
- (3) IC 6-6-2.5.
- (4) IC 6-6-4.1-12.
- (5) IC 8-2.1.
- (6) IC 9-18.
- (7) IC 9-19.
- (8) IC 9-20.
- (9) IC 9-21-7-2 through IC 9-21-7-11.
- (10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.
- (11) IC 9-21-8-45 through IC 9-21-8-48.
- (12) IC 9-21-9.
- (13) IC 9-21-15.
- (14) IC 9-24-1-1 through IC 9-24-1-3.
- (15) IC 9-24-1-7.
- (16) Except as provided in subsection (c), IC 9-24-1-6,

IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.

(17) IC 9-24-4.

(18) IC 9-24-5.

(19) IC 9-24-11-4.

(20) IC 9-24-13-3.

(21) IC 9-24-18-1 through IC 9-24-18-2.

(22) IC 9-25-4-3.

(23) IC 9-28-4.

(24) IC 9-28-5.

(25) IC 9-28-6.

(26) IC 9-29-5-11 through IC 9-29-5-13.

(27) IC 9-29-5-42.

(28) IC 9-29-6-1.

(29) IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.

(30) IC 13-30-2-1.

(b) For the purpose of enforcing this section, a person assigned under this section may detain a person in the same manner as a law enforcement officer under IC 34-28-5-3.

(c) A person assigned under this section may not enforce IC 9-24-6-14 or IC 9-24-6-15.

Sec. 27. (a) The board shall categorize salaries of motor carrier inspectors within each rank based upon the rank held and the number of years of service in the department through the tenth year. The salary ranges the board assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary, with:

(1) the base salary in the rank paid to a person with less than one (1) year of service in the department; and

(2) the highest salary in the rank paid to a person with at least ten (10) years of service in the department.

(b) For purposes of creating the salary matrix prescribed by this section, the board may not approve salary ranges for any rank that are less than the salary ranges effective for that rank on January 1, 1995.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation.

(d) The money needed to fund the salaries resulting from the

matrix prescribed by this section must come from the appropriation from the professional and technical equity fund.

Sec. 28. (a) The department shall maintain security and preserve the peace in and about the following:

- (1) The state capitol building.**
- (2) A state office building.**
- (3) A state parking facility.**
- (4) A state motor pool garage.**
- (5) A state warehouse.**
- (6) The Indiana state library.**
- (7) The governor's residence.**
- (8) Any other building or property used by the state for any of the following purposes:**
 - (A) Housing of personnel or activities of an agency or a branch of state government.**
 - (B) Providing transportation or parking for state employees or persons having business with state government.**

(b) A special police employee of the department assigned to the security activities under this section, other than an officer or police employee of the department who possesses police powers under section 21 of this chapter, possesses all of the common law and statutory powers of law enforcement officers except for the service of civil process.

(c) For purposes of IC 5-2-1, a special police employee assigned to the security activities under this section, other than a regular police employee of the department, is a special officer.

(d) Special police employees shall enforce IC 4-20.5 and rules of the Indiana department of administration.

(e) The superintendent may adopt rules under IC 4-22-2 to do the following:

- (1) Enforce IC 4-20.5 and rules of the Indiana department of administration concerning the security of state property.**
- (2) Carry out the responsibilities for security of state property under this section.**

Sec. 29. The superintendent may assign a special police employee described in section 28(b) of this chapter to serve as a gaming agent under an agreement with the Indiana gaming commission under IC 4-33-4-3.6.

Sec. 30. The department may establish a wellness program for department employees as set forth in IC 4-15-13.

Chapter 3. Enforcement of Motor Carrier Laws

Sec. 1. There is established within the department an enforcement section of twenty (20) state police officers who, on behalf of the department of state revenue, shall enforce strict compliance with IC 8-2.1.

Sec. 2. (a) The enforcement section established by section 1 of this chapter consists of the following individuals:

- (1) A chief enforcement officer.
- (2) Nineteen (19) subordinate enforcement officers.
- (3) Stenographic and clerical personnel needed to carry on the work of the section.

(b) The superintendent shall appoint all personnel with the approval of the board. The members of the enforcement section:

- (1) must be state police officers; and
- (2) shall be selected, trained, and subject to all the provisions of and vested with all of the authority granted by IC 22-1-1, except that they shall be permanently assigned to and primarily responsible for carrying out the duties imposed by this chapter.

Upon call of the superintendent, with the approval of the governor, the police personnel assigned to the enforcement section established by this chapter shall be available for general police duty in emergency situations only.

Sec. 3. (a) The enforcement officers employed by the enforcement section:

- (1) are vested with all necessary police powers to enforce IC 8-2.1 and rules adopted under IC 8-2.1; and
- (2) may investigate and make arrests for the violation of IC 8-2.1 or rules adopted under IC 8-2.1.

(b) This section does not abridge or change the authority, obligation, or duty of any other law enforcement officer to enforce this chapter.

Sec. 4. (a) Funds necessary to implement this chapter shall be derived from dedicated revenues as implemented under Public Law 89-170. Public Law 89-170 and the standards for the operation of interstate motor carriers adopted under Public Law 89-170 are recognized and adopted.

(b) There is appropriated from sources and other funds deposited in the motor carrier regulation fund established under IC 8-2.1-23 to the department of state revenue the sums necessary for the enforcement section established by this chapter. Operating and other expenses for the section in the discharge of duties under this chapter shall be paid from sources by the department of state revenue upon the presentation of interdepartmental billing to the department by the superintendent.

Chapter 4. Defense of Employees in Civil Actions; Duties of Attorney General

Sec. 1. As used in this chapter, "member" means the following:

- (1) An employee or appointee of the department.
- (2) An employee or appointee of the board.
- (3) The superintendent.
- (4) A member of the board.

Sec. 2. If a member is sued for civil damages and the board administratively determines that:

- (1) the civil action arose out of an act performed within the scope of the duties of the member; and
- (2) a lack of defense of the civil action by the state would prejudice the enforcement of the laws of the state;

the board shall present its written findings to the attorney general.

Sec. 3. (a) Except as provided in subsection (b), if the attorney general finds the board's determination to be supported by substantial evidence, the attorney general shall defend the member in the civil action.

(b) The attorney general may authorize the department to hire private counsel to defend the member in the civil action.

Sec. 4. The administrative determination by the board or the determination by the attorney general under this chapter may not be admitted as evidence in the trial of the civil action for damages.

Sec. 5. (a) This chapter may not be construed to deprive a member of the right to select defense counsel of the member's choice at the member's expense.

(b) This chapter may not be construed to relieve any person from any responsibility for civil damages.

Chapter 5. Disposition of Unclaimed Property

Sec. 1. This chapter does not apply to property:

- (1) seized upon a search warrant; or

(2) the custody and disposition of which are otherwise provided by law.

Sec. 2. If money, goods, or other property that has been stolen, lost, or abandoned comes into the possession of an employee of the department by virtue of the employee's office, the employee:

- (1) shall deliver the money, goods, or other property to another employee of the department as designated by the superintendent; and
- (2) is relieved from further responsibility for the money, goods, or other property.

Sec. 3. (a) Except as provided in subsection (c), if:

- (1) the money, goods, or other property remains unclaimed in the possession or control of the employee to whom it was delivered for six (6) months; and
- (2) the location of the owner is unknown;

the goods or other property shall be sold at public auction.

(b) Notice of the sale must be published one (1) time each week for two (2) consecutive weeks in a newspaper of general circulation printed in the community in which the sale is to be held. The notice must include the following information:

- (1) The time and place of the sale.
- (2) A description of the property to be sold.

(c) Any property that:

- (1) is perishable;
- (2) will deteriorate greatly in value by keeping; or
- (3) the expense of keeping will be likely to exceed the value of the property;

may be sold at public auction in accordance with the rules or orders of the superintendent. If the nature of the property requires an immediate sale, the superintendent may waive the six (6) month period of custody and the notice of sale provided in this section.

(d) The proceeds of a sale, after deducting all reasonable charges and expenses incurred in relation to the property, and all money shall be presumed abandoned and shall be delivered to the attorney general for deposit into the abandoned property fund for disposition as provided by IC 32-34-1-33 and IC 32-34-1-34.

Chapter 6. Law Enforcement Training Conferences

Sec. 1. (a) The department may conduct training programs at semiannual conferences for law enforcement:

- (1) officers;
- (2) trainees; and
- (3) applicants;

of cities, towns, and counties.

(b) A semiannual conference:

- (1) may not last more than three (3) days; and
- (2) shall be conducted at a state police post.

Sec. 2. (a) The training program courses shall be conducted under the supervision and direction of the superintendent.

(b) The training programs must include courses of instruction in the following subjects:

- (1) Detection, pursuit, apprehension, and conviction of criminals.
- (2) Safety and first aid assistance.
- (3) Any other subject the superintendent considers appropriate.

Sec. 3. (a) A city council shall appropriate, as necessary, sufficient funds to pay for each mile traveled to and from the conferences, at a rate equal to the rate paid to state officers and employees. The rate per mile shall change each time the state government changes its rate per mile. The city council also shall pay a per diem for expenses of not more than fifteen dollars (\$15) a day for each day or part of a day an authorized person is in attendance at a conference.

(b) A county council shall appropriate sufficient funds to pay for each mile traveled to and from the conferences at a rate determined by the county council. The county council also shall pay a per diem for expenses of not more than fifteen dollars (\$15) a day for each day or part of a day an authorized person is in attendance at a conference.

Sec. 4. Authorization for attendance at the conferences by city, town, or county law enforcement officers, trainees, or applicants shall be issued by the county auditor on recommendation of the executive authority of the law enforcement agency, office, or department to which the officer, trainee, or applicant belongs or has applied for membership.

Chapter 7. Drug Interdiction Program

Sec. 1. The drug interdiction fund is established.

Sec. 2. (a) The department shall administer the fund.

(b) Expenditures from the fund may be made only in accordance with the appropriations made by the general assembly.

Sec. 3. The department may use money from the fund to do the following:

- (1) Provide additional persons to conduct investigations into violations of drug and controlled substances statutes.**
- (2) Purchase laboratory equipment and other equipment necessary to assist in the effort to control illegal drug activity.**
- (3) Provide technical and investigative assistance to local law enforcement agencies to combat illegal drug activity.**
- (4) Fund other programs designed to reduce illegal drug activity.**

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

Sec. 5. Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 3. IC 10-12 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 12. STATE POLICE PENSIONS AND BENEFITS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Department" refers to the state police department established by IC 10-11-2-4.

Sec. 3. "Eligible employee" means a regular police employee of the department.

Sec. 4. "Employee beneficiary" means an eligible employee who:

- (1) completes an application to become an employee beneficiary; and**
- (2) makes or causes to be made the proper deductions from wages as required by the pension trust.**

Sec. 5. "Internal Revenue Code":

- (1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or**
- (2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.**

Sec. 6. "Net amount paid into the trust fund from the wages of an employee beneficiary" means:

- (1) the amount of money paid into the trust fund from the wages of an employee beneficiary, plus interest at the rate of three percent (3%) or more compounded annually; less**
- (2) any sums, plus interest at the same rate, paid from the trust fund to:**

- (A) the employee beneficiary;**
- (B) any person claiming by, through, or under the employee beneficiary; or**
- (C) any government fund for the credit or benefit of the employee beneficiary.**

Sec. 7. "Pension consultants" means an individual, a firm, or a corporation of technical consultants competent and qualified to supervise and assist in the establishment, maintenance, and operation of a pension plan on an actuarially sound basis.

Sec. 8. "Pension trust" means the agreement between the department and the trustee under the terms of which an actuarially sound retirement pension plan is established and operated for the exclusive benefit of the employee beneficiaries subject to the limitations specified in IC 10-12-2, IC 10-12-3, and IC 10-12-4.

Sec. 9. "Supplementary trust agreement" means an agreement that has the force and effect of law between the department and the trustee concerning the police benefit fund (as described in IC 10-12-2-7).

Sec. 10. "Trustee" refers to the trustee of the pension trust, who may be:

- (1) one (1) or more corporate trustees; or**
- (2) the treasurer of state serving under bond.**

Sec. 11. "Trust fund" means the assets of the pension trust, including the following:

- (1) Contributions from the department.**
- (2) Contributions from employee beneficiaries.**
- (3) Any other payments or contributions made to the pension trust.**
- (4) The income and proceeds derived from the investment of the assets of the pension trust.**

Chapter 2. Pension, Death, Disability, Survivor, and Other Benefits

Sec. 1. (a) If an eligible employee retires after at least twenty (20) years of service, the employee may:

- (1) retain the employee's issued service weapon; and**
- (2) receive a "Retired" badge in recognition of the employee's service to the department and the public.**

(b) Upon an eligible employee's retirement, the department shall issue to the employee an identification card that:

- (1) gives the employee's name and rank;**
- (2) signifies that the employee is retired; and**
- (3) notes the employee's authority to retain the employee's service weapon.**

Sec. 2. (a) The department may:

- (1) establish and operate an actuarially sound pension plan governed by a pension trust; and**
- (2) make the necessary annual contribution in order to prevent any deterioration in the actuarial status of the trust fund.**

(b) The department shall make contributions to the trust fund. An employee beneficiary shall make contributions to the trust fund through authorized monthly deductions from wages.

(c) The trust fund:

- (1) may not be commingled with any other funds; and**
- (2) shall be invested only in accordance with state laws for the investment of trust funds, together with other investments as are specifically designated in the pension trust.**

Subject to the terms of the pension trust, the trustee, with the approval of the department and the pension advisory board, may establish investment guidelines and limits on all types of investments, including stocks and bonds, and take other action necessary to fulfill its duty as a fiduciary for the trust fund.

(d) The trustee shall invest the trust fund assets with the same care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a similar character with similar aims.

(e) The trustee shall diversify the trust fund's investments in accordance with prudent investment standards. The investment of the trust fund is subject to section 3 of this chapter.

(f) The trustee shall receive and hold as trustee for the uses and purposes set forth in the pension trust the funds paid by the

department, the employee beneficiaries, or any other person or persons.

(g) The trustee shall engage pension consultants to supervise and assist in the technical operation of the pension plan so that there is no deterioration in the actuarial status of the plan.

(h) Before October 1 of each year, the trustee, with the aid of the pension consultants, shall prepare and file a report with the department and the state board of accounts. The report must include the following with respect to the fiscal year ending on the preceding June 30:

SCHEDULE I. Receipts and disbursements.

SCHEDULE II. Assets of the pension trust, listing investments as to book value and current market value at the end of the fiscal year.

SCHEDULE III. List of terminations, showing cause and amount of refund.

SCHEDULE IV. The application of actuarially computed "reserve factors" to the payroll data, properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.

SCHEDULE V. The application of actuarially computed "current liability factors" to the payroll data, properly classified for the purpose of computing the liability of the trust fund for the end of the fiscal year.

SCHEDULE VI. An actuarial computation of the pension liability for all employees retired before the close of the fiscal year.

(i) The minimum annual contribution by the department must be of sufficient amount, as determined by the pension consultants, to prevent any deterioration in the actuarial status of the pension plan during that year. If the department fails to make the minimum contribution for five (5) successive years, the pension trust terminates and the trust fund shall be liquidated.

(j) Except as provided by applicable federal law, in the event of liquidation, the department shall take the following actions:

(1) All expenses of the pension trust must be paid.

(2) Adequate provision must be made for continuing pension payments to retired persons.

(3) Each employee beneficiary must receive the net amount

paid into the trust fund from the employee beneficiary's wages.

(4) Any amount remaining in the pension trust after the department makes the payments described in subdivisions (1) through (3) must be equitably divided among the employee beneficiaries in proportion to the net amount paid from each employee beneficiary's wages into the trust fund.

Sec. 3. (a) The pension trust shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the pension trust. In order to meet those requirements, the pension trust is subject to the following provisions, notwithstanding any other provision of this chapter, IC 10-12-3, or IC 10-12-4:

(1) The pension advisory board shall distribute the corpus and income of the pension trust to participants and their beneficiaries in accordance with this chapter, IC 10-12-3, and IC 10-12-4.

(2) A part of the corpus or income of the pension trust may not be used or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or any other reason may not be applied to increase the benefits any participant would otherwise receive under this chapter, IC 10-12-3, or IC 10-12-4.

(4) If the pension trust is terminated or if all contributions to the pension trust are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the pension trust shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. To meet those requirements, the pension trust is subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination for purposes of determining benefits.

(B) If a participant dies before the distribution of the

participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the participant died.

(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The pension advisory board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participants or beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as provided under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter, IC 10-12-3, or IC 10-12-4 may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.

(8) The salary taken into account under this chapter, IC 10-12-3, or IC 10-12-4 may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The trustee may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

(b) Notwithstanding any other provision of this chapter or IC 10-12-3, and solely for the purposes of the benefits provided under IC 10-12-3, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988. This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code, other than Section 415(b)(2)(G) of the Internal Revenue Code, applied without regard to Section 415(b)(2)(F) of the Internal Revenue Code to anyone who did not first become a participant before January 1, 1990.

Sec. 4. The department may establish, operate, and make necessary contributions to a mortality reserve account for the

payment of supplementary death benefits to deceased employee beneficiaries. However, a supplementary death benefit may not exceed fourteen thousand five hundred dollars (\$14,500).

Sec. 5. (a) The department may establish, operate, and make necessary contributions to a disability reserve account for the payment of disability expense reimbursements and disability pensions to disabled employee beneficiaries. The department also may do the following:

(1) Establish, under the terms of a supplementary trust agreement, disability expense reimbursements and disability pensions to be paid to employee beneficiaries who incur a disability in the line of duty.

(2) Establish, under the terms of a supplementary trust agreement, disability expense reimbursements and disability pensions to be paid to employee beneficiaries who incur a disability not in the line of duty.

(3) Seek rulings from the Internal Revenue Service as to the federal tax treatment for the line of duty disability benefits authorized by this section.

Except as provided in subsection (d), a monthly disability pension may not exceed the maximum basic pension amount. However, in the case of disability incurred in the line of duty, an employee beneficiary may receive not more than forty dollars (\$40) per month for each dependent parent and dependent child less than eighteen (18) years of age, in addition to the monthly disability pension payment under this chapter. Time in disability pension status is considered qualifying active service for purposes of calculating a retirement pension.

(b) This section shall be administered in a manner that is consistent with the Americans with Disabilities Act (42 U.S.C. 12101, et seq.) and the regulations and amendments related to that act, to the extent required by that act.

(c) A disability payment made under this chapter is worker's compensation instead of a payment under IC 22-3-2 through IC 22-3-7.

(d) A regular, paid police employee of the state police department who is permanently and totally disabled by a catastrophic personal injury that:

(1) is sustained in the line of duty after January 1, 2001; and

(2) permanently prevents the employee from performing any gainful work;
shall receive a disability pension equal to the employee's regular salary at the commencement of the disability. The disability pension provided under this subsection is provided instead of the regular monthly disability pension. The disability pension provided under this subsection must be increased at a rate equal to any salary increases the employee would have received if the employee remained in active service.

Sec. 6. (a) The department may establish, operate, and make necessary contributions to a dependent's pension reserve account for the payment of pensions to dependent parents, surviving spouses, and dependent unmarried children of employee beneficiaries who are killed in the line of duty.

(b) The maximum monthly pension amount payable to dependent mothers, dependent fathers, and surviving spouses:

(1) may not exceed the then current basic monthly pension amount paid to retirees; and

(2) shall cease with the last payment before the dependent parent's or surviving spouse's death.

(c) Except as provided in subsections (d) through (f), the maximum monthly pension amount payable to each dependent unmarried child may not exceed thirty percent (30%) of the current basic monthly pension amount paid to retirees. The payment shall cease with the last payment before the child's marriage or nineteenth birthday, whichever occurs first.

(d) The total monthly pension amount paid to all dependent unmarried children of an employee beneficiary may not exceed the current basic monthly amount paid to retirees.

(e) Each unmarried dependent child who is at least nineteen (19) years of age but less than twenty-three (23) years of age is eligible to receive a pension payment while enrolled as a full-time student in a school, college, or university.

(f) A dependent child, married or unmarried, of an employee beneficiary who is killed in the line of duty is eligible to attend any Indiana state supported college or university tuition free.

(g) All dependent mothers, dependent fathers, surviving spouses, and dependent children who received a dependent pension on June 30, 1969, shall receive a pension calculated as provided by this

section beginning on July 1, 1969. Any surviving spouse electing to, or who has previously elected to, receive joint survivorship benefits instead of pension payments is eligible to receive the full pension benefit.

Sec. 7. (a) The:

- (1) mortality reserve account referred to in section 4 of this chapter;
- (2) disability reserve account referred to in section 5 of this chapter; and
- (3) dependent pension reserve account referred to in section 6 of this chapter;

may be commingled and operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee shall receive and hold as trustee for the uses and purposes set out in the supplementary trust agreement all funds paid to it as the trustee by the department or by any other person or persons.

(c) The trustee shall hold, invest, and reinvest the police benefit fund in:

- (1) investments that trust funds are permitted to invest in under Indiana law; and
- (2) other investments as may be specifically designated in the supplementary trust agreement.

(d) The trustee, with the assistance of the pension engineers, shall, not more than ninety (90) days after the close of the fiscal year, prepare and file with the department and the department of insurance a detailed annual report showing receipts, disbursements, case histories, and recommendations as to the contributions required to keep the program in operation.

(e) Contributions by the department to the police benefit fund shall be provided in the general appropriations to the department.

Sec. 8. (a) The department of insurance shall approve the actuarial soundness of the pension trust and the general method of operation of the police benefit fund before the police benefit fund begins operation.

(b) In addition to the annual report required by subsection (d), the department's books, reports, and accounts shall be open to

inspection by the department of insurance at all times.

Sec. 9. (a) Except as provided in subsection (b), a member of the department may not accept:

- (1) a fee for the performance of an act in the line of duty; or
- (2) a reward offered for the apprehension or conviction of any person or persons or for the recovery of any property.

(b) Any fee or reward to which a member of the department would be entitled except for the provisions of subsection (a) shall be paid to the police benefit fund.

Sec. 10. (a) A person entitled to, having an interest in, or sharing a pension or benefit from the trust funds does not, before the actual payment of the pension or benefit, have the right to anticipate, sell, assign, pledge, mortgage, or otherwise dispose of or encumber the pension or benefit.

(b) A person's interest, share, pension, or benefit, before the actual payment of the interest, share, pension, or benefit, may not be:

- (1) used to satisfy the debts or liabilities of the person entitled to the interest, share, pension, or benefit;
- (2) subject to attachment, garnishment, execution, or levy or sale on judicial proceedings; or
- (3) transferred by any means, voluntarily or involuntarily.

(c) The trustee may pay from the trust fund the amounts that the trustee determines are proper and necessary expenses of the trust fund.

Sec. 11. The child or spouse of an employee beneficiary who is permanently and totally disabled by a catastrophic personal injury that was sustained in the line of duty and permanently prevents the employee beneficiary from performing any gainful work may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school if:

- (1) the child is less than twenty-three (23) years of age and is a full-time student pursuing a prescribed course of study; or
- (2) the spouse is pursuing a prescribed course of study toward an undergraduate degree.

Chapter 3. The State Police Pre-1987 Benefit System

Sec. 1. This chapter applies only to an employee beneficiary who:

- (1) is hired for the first time before July 1, 1987; and

(2) does not choose coverage by IC 10-12-4 under IC 10-12-4-1.

Sec. 2. The pension trust for employee beneficiaries covered by this chapter is subject to the limitations specified in this chapter.

Sec. 3. (a) The normal retirement age for a regular police employee of the department may not be later than seventy (70) years of age.

(b) The department may not enforce a mandatory retirement age against its civilian employees.

Sec. 4. The monthly deductions from the employee beneficiary's wages for the trust fund may not exceed six percent (6%) of the employee beneficiary's average monthly wages (excluding payments for overtime and determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code).

Sec. 5. If an employee beneficiary ceases to be an eligible employee for any reason, including death, disability, unemployment, or retirement:

- (1) the employee beneficiary;
- (2) the employee beneficiary's beneficiary; or
- (3) the employee beneficiary's estate;

is entitled to receive at least the net amount paid into the trust fund from the wages of the employee beneficiary, either in a lump sum or in monthly installments not less than the basic pension amount.

Sec. 6. If an employee beneficiary is retired for old age, the employee beneficiary is entitled to receive a lifelong monthly income as specified in section 7 of this chapter. However, to be entitled to the full amount of the basic pension amount, an employee beneficiary must have completed at least twenty (20) years of service to the department before retirement. Otherwise, the employee beneficiary is entitled to receive a proportionate pension based on the employee beneficiary's years of service to the department.

Sec. 7. (a) Benefits provided under this section are subject to IC 10-12-2-3.

(b) The basic monthly pension amount may not exceed by more than twenty dollars (\$20) one-half (1/2) the amount of the employee beneficiary's average monthly wage (excluding payments for overtime and determined without regard to any salary reduction

agreement established under Section 125 of the Internal Revenue Code) received during the highest paid consecutive twelve (12) months before retirement. Salary that exceeds the monthly wage received by a police employee in the grade of trooper at the beginning of the trooper's third year of service may not be considered when the basic pension amount is computed.

(c) An employee beneficiary in the active service of the department who has completed twenty (20) years of service after July 1, 1937, and who continues after July 1, 1937, in the service of the department is entitled to add to the basic monthly pension amount, at retirement, the following:

- (1) Two percent (2%) of the basic amount for each of the next two (2) full years of service over twenty (20) years.
- (2) Three percent (3%) of the basic amount for each of the next two (2) full years over twenty-two (22) years.
- (3) Four percent (4%) of the basic amount for each of the next two (2) full years over twenty-four (24) years.
- (4) Five percent (5%) of the basic amount for each of the next two (2) full years over twenty-six (26) years.
- (5) Six percent (6%) of the basic amount for each of the next two (2) full years over twenty-eight (28) years.
- (6) Seven percent (7%) of the basic amount for each of the next two (2) full years over thirty (30) years.
- (7) Eight percent (8%) of the basic amount for each of the next two (2) full years over thirty-two (32) years.

However, the total of the additional amount may not exceed seventy percent (70%) of the basic pension amount. These additional benefits are subject to the compulsory retirement age provided by the pension trust.

Chapter 4. The State Police 1987 Benefit System

Sec. 1. (a) This chapter applies only to an employee beneficiary who:

- (1) is hired for the first time after June 30, 1987; or
- (2) chooses coverage by this chapter under subsection (b).

(b) Subject to subsection (c), an employee beneficiary who is hired for the first time before July 1, 1987, may choose to be covered by this chapter instead of IC 10-12-3 if the employee files an election with the trustee before July 1, 1988. An election filed under this subsection is irrevocable and, except as provided in

subsection (d), takes effect after twelve (12) months of service as an eligible employee following the filing of the election.

(c) This chapter is applicable only if the general assembly provides sufficient funding for the increased cost of the benefits provided by this chapter. If this chapter is not applicable, then IC 10-12-3 applies to all employee beneficiaries regardless of when hired for the first time.

(d) If an employee beneficiary's mandatory retirement date occurs during the twelve (12) months following the filing of an election under subsection (b), the election takes effect only if:

- (1) the employee beneficiary serves as an eligible employee until the mandatory retirement date; and
- (2) the employee beneficiary pays to the trust fund a lump sum equal to the remaining deductions that would have been made from the employee beneficiary's wages under this chapter during the twelve (12) months following the election if the employee beneficiary had not retired.

The election takes effect on the mandatory retirement date or the date when the lump sum payment is made, whichever is later.

Sec. 2. The pension trust for employee beneficiaries covered by this chapter is subject to limitations specified in this chapter.

Sec. 3. The normal retirement age for an employee beneficiary must be established by the pension trust.

Sec. 4. An employee beneficiary shall contribute to the trust fund, by monthly deduction, six percent (6%) of the employee beneficiary's wages (excluding payments for overtime and determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code).

Sec. 5. (a) An employee beneficiary who has completed twenty-five (25) years of service with the department is entitled to the full amount of the basic pension amount specified in section 7 of this chapter.

(b) An employee beneficiary who has completed less than twenty-five (25) years of service is entitled to a proportionate amount of the basic pension amount specified in section 7 of this chapter, based upon the employee beneficiary's years of service to the department. However, benefit payments to an employee beneficiary with less than twenty-five (25) years of service may not begin until the first day of the month on or after the date on which:

- (1) the employee beneficiary becomes fifty (50) years of age;
 - or
 - (2) the employee beneficiary retires;
- whichever is later.

Sec. 6. If an employee beneficiary ends employment for any reason before qualifying for a benefit under this chapter, the trustee shall pay to:

- (1) the employee beneficiary;
- (2) the employee beneficiary's beneficiary; or
- (3) the employee beneficiary's estate;

the net amount paid into the trust fund from the employee beneficiary's wages. This amount may be paid in a lump sum or in monthly installments not less than the basic pension amount.

Sec. 7. (a) Benefits provided under this section are subject to IC 10-12-2-3.

(b) Except as provided in subsection (c), the basic monthly pension amount of an employee beneficiary may not exceed one-half (1/2) of the employee beneficiary's average monthly wage (excluding payments for overtime and determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code) received during the highest paid consecutive thirty-six (36) months before retirement.

(c) For an employee beneficiary who retires after June 30, 1987, and before July 1, 1988, the basic monthly pension may not exceed the lesser of:

- (1) the pension under subsection (b); or
- (2) one-half (1/2) the maximum salary of a first sergeant.

(d) For an employee beneficiary who retires after June 30, 1988, and before July 1, 1989, the basic monthly pension may not exceed the lesser of:

- (1) the pension under subsection (b); or
- (2) one-half (1/2) the maximum salary of a captain.

(e) An employee beneficiary in the active service of the department who has completed twenty-five (25) years of service after July 1, 1937, and who continues after July 1, 1937, in the service of the department is entitled to add to the basic monthly pension amount, at retirement, the following:

- (1) Five percent (5%) of the basic amount for each of the next three (3) full years over twenty-five (25) years.

(2) Six percent (6%) of the basic amount for each of the next two (2) full years over twenty-eight (28) years.

(3) Seven percent (7%) of the basic amount for each of the next two (2) full years over thirty (30) years.

(4) Eight percent (8%) of the basic amount for each of the next two (2) full years over thirty-two (32) years.

However, the total of these additional amounts may not exceed seventy percent (70%) of the basic pension amount. These additional benefits are subject to any compulsory retirement age provided by the pension trust.

Sec. 8. (a) The basic monthly pension payable under section 7 of this chapter after June 30, 1995, to a member of the pension trust who retired after June 30, 1987, and before July 1, 1990, shall be increased by thirty-nine dollars (\$39).

(b) The department shall pay into the trust fund an amount sufficient to pay the increased benefits granted under this section. The trustee shall pay the increase in the monthly benefit required by this section from money in the trust fund.

Chapter 5. Supplemental Pension Benefits

Sec. 1. This chapter is intended to be a supplement to IC 10-12-3 and does not repeal, impair, or otherwise adversely affect the pension fund or pension benefits provided for in IC 10-12-3 for eligible employees of the department.

Sec. 2. To become eligible for any supplemental benefits provided in this chapter, an employee of the department must:

(1) be at least fifty-five (55) years of age;

(2) have completed at least twenty (20) years of service with the department or be retired by virtue of becoming fifty-five (55) years of age; and

(3) be eligible to receive retirement benefits under IC 10-12-3.

Sec. 3. (a) The pension advisory board that administers the pension under IC 10-12-3 shall direct and supervise the supplemental benefits provided in this chapter.

(b) The pension advisory board shall annually:

(1) provide a schedule showing the number of retirees receiving pension benefits under IC 10-12-3; and

(2) add to the regular pension benefit or annuity a supplemental benefit equal to fifty percent (50%) of the difference between:

- (A) the retiree's pension amount; and
- (B) the pension benefits received by an employee retiring from the department after July 1, 1970, with twenty (20) years of active service.

Sec. 4. As an incentive to all employees of the department, the supplemental pension benefits of this chapter shall be increased by more than the fifty percent (50%) increase provided in section 3 of this chapter, at the rate of five percent (5%) per year for each year of active service over twenty (20) years up to thirty (30) years of service, to provide that retired employees with thirty (30) years of service are entitled to one hundred percent (100%) of the regular pension benefits of employees who retire with twenty (20) years of active service after July 1, 1970.

Sec. 5. (a) The pension advisory board shall make the necessary computations required by this chapter on or before August 1 of each year preceding a session of the general assembly.

(b) The general assembly shall appropriate and the budget agency shall make available an amount sufficient to provide the funds necessary for supplemental pension benefits for eligible retirees under this chapter.

Sec. 6. The treasurer of state:

- (1) is the trustee for the funds allocated to the supplemental pension benefits; and
- (2) shall keep the supplemental pension benefit funds in a separate account that the treasurer of state may designate as the state police department supplemental pension benefit fund.

Sec. 7. The supplemental pension benefits provided for in this chapter shall be paid at the same time and along with the regular pension benefits.

Chapter 6. Special Death Benefit for Motor Carrier Inspectors and Special Police Employees

Sec. 1. As used in this chapter, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that:

- (1) a motor carrier inspector; or
- (2) a special police employee of the department who is not a regular police employee of the department;

is obligated or authorized by rule, regulation, condition of

employment or service, or law to perform in the course of the inspector's or special police employee's regular duties.

Sec. 2. A special death benefit of one hundred fifty thousand dollars (\$150,000) for a motor carrier inspector or special police employee who dies in the line of duty shall be paid in a lump sum from the special death benefit fund established by IC 5-10-10-5 to the following relative of a motor carrier inspector or special police employee who dies in the line of duty:

(1) The surviving spouse.

(2) If there is no surviving spouse, the surviving children (to be shared equally).

(3) If there is no surviving spouse and there are no surviving children, the parent or parents in equal shares.

SECTION 4. IC 10-13 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 13. STATE POLICE DATA AND INFORMATION PROGRAMS

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Department" refers to the state police department established by IC 10-11-2-4.

Sec. 3. "Superintendent" refers to the superintendent of the department appointed under IC 10-11-2-6.

Chapter 2. Criminal Justice Data Division

Sec. 1. As used in this chapter, "division" refers to the criminal justice data division established by section 2 of this chapter.

Sec. 2. (a) The criminal justice data division is established within the department.

(b) The division is under the administrative control and jurisdiction of the superintendent.

(c) The superintendent may:

(1) staff the division with personnel necessary for its efficient operation; and

(2) adopt rules to carry out the purposes of this chapter.

Sec. 3. (a) The division shall use the most current equipment, methods, and systems for the rapid storage and retrieval of criminal justice data necessary for an effective criminal justice

system within Indiana.

(b) The superintendent may hire consultants to advise the superintendent in the most efficient means of establishing, funding, and maintaining the criminal justice data system with the ultimate purpose of extending the services and benefits of the system to all governmental agencies of the state and its political subdivisions having a need for the data.

Sec. 4. The division shall be organized and administered to fulfill the following purposes:

- (1) To inform the public and responsible governmental officials as to the nature of the crime problem, its magnitude, and its trend over time.
- (2) To measure the effects of prevention and deterrence programs, ranging from community action to police patrol.
- (3) To find out who commits crimes by age, sex, family status, income, ethnic and residential background, and other social attributes, to find the proper focus of crime prevention programs.
- (4) To measure the workload and effectiveness of all agencies of the criminal justice system, both individually and as an integrated system.
- (5) To analyze the factors contributing to success and failure of probation, parole, and other correctional alternatives for various kinds of offenders.
- (6) To provide criminal justice agencies with comparative norms of performance.
- (7) To furnish baseline data for research.
- (8) To compute the costs of crime in terms of economic injury inflicted upon communities and individuals, as well as to assess the direct public expenditures by criminal justice agencies.
- (9) To project expected crime rates and their consequences into the future for more enlightened government planning.

Sec. 5. (a) The division, under the supervision and direction of the superintendent and in accordance with the rules adopted under this chapter, shall do the following:

- (1) Collect data necessary for the accomplishment of the purposes of this chapter from all persons and agencies mentioned in section 6 of this chapter.

(2) Prepare and distribute to all the persons and agencies the forms to be used in reporting data to the division. The forms also must provide for items of information needed by federal bureaus, agencies, or departments engaged in the development of national criminal statistics.

(3) Prescribe the form and content of records to be kept by the persons and agencies to ensure the correct reporting of data to the division.

(4) Instruct the persons and agencies in the installation, maintenance, and use of records and equipment and in the manner of reporting to the division.

(5) Tabulate, analyze, and interpret the data collected.

(6) Supply data, upon request, to federal bureaus, agencies, or departments engaged in collecting and analyzing national criminal statistics.

(7) Present the following to the governor:

(1) Before July 1 of each year, a printed report containing the criminal statistics of the preceding calendar year.

(2) At other times the superintendent considers necessary or the governor requests, reports on public aspects of criminal statistics in a sufficiently general distribution for public enlightenment.

(b) The division may not obtain data under this chapter except that which is a public record, and all laws regulating privacy or restricting use of the data apply to any data collected.

(c) The division may accept data and reports from agencies other than those required to report under this chapter if the data and reports are consistent with the purposes of this chapter.

Sec. 6. (a) If requested by the division, a public official or public agency dealing with crime or criminals or with delinquency or delinquents shall do the following:

(1) Install and maintain records needed for reporting data required by the division.

(2) Report to the division, as and when prescribed, all data requested.

(3) Give the accredited agents of the division access to the records for the purpose of inspection.

(4) Cooperate with the division to the end that its duties may be properly performed.

(b) An official required under this chapter to furnish reports, information, or statistics to the criminal justice data division or a person employed by the official is not liable in any action arising out of having furnished the information in a manner as may be required by this chapter or the rules adopted under this chapter.

Sec. 7. As far as is practicable, the equipment methods and systems used by the criminal justice data division must be compatible with those used by similar agencies in other states and the federal government so that data necessary for interstate, national, and international criminal justice is readily available.

Sec. 8. In the administration of the division, the superintendent shall have the advice and assistance of the criminal justice commission and advisory council and the criminal justice planning agency.

Sec. 9. (a) The superintendent shall adopt rules necessary to accomplish the purposes of this chapter.

(b) In formulating the rules, the superintendent shall have the advice and assistance of the criminal justice advisory committee established by section 10 of this chapter.

Sec. 10. (a) The criminal justice advisory committee is established.

(b) The committee consists of the following persons or their designated representatives:

(1) The superintendent, who shall act as chairman.

(2) The attorney general.

(3) The executive director of the criminal justice planning agency.

(4) The commissioner of corrections.

(5) One (1) county sheriff serving in the sheriff's second or subsequent term of office.

(6) One (1) chief of police with at least two (2) years of experience as chief.

(7) One (1) prosecuting attorney in the prosecuting attorney's second or subsequent term of office.

(8) One (1) judge of a court of general criminal jurisdiction.

(9) The executive director of the law enforcement training academy.

(10) A criminologist or forensic scientist.

(c) A member of the committee:

(1) must be appointed by the governor on a nonpartisan basis; and

(2) shall serve at the pleasure of the governor.

(d) A member of the committee serves without compensation except per diem as provided by law.

(e) The committee shall meet as often as is considered necessary by the superintendent to formulate or revise rules for the statewide operation of the criminal justice data division.

Sec. 11. The division shall, within the limits of time and manpower, comply with all reasonable requests for periodic reports and analysis of data as may be made by any officer or agency required to report data that is necessary for the proper performance of the duties of the officer or agency.

Sec. 12. (a) It is the intent of the general assembly in enacting this chapter to provide information and data with reference to the total criminal justice system that will be equally beneficial to all officers, agencies, and components of the criminal justice system to better perform their respective duties for the overall improvement of criminal justice. Rules adopted under this chapter shall be drafted to express this intent.

(b) If a public official:

(1) is required by the rules to report to the division; and

(2) fails to comply with:

(A) the requests of the superintendent for information or data; or

(B) the rules governing records and systems and equipment and their maintenance;

the director of the criminal justice planning agency may deny the public official the benefits of the system until the public official complies with the rules.

(c) An official who knowingly makes a false return of information to the division commits a Class A misdemeanor.

Chapter 3. Criminal History Information

Sec. 1. As used in this chapter, "bias crime" means an offense in which the person who commits the offense knowingly or intentionally:

(1) selected the person who was injured; or

(2) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national

origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

Sec. 2. As used in this chapter, "care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children less than eighteen (18) years of age.

Sec. 3. As used in this chapter, "certificated employee" has the meaning set forth in IC 20-7.5-1-2.

Sec. 4. As used in this chapter, "council" means the security and privacy council established by section 34 of this chapter.

Sec. 5. (a) As used in this chapter, "criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals.

(b) The term consists of the following:

- (1)** Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.
- (2)** Information regarding a sex and violent offender (as defined in IC 5-2-12-4) obtained through sex and violent offender registration under IC 5-2-12.
- (3)** Any disposition, including sentencing, and correctional system intake, transfer, and release.

Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

- (1)** the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;
- (2)** the location of parents with child support obligations under 42 U.S.C. 653;
- (3)** the licensing and regulating of riverboat gambling operations; or
- (4)** the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

- (1)** The office of the attorney general.
- (2)** The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.

(3) A nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

Sec. 7. As used in this chapter, "disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

Sec. 8. As used in this chapter, "inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

Sec. 9. As used in this chapter, "institute" means the Indiana criminal justice institute established by IC 5-2-6-3.

Sec. 10. (a) As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

(b) The term includes the office of the attorney general.

Sec. 11. (a) As used in this chapter, "limited criminal history" means information with respect to any arrest or criminal charge, which must include a disposition.

(b) However, the term includes information about any arrest or criminal charge that occurred less than one (1) year before the date of a request even if no disposition has been entered.

Sec. 12. As used in this chapter, "national criminal history background check" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

Sec. 13. As used in this chapter, "no contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under any of the following:

- (1) IC 31-32-13.
- (2) IC 31-34-17.
- (3) IC 31-34-20.
- (4) IC 31-37-16.
- (5) IC 31-37-19-1.
- (6) IC 31-37-19-6.
- (7) IC 33-14-1-7.
- (8) IC 35-33-8-3.2.
- (9) IC 35-38-2-2.3.

Sec. 14. As used in this chapter, "noncertificated employee" has the meaning set forth in IC 20-7.5-1-2.

Sec. 15. (a) As used in this chapter, "protective order" has the meaning set forth in IC 5-2-9-2.1.

(b) The term includes a foreign protection order (as defined in IC 34-6-2-48.5).

Sec. 16. (a) As used in this chapter, "qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services.

(b) The term includes a business or an organization that licenses or certifies others to provide care or care placement services.

Sec. 17. As used in this chapter, "release" means furnishing a copy or an edited copy of criminal history data.

Sec. 18. As used in this chapter, "reportable offenses" means all felonies and those Class A misdemeanors the superintendent designates.

Sec. 19. As used in this chapter, "request" means asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner that:

- (1) reasonably ensures the identification of the subject of the inquiry; and
- (2) contains a statement of the purpose for which the information is requested.

Sec. 20. As used in this chapter, "school corporation" has the meaning set forth in IC 20-10.1-1-1.

Sec. 21. As used in this chapter, "special education cooperative" has the meaning set forth in IC 20-1-6-20.

Sec. 22. As used in this chapter, "unidentified person" means a deceased or mentally incapacitated person whose identity is

unknown.

Sec. 23. As used in this chapter, "workplace violence restraining order" means an order issued under IC 34-26-6.

Sec. 24. (a) The department shall act as the official state central repository for criminal history data.

(b) A sheriff, police department, or criminal justice agency in Indiana shall report to the department, on forms provided by the department, all arrests for reportable offenses.

Sec. 25. (a) If a person whose arrest has been reported as required by section 24 of this chapter is:

(1) transferred to the custody of another criminal justice agency; or

(2) released without having an indictment or information filed with any court;

a disposition report shall be furnished to the department by the agency from whose custody the person has been transferred or released. Disposition reports shall be made on forms provided by the department.

(b) If an indictment or information is filed in a court, the clerk of the court shall furnish to the department, on forms provided by the department, a report of the disposition of the case.

(c) A disposition report, whether by a criminal justice agency or a court clerk, shall be sent to the department within thirty (30) days after the disposition.

Sec. 26. (a) A criminal justice agency:

(1) shall provide criminal history data to another criminal justice agency upon request; and

(2) may receive criminal history data from another criminal justice agency.

(b) If the request is made by an agency doing a presentence investigation, the information shall be transmitted not later than seven (7) days after the date that the request is received.

(c) The department shall provide criminal history data to a criminal justice agency making a request if the council determines that the agency has complied with this chapter.

Sec. 27. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;**
- (2) has applied for a license and criminal history data as required by law to be provided in connection with the license;**
- (3) is a candidate for public office or a public official;**
- (4) is in the process of being apprehended by a law enforcement agency;**
- (5) is placed under arrest for the alleged commission of a crime;**
- (6) has charged that the subject's rights have been abused repeatedly by criminal justice agencies;**
- (7) is the subject of a judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;**
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;**
- (9) has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;**
- (10) is being investigated for welfare fraud by an investigator of the division of family and children or a county office of family and children;**
- (11) is being sought by the parent locator service of the child support bureau of the division of family and children;**
- (12) is or was required to register as a sex and violent offender under IC 5-2-12; or**
- (13) has been convicted of any of the following:**
 - (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.**
 - (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.**
 - (C) Child molesting (IC 35-42-4-3).**
 - (D) Child exploitation (IC 35-42-4-4(b)).**
 - (E) Possession of child pornography (IC 35-42-4-4(c)).**
 - (F) Vicarious sexual gratification (IC 35-42-4-5).**
 - (G) Child solicitation (IC 35-42-4-6).**

(H) Child seduction (IC 35-42-4-7).

(I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).

(J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

However, limited criminal history information obtained from the National Crime Information Center may not be released under this section except to the extent permitted by the Attorney General of the United States.

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

(1) Federally chartered or insured banking institutions.

(2) Officials of state and local government for any of the following purposes:

(A) Employment with a state or local governmental entity.

(B) Licensing.

(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.

Sec. 28. On request of an individual who has applied for employment with a noncriminal justice organization or individual, the Indiana central repository for criminal history information shall process a request for a limited criminal history check of the individual making the request from the Federal Bureau of Investigation's National Crime Information Center upon:

(1) the submission of fingerprints of the individual making the request; and

(2) the payment of a fifteen dollar (\$15) fee.

Sec. 29. A noncriminal justice organization or individual that receives a limited criminal history may not use it for purposes:

(1) other than those stated in the request; or

(2) that deny the subject any civil right to which the subject is entitled.

Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may and the department shall do the following:

(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

(1) has been requested; and

(2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the sex and violent offender directory under IC 5-2-6 or concerns a person required to register as a sex and violent offender under IC 5-2-12.

Sec. 31. (a) Unless otherwise prohibited by law, a criminal justice agency that maintains criminal history data, upon request and proper identification of the person about whom criminal history data is maintained, shall provide that person with a copy of the person's criminal history data for a reasonable fee.

(b) Any person may challenge the information contained in the person's criminal history data file.

Sec. 32. This chapter is not applicable to and does not prevent the release or inspection of information contained in the following:

(1) Wanted person posters or announcements.

(2) An original record of entry, including a police blotter, maintained by a criminal justice agency.

(3) Published court or administrative opinions or records of public judicial, administrative, or legislative proceedings.

(4) Records of traffic offenses maintained by the bureau of motor vehicles.

(5) Announcements of pardon or executive clemency.

Sec. 33. (a) The council shall adopt rules under IC 4-22-2 to:

(1) assure the completeness and accuracy of criminal history

data;

(2) protect information from loss, alteration, destruction, or improper direct access to the information files;

(3) prevent unreasonable interference with the regular discharge of the duties of employees of law enforcement agencies; and

(4) carry out this chapter.

(b) If a person makes a challenge under section 31(b) of this chapter, the department shall:

(1) make the changes requested, if it determines the data is in error; or

(2) conduct a hearing under IC 4-21.5-3, if requested by the person making the challenge.

(c) The rules adopted under this chapter must provide for inspection in a reasonable and timely manner.

Sec. 34. (a) There is established a security and privacy council that consists of nine (9) members selected under subsections (b) and (c).

(b) The following six (6) members shall be appointed by and shall serve at the pleasure of the governor:

(1) A prosecuting attorney.

(2) The police chief of a city.

(3) The sheriff of a county.

(4) A criminal court judge.

(5) Two (2) citizens who are not law enforcement officers.

(c) The following persons, or their designees, also are members of the council:

(1) The superintendent.

(2) The attorney general.

(3) The commissioner of the department of correction.

(d) Members of the council are not entitled to receive compensation but are entitled to receive a per diem and mileage on those days in which they are engaged in the business of the council. Per diem and mileage paid shall be that amount paid to state employees.

Sec. 35. (a) On a daily basis, all law enforcement agencies shall enter into the Indiana data and communication system (IDACS) computer the following:

(1) All information concerning stolen or recovered property,

including the following:

- (A) Motor vehicles.
- (B) Firearms.
- (C) Securities.
- (D) Boats.
- (E) License plates.
- (F) Other stolen or recovered property.

(2) All information concerning fugitives charged with a crime, including information concerning extradition.

(3) All information concerning runaways, missing and unidentified persons, and missing children (as defined in IC 10-13-5-4), including information concerning the release of those persons to the custody of a parent or guardian.

(4) Information contained in a protective order, including any modifications or extensions issued by a court and filed with a law enforcement agency as required in IC 5-2-9-6(f).

(b) On a daily basis, all law enforcement agencies shall do the following:

(1) Enter all information concerning missing children (as defined in IC 10-13-5-4) into the National Crime Information Center's Missing Person File.

(2) Enter all information concerning warrants issued for a person who allegedly abducted or unlawfully retained a missing child into the National Crime Information Center's Wanted Person File.

(3) Enter all information concerning unidentified persons into the National Crime Information Center's Unidentified Person File.

(4) Enter all information concerning a protective order, a workplace violence restraining order, or a no contact order involving intimate partners into the National Crime Information Center's (NCIC) Protection Order File if the order qualifies under NCIC rules.

(c) If a protective order, a no contact order, or a workplace violence restraining order is removed from a depository established under IC 5-2-9, the law enforcement agency responsible for the depository shall delete the information entered under subsection (a)(4) from the Indiana data and communication system (IDACS) computer.

Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and

(2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39); or

(D) is a supervised group living facility licensed under IC 12-28-5.

(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115), a local law enforcement agency may use fingerprints submitted for the purpose of identification in a request related to the following:

(1) A taxicab driver's license application.

(2) An application for a license for a massage therapist.

(3) Reinstatement or renewal of a license described in subdivisions (1) and (2).

(b) An applicant shall submit the fingerprints on forms provided for the license application.

(c) The local law enforcement agency shall charge each applicant the fees set by the department and federal authorities to

defray the costs associated with a search for and classification of the applicant's fingerprints.

(d) The local law enforcement agency may:

- (1) forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant; and
- (2) receive the results of all fingerprint investigations.

Sec. 38. (a) A law enforcement agency shall collect information concerning bias crimes.

(b) At least two (2) times each year, a law enforcement agency shall submit information collected under subsection (a) to the Indiana central repository for criminal history information. Information shall be reported in the manner and form prescribed by the department.

(c) At least one (1) time each year, the Indiana central repository for criminal history information shall submit a report that includes a compilation of information obtained under subsection (b) to each law enforcement agency and to the legislative council. A report submitted to a law enforcement agency and the legislative council under this subsection may not contain the name of a person who:

- (1) committed or allegedly committed a bias crime; or
- (2) was the victim or the alleged victim of a bias crime.

(d) Except as provided in subsection (e), information collected, submitted, and reported under this section must be consistent with guidelines established for the acquisition, preservation, and exchange of identification records and information by:

- (1) the Attorney General of the United States; or
- (2) the Federal Bureau of Investigation;

under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended (28 U.S.C. 534 note).

(e) Information submitted under subsection (b) and reports issued under subsection (c) shall, in conformity with guidelines prescribed by the department:

- (1) be separated in reports on the basis of whether it is an alleged crime, a charged crime, or a crime for which a conviction has been obtained; and
- (2) be divided in reports on the basis of whether, in the opinion of the reporting individual and the data collectors,

bias was the primary motivation for the crime or only incidental to the crime.

Sec. 39. (a) The department is designated as the authorized agency to receive requests for, process, and disseminate the results of national criminal history background checks that comply with this section and 42 U.S.C. 5119a.

(b) A qualified entity may contact the department to request a national criminal history background check on any of the following persons:

(1) A person who seeks to be or is employed with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person is initially employed by the qualified entity.

(2) A person who seeks to volunteer or is a volunteer with the qualified entity. A request under this subdivision must be made not later than three (3) months after the person initially volunteers with the qualified entity.

(c) A qualified entity must submit a request under subsection (b) in the form required by the department and provide a set of the person's fingerprints and any required fees with the request.

(d) If a qualified entity makes a request in conformity with subsection (b), the department shall submit the set of fingerprints provided with the request to the Federal Bureau of Investigation for a national criminal history background check for convictions described in IC 20-5-2-8. The department shall respond to the request in conformity with:

(1) the requirements of 42 U.S.C. 5119a; and

(2) the regulations prescribed by the Attorney General of the United States under 42 U.S.C. 5119a.

(e) This subsection applies to a qualified entity that:

(1) is not a school corporation or a special education cooperative; or

(2) is a school corporation or a special education cooperative and seeks a national criminal history background check for a volunteer.

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department shall make a determination whether the applicant has been convicted of an offense described in IC 20-5-2-8 and convey

the determination to the requesting qualified entity.

(f) This subsection applies to a qualified entity that:

- (1) is a school corporation or a special education cooperative; and**
- (2) seeks a national criminal history background check to determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.**

After receiving the results of a national criminal history background check from the Federal Bureau of Investigation, the department may exchange identification records concerning convictions for offenses described in IC 20-5-2-8 with the school corporation or special education cooperative solely for purposes of making an employment determination. The exchange may be made only for the official use of the officials with authority to make the employment determination. The exchange is subject to the restrictions on dissemination imposed under P.L.92-544, (86 Stat. 1115) (1972).

Chapter 4. Juvenile History Information

Sec. 1. As used in this chapter, "council" refers to the security and privacy council established by IC 10-13-3-34.

Sec. 2. As used in this chapter, "criminal justice agency" has the meaning set forth in IC 10-13-3-6.

Sec. 3. As used in this chapter, "inspection" means visual perusal and includes the right to make memoranda abstracts of juvenile history data.

Sec. 4. As used in this chapter, "juvenile history data" means information collected by criminal or juvenile justice agencies or individuals about a child who is alleged to have committed a reportable act and consists of the following:

- (1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.**
- (2) A petition alleging that the child is a delinquent child.**
- (3) Dispositional decrees concerning the child that are entered under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).**
- (4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or**

IC 31-6-4-19(i) before their repeal) concerning the child.

(5) Information:

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 5-2-12-4 if committed by an adult; and

(B) that is obtained through sex and violent offender registration under IC 5-2-12.

Sec. 5. As used in this chapter, "juvenile justice agency" means an agency or department of any level of government, the functions of which include juvenile justice activities included under IC 5-2-6-1.

Sec. 6. As used in this chapter, "petition" means a petition filed under IC 31-37-10 (or IC 31-6-4-9 before its repeal) alleging that a child is a delinquent child.

Sec. 7. As used in this chapter, "release" means furnishing a copy or edited copy of juvenile history data.

Sec. 8. As used in this chapter, "reportable act" means a delinquent act that would be a felony if committed by an adult.

Sec. 9. (a) The department shall act as the official state central repository for juvenile history data.

(b) Juvenile justice agencies shall report to the department, on forms provided by the department, each incident in which a child is taken into custody for a reportable act allegedly committed by the child.

Sec. 10. (a) If a child for whom a report is required to be submitted under section 9 of this chapter is:

(1) transferred to the custody of another juvenile justice agency; or

(2) released without having a petition filed with any court; a disposition report shall be furnished to the department by the agency from which custody of the child has been transferred or released. Disposition reports must be made on forms provided by the department.

(b) If a petition is filed in any court, the clerk of the court shall furnish to the department, on forms provided by the department, a report of the dispositional decree of the case entered under IC 31-37-19-5 (or IC 31-6-4-15.9 before its repeal).

(c) A report required under section 9 of this chapter or this

section, whether by a juvenile justice agency or a court clerk, shall be sent to the department within thirty (30) days after the action necessitating the report occurs.

Sec. 11. (a) A criminal or juvenile justice agency may:

- (1) provide juvenile history data to; or**
- (2) receive juvenile history data from;**

another criminal or juvenile justice agency.

(b) The department shall provide juvenile history data to any criminal or juvenile justice agency asking for it if the council determines that the agency has complied with this chapter.

Sec. 12. (a) Except as otherwise provided, any criminal or juvenile justice agency that maintains juvenile history data shall, upon request and proper identification of the person about whom juvenile history data is maintained, provide:

- (1) that person; or**
- (2) the person's parent, guardian, or custodian if the person is less than eighteen (18) years of age;**

with a copy of the person's juvenile history data for a reasonable fee.

(b) A person or the person's parent, guardian, or custodian, if the person is less than eighteen (18) years of age, may challenge the accuracy of information about the person filed with the department as juvenile history data.

(c) The department may not release or allow inspection of juvenile history data to any person or agency that is not authorized under this chapter to receive it.

Sec. 13. (a) When a person who is the subject of juvenile history data on file with the department becomes twenty-two (22) years of age, the department shall seal that person's juvenile history data. However, this subsection does not apply if, after the department receives juvenile history data about a person, the person is arrested for a felony required to be reported to the department under IC 10-13-3.

(b) Except as provided under subsection (c), the department may not release to or allow inspection of sealed juvenile history data by any agency or person other than the person who is the subject of the juvenile history data.

(c) A court may not order the release or inspection of sealed juvenile history data unless the person who is the subject of the

sealed juvenile history data challenges its existence during a court proceeding.

Sec. 14. (a) The council shall adopt rules under IC 4-22-2 to do the following:

(1) Assure the completeness and accuracy of juvenile history data.

(2) Protect information from loss, alteration, destruction, or improper direct access to the information files.

(3) Prevent unreasonable interference with the regular discharge of the duties of employees of law enforcement agencies.

(4) Carry out this chapter.

(b) If a person makes a challenge under section 12(b) of this chapter, the department shall:

(1) make the changes requested, if the department determines the data is in error; or

(2) conduct a hearing under IC 4-21.5, if requested by the person making the challenge.

(c) The rules adopted under this chapter must provide for inspection and release of juvenile history data in a reasonable and timely manner.

Chapter 5. Indiana Clearinghouse for Information on Missing Children

Sec. 1. As used in this chapter, "Amber alert program" means a program under which the clearinghouse transmits information about a recently abducted child to broadcasters who:

(1) have agreed to participate in the program; and

(2) immediately and repeatedly broadcast the information to the general public.

Sec. 2. As used in this chapter, "broadcaster" means the operator of a radio or television station.

Sec. 3. As used in this chapter, "clearinghouse" refers to the Indiana clearinghouse for information on missing children established by section 5 of this chapter.

Sec. 4. As used in this chapter, "missing child" means a person less than eighteen (18) years of age who:

(1) is, or is believed to be:

(A) a temporary or permanent resident of Indiana;

(B) at a location that cannot be determined by the person's

parent or legal custodian; and

(C) reported missing to a law enforcement agency; or

(2) is, or is believed to be:

(A) a temporary or permanent resident of Indiana; and

(B) a victim of the offense of criminal confinement (IC 35-42-3-3) or interference with custody (IC 35-42-3-4).

Sec. 5. The Indiana clearinghouse for information on missing children is established within the department.

Sec. 6. (a) The superintendent shall designate staff responsible for the operation of the clearinghouse.

(b) The staff's duties include the following:

(1) Creation and operation of an intrastate network of communication designed for the speedy collection and processing of information concerning missing children.

(2) Creation and operation of a central data storage, retrieval, and information distribution system designed for the exchange of information on missing children within and outside Indiana. The system must be capable of interacting with:

(A) the Indiana data and communication system under IC 10-13-3-35; and

(B) the National Crime Information Center.

(3) Development of appropriate forms for the reporting of missing children that may be used by law enforcement agencies and private citizens to provide useful information about a missing child to the clearinghouse.

(4) Cooperation with the following agencies concerning the location of missing children:

(A) State and local public and private nonprofit agencies involved with the location and recovery of missing persons.

(B) Agencies of the federal government.

(C) State and local law enforcement agencies within and outside Indiana.

(5) Coordinating efforts to locate missing children with the agencies listed in subdivision (4).

(6) Operation of the toll free telephone line created under section 7(a) of this chapter.

(7) Publishing and updating, on a quarterly basis, a directory of missing children.

(8) Compiling statistics on missing children cases handled by the clearinghouse, including the number of cases resolved each year.

Sec. 7. (a) The clearinghouse shall do the following:

(1) Collect, process, and maintain identification and investigative information to aid in finding missing children.

(2) Establish a statewide, toll free telephone line for reports of missing children and sightings of missing children.

(3) Prescribe a uniform reporting form concerning missing children for use by law enforcement agencies within Indiana.

(4) Assist in training law enforcement and other professionals on issues relating to missing children.

(5) Operate a resource center of information regarding the prevention of:

(A) the abduction of children; and

(B) the sexual exploitation of children.

(6) Distribute the quarterly directory prepared under section 6(b)(7) of this chapter to schools and hospitals.

(7) Distribute the quarterly directory described in subdivision (6) to child care centers and child care homes that make an annual contribution of four dollars (\$4) to the clearinghouse. The contributions must be used to help defray the cost of publishing the quarterly directory.

(b) For a missing child who was born in Indiana, the clearinghouse shall notify the vital statistics division of the state department of health:

(1) within fifteen (15) days after receiving a report under IC 31-36-1-3 (or IC 31-6-13-4 before its repeal) of a missing child less than thirteen (13) years of age; and

(2) promptly after the clearinghouse is notified that a missing child has been found.

(c) Upon receiving notification under subsection (b) that a child is missing or has been found, the vital statistics division of the state department of health shall notify the local health department or the health and hospital corporation that has jurisdiction over the area where the child was born.

(d) Information collected, processed, or maintained by the clearinghouse under subsection (a) is confidential and is not subject to IC 5-14-3, but may be disclosed by the clearinghouse for

purposes of locating missing children.

Sec. 8. (a) The clearinghouse may operate an Amber alert program.

(b) Upon the establishment of an Amber alert program, the clearinghouse may enter into an agreement with one (1) or more broadcasters to operate the Amber alert program under this chapter.

(c) The superintendent shall designate staff responsible for the operation of the Amber alert program.

(d) The department shall adopt guidelines governing the clearinghouse's operation of the Amber alert program. The department's guidelines may require that staff, upon receiving a report that a child has been abducted, immediately send by facsimile (fax) transmission or other means of communication a description of the abducted child to one (1) or more broadcasters participating in the Amber alert program.

(e) A broadcaster participating in the Amber alert program shall immediately broadcast:

- (1)** a description of the abducted child; and
- (2)** other information that will assist in locating the abducted child;

to the general public in accordance with the Amber alert plan agreement between the clearinghouse and the broadcaster.

(f) The department shall adopt guidelines governing the voluntary Amber alert program agreement between the clearinghouse and a broadcaster. The voluntary agreement between the clearinghouse and the broadcaster may include the following provisions:

(1) Upon receiving a notification as part of the Amber alert program, the broadcaster shall broadcast the information contained on the notice on an intermittent basis for a period of time as provided in the agreement between the clearinghouse and the broadcaster.

(2) The broadcaster shall treat the Amber alert notification as an emergency.

(3) The broadcaster shall ensure that the facsimile (fax) transmission machine or other communications device used to receive an Amber alert notification is:

- (A)** generally available to receive an Amber alert

notification; and

(B) located such that the broadcaster will immediately become aware of an incoming Amber alert notification.

Sec. 9. If a missing child is found, the child's parent or legal custodian shall notify the law enforcement agency that received the missing child notification under IC 31-36 (or IC 31-6-13 before its repeal).

Sec. 10. Upon receiving notification from a parent or legal custodian that a missing child has been found, a law enforcement agency shall immediately notify the clearinghouse.

Sec. 11. (a) Upon receiving notification under section 7 of this chapter, the vital statistics division of the state department of health and the appropriate local health department or health and hospital corporation shall attach a notice to the child's birth certificate stating that the child has been reported missing. The notice must remain attached to the birth certificate until notification is received under section 7 of this chapter that the missing child has been found.

(b) If a request for a copy of the birth certificate of a child is received, the vital statistics division and the appropriate local health department or health and hospital corporation shall require the person making the request to submit an application for the birth certificate that includes:

- (1) the date of the request;
- (2) the name, address, and telephone number of the person making the request; and
- (3) the signature of the person making the request.

(c) If a notice that the child is missing has been attached to the birth certificate, the vital statistics division and the appropriate local health department or health and hospital corporation shall immediately notify the clearinghouse of the information contained in the application.

(d) A copy of the birth certificate of a missing child to which a notice has been attached under subsection (a) may not be issued without authorization from the clearinghouse.

Chapter 6. Indiana DNA Data Base

Sec. 1. As used in this chapter, "Combined DNA Index System" refers to the Federal Bureau of Investigation's national DNA identification index system that allows the storage and exchange of

DNA records submitted by state and local forensic DNA laboratories.

Sec. 2. As used in this chapter, "DNA" means deoxyribonucleic acid that:

- (1) is located in the nucleated cells;**
- (2) provides an individual's personal genetic blueprint; and**
- (3) encodes genetic information that is the basis of human heredity and forensic identification.**

Sec. 3. As used in this chapter, "DNA analysis" means an identification process in which the unique genetic code of an individual that is carried by the individual's DNA is compared with the genetic codes of another individual.

Sec. 4. As used in this chapter, "DNA profile" means the results of all DNA identification tests on an individual's DNA sample.

Sec. 5. As used in this chapter, "DNA record" refers to DNA identification information stored in the state DNA data base or the Combined DNA Index System for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results that:

- (1) is the result obtained from DNA typing tests; and**
- (2) is comprised of the characteristics of a DNA sample that are of value in establishing the identity of individuals.**

Sec. 6. As used in this chapter, "DNA sample" means a blood, tissue, or other body fluid sample:

- (1) provided by a person with respect to offenses covered by this chapter; or**
- (2) submitted to the state police laboratory under this chapter for analysis or storage, or both.**

Sec. 7. As used in this chapter, "superintendent" includes the superintendent or the superintendent's designee.

Sec. 8. (a) The superintendent may establish a data base of DNA identification records of:

- (1) convicted criminals;**
- (2) crime scene specimens;**
- (3) unidentified missing persons; and**
- (4) close biological relatives of missing persons.**

(b) The superintendent shall maintain the Indiana DNA data base.

(c) The superintendent may contract for services to perform

DNA analysis of convicted offenders under section 10 of this chapter to assist federal, state, and local criminal justice and law enforcement agencies in the putative identification, detection, or exclusion of individuals who are subjects of an investigation or prosecution of a sex offense, a violent crime, or another crime in which biological evidence is recovered from the crime scene.

(d) The superintendent shall adopt rules under IC 4-22-2 necessary to administer and enforce the provisions and intent of this chapter.

Sec. 9. The superintendent shall ensure that the Indiana DNA data base:

- (1) supports development of a population statistics data base when personal identifying information is removed;**
- (2) supports identification research and protocol development of forensic DNA analysis;**
- (3) assists in achieving quality control; and**
- (4) assists in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of missing persons who may be alive.**

Sec. 10. (a) This section applies to the following:

(1) A person convicted of a felony under IC 35-42 (offenses against the person), IC 35-43-2-1 (burglary), or IC 35-42-4-6 (child solicitation):

(A) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.

(2) A person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1 if the felony had been in effect:

(A) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; and

(B) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(b) A person described in subsection (a) shall provide a DNA sample to the:

- (1) department of correction or the designee of the**

department of correction if the offender is committed to the department of correction; or

(2) county sheriff or the designee of the county sheriff if the offender is held in a county jail or other county penal facility, placed in a community corrections program (as defined in IC 35-38-2.6-2), or placed on probation.

A convicted person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

Sec. 11. (a) The superintendent may issue specific guidelines relating to procedures for DNA sample collection and shipment within Indiana for DNA identification testing.

(b) The superintendent shall issue specific guidelines related to procedures for DNA sample collection and shipment by the county sheriff or designee of the county sheriff under section 10(b)(2) of this chapter. The superintendent shall provide each county sheriff with the guidelines issued under this subsection. A county sheriff shall collect and ship DNA samples in compliance with the guidelines issued under this subsection.

(c) The superintendent may delay the implementation of the collection of DNA samples under section 10(b)(2) of this chapter in one (1) or more counties until the earlier of the following:

- (1) A date set by the superintendent.
- (2) The date funding becomes available by grant through the criminal justice institute.

If the superintendent delays implementation of section 10(b)(2) of this chapter or terminates a delay under section 10(b)(2) of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

Sec. 12. DNA samples for the Indiana DNA data base must be collected in a medically approved manner by one (1) of the following:

- (1) A physician.
- (2) A registered nurse.
- (3) A licensed vocational nurse.
- (4) A licensed clinical laboratory technologist.
- (5) Any other person trained to collect DNA samples properly.

Sec. 13. (a) Tests performed on the DNA samples are for the following purposes:

- (1) To analyze and type the genetic markers contained in or derived from DNA.**
- (2) For law enforcement identification purposes.**
- (3) For research or administrative purposes, including:**
 - (A) development of a population statistics data base after personal identifying information is removed;**
 - (B) support of identification research and protocol development of forensic DNA analysis methods;**
 - (C) quality control; and**
 - (D) assisting in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of missing persons who may be alive.**

(b) Tests performed under this chapter must be conducted in a manner that produces compatible results with procedures specified by the Federal Bureau of Investigation Laboratory to ensure that DNA records are fully exchangeable between DNA laboratories.

Sec. 14. (a) A laboratory conducting forensic DNA analysis in Indiana must implement and follow nationally recognized standards for DNA quality assurance and proficiency testing, such as those approved by the American Society of Crime Laboratory Directors Laboratory Accreditation Board.

(b) Quality assurance guidelines issued by the Technical Working Group on DNA Analysis Methods serve as the standard for DNA testing under this chapter until national standards are set.

(c) A laboratory conducting forensic DNA analysis in Indiana shall forward relevant DNA data base records to the state police laboratory.

Sec. 15. A laboratory conducting forensic DNA analysis in Indiana may disclose or allow access to collected DNA samples and DNA analysis results only under the following circumstances:

- (1) To criminal justice agencies for law enforcement identification purposes.**
- (2) To defense counsel for criminal defense purposes.**
- (3) Upon authorization by a court or statute.**
- (4) For a population statistics data base, identification research and protocol development, or quality control purposes, but only if personal identifying information is removed.**

(5) For purposes of postconviction DNA testing and analysis under IC 35-38-7.

Sec. 16. The information contained in the Indiana DNA data base may not be collected or stored to obtain information about human physical traits or predisposition for disease.

Sec. 17. Personal information stored in the Indiana DNA data base is limited to:

(1) data necessary to:

(A) generate investigative leads; and

(B) support statistical interpretation of test results; and

(2) any other information necessary to allow for the successful implementation of the Indiana DNA data base system.

Sec. 18. (a) A person whose DNA profile has been included in the Indiana DNA data base may request expungement of the profile from the DNA data base on the grounds that the conviction on which the authority for inclusion in the Indiana DNA data base was founded has been reversed and the case has been dismissed.

(b) All identifiable information in the Indiana DNA data base pertaining to a person requesting expungement under subsection (a) shall be expunged, and all samples from the person shall be destroyed upon receipt of:

(1) a written request for expungement under subsection (a);

(2) a certified copy of the court order reversing and dismissing the conviction; and

(3) any other information necessary to ascertain the validity of the request.

(c) Upon expungement of a person's DNA profile from the Indiana DNA data base, the superintendent shall request expungement of the person's DNA profile from the national DNA data base.

Sec. 19. (a) Access to the Indiana DNA data base is limited to federal, state, and local law enforcement agencies through their servicing forensic DNA laboratories.

(b) The superintendent shall take appropriate measures to ensure that the Indiana DNA data base is protected against unauthorized access.

Sec. 20. The superintendent may deny the privilege of a laboratory performing forensic DNA analysis within Indiana to exchange DNA identification records with federal, state, or local

criminal justice agencies if required quality control and privacy standards described in this chapter for the Indiana DNA data base are not met by the laboratory.

Sec. 21. A person who knowingly or intentionally without lawful authority tampers with or attempts to tamper with any DNA sample or a container collected under section 10 of this chapter commits a Class D felony.

Sec. 22. A person who knowingly or intentionally disseminates, receives, or otherwise uses or attempts to use information in the Indiana DNA data base or DNA samples used in DNA analyses, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, commits a Class A misdemeanor.

SECTION 5. IC 10-14 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 14. EMERGENCY MANAGEMENT

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Agency" refers to the state emergency management agency established by IC 10-14-2-1.

Sec. 3. "Commission" refers to the Indiana emergency medical services commission established by IC 16-31-2-1.

Sec. 4. "Director" refers to the director of the agency appointed under IC 10-14-2-2.

Chapter 2. State Emergency Management Agency

Sec. 1. The state emergency management agency is established.

Sec. 2. (a) The governor shall appoint a director, who is responsible for organizing and administering the agency.

(b) The director:

- (1)** serves at the pleasure of the governor; and
- (2)** is entitled to receive compensation set by the budget agency.

(c) The director shall serve as the executive secretary of the commission.

Sec. 3. The director may hire qualified employees to carry out the agency's responsibilities, subject to the following:

- (1)** The approval of the budget agency under IC 4-12-1-13.
- (2)** IC 4-15-2.

Sec. 4. The agency shall do the following:

- (1) Coordinate the state's emergency plans.**
- (2) Serve as the coordinating agency for all state efforts for preparedness for, response to, mitigation of, and recovery from emergencies and disasters.**
- (3) Administer this article and IC 16-31.**
- (4) Perform duties assigned to the agency by the governor.**

Chapter 3. Emergency Management and Disaster Law

Sec. 1. (a) As used in this chapter, "disaster" means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause.

(b) The term includes the following:

- (1) Fire.**
- (2) Flood.**
- (3) Earthquake.**
- (4) Wind.**
- (5) Storm.**
- (6) Wave action.**
- (7) Oil spill.**
- (8) Other water contamination requiring emergency action to avert danger or damage.**
- (9) Air contamination.**
- (10) Drought.**
- (11) Explosion.**
- (12) Riot.**
- (13) Hostile military or paramilitary action.**

Sec. 2. As used in this chapter, "emergency management" means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. The functions include the following:

- (1) Firefighting services.**
- (2) Police services.**
- (3) Medical and health services.**
- (4) Rescue.**
- (5) Engineering.**
- (6) Warning services.**

- (7) Communications.
- (8) Radiological, chemical, and other special weapons defense.
- (9) Evacuation of persons from stricken areas.
- (10) Emergency welfare services.
- (11) Emergency transportation.
- (12) Plant protection.
- (13) Temporary restoration of public utility services.
- (14) Other functions related to civilian protection.
- (15) All other activities necessary or incidental to the preparation for and coordination of the functions described in subdivisions (1) through (14).

Sec. 3. As used in this chapter, "emergency management worker" includes any full-time or part-time paid, volunteer, or auxiliary employee of:

- (1) the state;
- (2) other:
 - (A) states;
 - (B) territories; or
 - (C) possessions;
- (3) the District of Columbia;
- (4) the federal government;
- (5) any neighboring country;
- (6) any political subdivision of an entity described in subdivisions (1) through (5); or
- (7) any agency or organization;

performing emergency management services at any place in Indiana subject to the order or control of, or under a request of, the state government or any political subdivision of the state.

Sec. 4. As used in this chapter, "energy" means coal, petroleum or other liquid fuels, natural or synfuel gas, or electricity.

Sec. 5. As used in this chapter, "energy emergency" means an existing or projected shortfall of at least eight percent (8%) of motor fuel or of other energy sources that threatens to seriously disrupt or diminish energy supplies to the extent that life, health, or property may be jeopardized.

Sec. 6. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 7. (a) Because of the existing and increasing possibility of disasters or emergencies of unprecedented size and destructiveness

that may result from manmade or natural causes, to ensure that Indiana will be adequately prepared to deal with disasters or emergencies or to prevent or mitigate those disasters where possible, generally to provide for the common defense, to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is found and declared to be necessary:

- (1) to provide for emergency management under a state emergency management agency;
- (2) to create local emergency management departments and to authorize and direct disaster and emergency management functions in the political subdivisions of the state;
- (3) to confer upon the governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided in this chapter;
- (4) to provide for the rendering of mutual aid among the political subdivisions of the state, with other states, and with the federal government to carry out emergency, disaster, or emergency management functions; and
- (5) to authorize the establishment of organizations and the implementation of steps that are necessary and appropriate to carry out this chapter.

(b) It is also the purpose of this chapter and the policy of the state to:

- (1) coordinate all emergency management functions of this state to the maximum extent with the comparable functions of:

- (A) the federal government, including the federal government's various departments and agencies;
- (B) other states and localities; and
- (C) private agencies of every type;

so that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur;

- (2) prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
- (3) provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;

(4) clarify and strengthen the roles of the:

- (A) governor;**
- (B) state agencies; and**
- (C) local governments;**

in the prevention of, preparation for, response to, and recovery from disasters;

(5) authorize and provide cooperation between departments of government in:

- (A) disaster prevention;**
- (B) preparedness;**
- (C) response; and**
- (D) recovery;**

(6) authorize and provide coordination of activities relating to:

- (A) disaster prevention;**
- (B) preparedness;**
- (C) response; and**
- (D) recovery;**

by agencies and officers of Indiana, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate; and

(7) provide a disaster management system embodying all aspects of pre-disaster preparedness, disaster operations, and post-disaster response.

Sec. 8. (a) This chapter may not be construed to do the following:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.

(2) Interfere with the dissemination of news or comment on public affairs. However, a communications facility or organization, including radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency.

(3) Affect the jurisdiction or responsibilities of police forces, firefighting forces, or units or personnel on active duty of the

United States' armed forces. However, state, local, and interjurisdictional disaster emergency plans must rely on the forces available for performance of functions related to disaster emergencies.

(4) Limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in the governor under the constitution, statutes, or common law of Indiana independent of or in conjunction with any provisions of this chapter.

(b) This chapter does not limit or in any way affect the responsibilities of the American National Red Cross under 36 U.S.C. 300101 et seq. and 42 U.S.C. 5121 et seq.

Sec. 9. (a) The agency shall prepare and maintain a current state emergency operations plan. The plan may provide for the following:

(1) Prevention and minimization of injury and damage caused by disaster.

(2) Prompt and effective response to disaster.

(3) Emergency relief.

(4) Identification of areas particularly vulnerable to disaster.

(5) Recommendations for:

(A) zoning;

(B) building;

(C) other land use controls;

(D) safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and

(E) other preventive and preparedness measures designed to eliminate or reduce disaster or its impact;

that must be disseminated to both the fire prevention and building safety commission and local authorities.

(6) Assistance to local officials in designing local emergency action plans.

(7) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster.

(8) Preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs.

- (9) Organization of manpower and chains of command.**
- (10) Coordination of federal, state, and local disaster activities.**
- (11) Coordination of the state disaster plan with the disaster plans of the federal government.**
- (12) Other necessary matters.**

(b) The agency shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under section 17 of this chapter. The agency shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, a political subdivision's disaster agencies, and interjurisdictional planning and disaster agencies. These personnel:

- (1) shall consult with subdivisions and government agencies on a regularly scheduled basis;**
- (2) shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply; and**
- (3) may suggest revisions.**

(c) In preparing and revising the state disaster plan, the agency shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the agency shall encourage local and interjurisdictional agencies to seek advice from the sources specified in this subsection.

(d) The state disaster plan or any part of the plan may be incorporated in rules of the agency or by executive orders.

(e) The agency shall do the following:

- (1) Determine requirements of the state and political subdivisions for food, clothing, and other necessities in the event of an emergency.**
- (2) Procure and pre-position supplies, medicines, materials, and equipment.**
- (3) Adopt standards and requirements for local and interjurisdictional disaster plans.**
- (4) Provide for mobile support units.**
- (5) Assist political subdivisions, political subdivisions' disaster**

agencies, and interjurisdictional disaster agencies to establish and operate training programs and public information programs.

(6) Make surveys of industries, resources, and facilities in Indiana, both public and private, necessary to carry out this chapter.

(7) Plan and make arrangements for the availability and use of any private facilities, services, and property, and if necessary and if the private facilities, services, or property is used, provide for payment for the use under agreed upon terms and conditions.

(8) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery.

(9) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency.

(10) Prepare, for issuance by the governor, executive orders, proclamations, and regulations necessary or appropriate in coping with disaster.

(11) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery.

(12) Do other things necessary, incidental, or appropriate to implement this chapter.

(f) The agency shall ascertain the rapid and efficient communications that exist in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating these resources into a comprehensive intrastate or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system, the agency shall evaluate the possibility of multipurpose use of the system for general state and local governmental purposes. The agency shall make appropriate recommendations to the governor.

(g) The agency shall develop a statewide mutual aid program and a statewide mutual aid agreement.

Sec. 10. (a) The mutual aid agreement described in section 9(g)

of this chapter must be a contract that provides for the following:

- (1) The procedures for providing mutual aid.
- (2) The term of the agreement and the method by which the agreement may be rescinded or terminated by a party before the termination date.
- (3) The terms and conditions governing reimbursement for any assistance provided.
- (4) The terms and conditions governing insurance.
- (5) The terms and conditions governing the assignment of liability. A unit (as defined in IC 36-1-2-23) or state agency that is a party to the agreement is not liable for a claim made against or arising out of conduct of any other party to the agreement or another party's personnel.
- (6) The role of the agency.
- (7) Other terms and conditions needed to implement a statewide mutual aid program.

(b) If an employee of a unit or state agency renders outside aid under the authority of an agreement, the employee has the same powers, duties, rights, privileges, and immunities as if the employee were performing the duties within the employee's normal jurisdiction.

(c) A mutual aid arrangement or agreement entered into by a unit under IC 36-1-7 before July 1, 2002, remains valid after June 30, 2002.

Sec. 11. (a) The governor has general direction and control of the agency and is responsible for carrying out this chapter. In the event of disaster or emergency beyond local control, the governor may assume direct operational control over all or any part of the emergency management functions within Indiana.

(b) In performing the governor's duties under this chapter, the governor may do the following:

- (1) Make, amend, and rescind the necessary orders, rules, and regulations to carry out this chapter with due consideration of the plans of the federal government.
- (2) Cooperate with the President of the United States and the heads of the armed forces, the Federal Emergency Management Agency, and the officers and agencies of other states in matters pertaining to emergency management and disaster preparedness, response, and recovery of the state and

nation. In cooperating under this subdivision, the governor may take any measures that the governor considers proper to carry into effect any request of the President of the United States and the appropriate federal officers and agencies for any emergency management action, including the direction or control of disaster preparations, including the following:

- (A) Mobilizing emergency management forces and other tests and exercises.**
 - (B) Providing warnings and signals for drills, actual emergencies, or disasters.**
 - (C) Shutting off water mains, gas mains, and electric power connections and suspending any other utility service.**
 - (D) Conducting civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after drills, actual emergencies, or other disasters.**
 - (E) Holding public meetings or gatherings.**
 - (F) Evacuating and receiving the civilian population.**
- (3) Take any action and give any direction to state and local law enforcement officers and agencies as may be reasonable and necessary for securing compliance with this chapter and with any orders, rules, and regulations made under this chapter.**
- (4) Employ any measure and give any direction to the state department of health or local boards of health as is reasonably necessary for securing compliance with this chapter or with the findings or recommendations of the state department of health or local boards of health because of conditions arising from actual or threatened:**
- (A) national security emergencies; or**
 - (B) manmade or natural disasters or emergencies.**
- (5) Use the services and facilities of existing officers, agencies of the state, and of political subdivisions. All officers and agencies of the state and of political subdivisions shall cooperate with and extend services and facilities to the governor as the governor may request.**
- (6) Establish agencies and offices and appoint executive, technical, clerical, and other personnel necessary to carry out**

this chapter, including the appointment of full-time state and area directors.

Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:

- (1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and**
- (2) terminates the state of disaster emergency by executive order or proclamation.**

A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

- (1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and**
- (2) is authority for:**
 - (A) deployment and use of any forces to which the plan or plans apply; and**
 - (B) use or distribution of any supplies, equipment,**

materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.

(3) Transfer the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) Suspend or limit the sale, dispensing, or transportation of

alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Allow persons who hold a license to practice medicine, dentistry, pharmacy, nursing, engineering, and similar other professions as may be specified by the governor to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

Sec. 13. (a) In addition to the governor's existing powers and duties, the governor has the duties and special energy emergency powers set forth in this section, subject to the limitations in this chapter.

(b) The governor may, upon finding that an energy emergency exists, proclaim a state of energy emergency at which time all the general and specific emergency powers specified in this section and section 14 of this chapter become effective.

(c) A proclamation issued under this section and any order or rule issued as a result of the proclamation continues in effect until sixty (60) days after the date of the proclamation of the energy emergency unless the governor rescinds the proclamation and declares the energy emergency ended before the expiration of the sixty (60) day period.

(d) The governor may not renew or extend a proclamation more than once without approval of the general assembly.

(e) The conditions of an energy emergency cease when the governor declares the end of an energy emergency.

(f) In a declared state of energy emergency, the governor may do the following:

(1) Implement programs, controls, standards, priorities, and quotas for the conservation and consumption of energy, including plans and commission regulations for the curtailment of energy if the governor imposes controls, quotas, or curtailments according to the nature of the end use to be made of the energy consistent with existing transmission and distribution systems serving the geographic area affected

by the energy emergency.

(2) Suspend and modify state pollution control standards and requirements affecting or affected by the use of energy, including standards or requirements relating to air or water quality control.

(3) Establish and implement intrastate regional programs and agreements for the purposes of coordinating the energy program and actions of the state with the federal government and other states, localities, and other persons.

(4) Designate the execution and enforcement of emergency orders to a state agency that regulates the energy form, resource, or suppliers that are the subject of the proclaimed emergency.

(5) Suspend the provisions of any state statute regulating transportation or the orders or rules of any state agency if strict compliance with any of the provisions would prevent, hinder, or delay necessary action in coping with the energy emergency.

(g) Restrictions, curtailments, or adjustments under subsection (f) must:

(1) be ordered and continue only as long as demonstrably necessary for the maintenance of essential services or transportation or for the continued operation of the economy but not longer than the proclamation's duration;

(2) be applied as uniformly as practicable within each class of suppliers and consumers and without discrimination within a class; and

(3) give due consideration to:

(A) the implementation of involuntary measures only after voluntary measures have been determined to be ineffective;

(B) protection of public health and safety;

(C) maintenance of vital activities, including but not limited to food, shelter, fuel, and medical care;

(D) minimization of economic impact on commercial, retail, professional, agricultural, and service establishments;

(E) cooperation with other state, local, and federal governments to avoid duplicating efforts; and

(F) maintenance of public information channels.

(h) This section does not mean that any program, control, standard, priority quota, or other policy created under the authority of the emergency powers authorized by this section has any continuing legal effect after the cessation of a declared state of energy emergency.

(i) Except as provided in this section, this chapter does not exempt a person from compliance with the provisions of any other law, rule, or directive unless:

- (1) specifically ordered by the governor; or**
- (2) impossibility of compliance is a direct result of the governor's order.**

(j) A proclamation issued under this section shall be:

- (1) disseminated promptly and in a manner calculated to inform the general public of its contents; and**
- (2) filed promptly with the secretary of state and the clerk of each circuit court of Indiana.**

Sec. 14. (a) In determining whether to declare an energy emergency under section 13 of this chapter, the governor shall consider:

- (1) the availability of regional and national energy resources;**
- (2) local, state, regional, and national energy needs and shortages;**
- (3) the availability of short term alternative supplies on a local, state, regional, and national basis;**
- (4) the economic effect of the declaration and the implementation of any curtailment or conservation plans; and**
- (5) any other relevant factors.**

(b) To protect the public welfare during conditions of energy emergencies proclaimed under section 13 of this chapter, the governing body of each city, town, or political subdivision of the state and each state agency (including the utility regulatory commission) shall carry out in the body's or agency's jurisdiction energy supply emergency measures ordered by the governor.

(c) To attain uniformity throughout the country in measures taken to aid in energy crisis management, all:

- (1) action taken under this section and section 13 of this chapter; and**
- (2) orders and rules made under this section and section 13 of**

this chapter;

must be taken or made consistent with federal orders, rules, actions, recommendations, and requests.

(d) A person shall comply with a specific order issued or action taken by the governor under this section or section 13 of this chapter.

(e) During a state of energy emergency proclaimed under section 13 of this chapter, the governor may:

(1) subpoena:

(A) witnesses;

(B) material;

(C) relevant books;

(D) papers;

(E) accounts;

(F) records; and

(G) memoranda;

(2) administer oaths; and

(3) cause the depositions of persons residing within or outside Indiana to be taken in the manner prescribed for depositions in civil actions;

to obtain information relevant to energy resources that are the subject of the proclaimed emergency.

(f) In obtaining information under subsection (e), the governor shall:

(1) avoid eliciting information already furnished by a person or political subdivision in Indiana to a federal, state, or local regulatory authority that is available for the governor's study; and

(2) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities wherever possible.

(g) Information obtained under this section from a person who designates that information as confidential shall be maintained as confidential by the governor and by any person who obtains information that the person knows to be confidential under this chapter. The governor may not make known in any manner any particulars of information to persons other than those specified in subsection (j).

(h) This section does not prohibit the use of confidential

information to prepare statistics or other general data for publication if the information is presented in a manner that prevents identification of the particular persons.

(i) A person who is served with a subpoena to:

(1) give testimony orally or in writing; or

(2) produce books, papers, correspondence, memoranda, agreements, or other documents or records;

under this chapter may apply to an Indiana court for protection against abuse or hardship in the manner provided by law.

(j) For purposes of this section, references to the governor in this section include any other individual designated in writing by the governor. A person designated by the governor shall preserve the confidentiality of information in accordance with subsection (g).

(k) The powers vested in the governor under this section and section 13 of this chapter are in addition to and not instead of emergency powers vested in the governor under this chapter or any other state law.

(l) The governor may authorize the incurring of liabilities and expenses to be paid as other claims against the state from the general fund in the amount necessary if:

(1) an energy emergency is declared by the governor; and

(2) the energy emergency justifies the expenditure;

in accordance with section 28 of this chapter for other emergency or disaster expenditures.

Sec. 15. (a) Any function under this chapter and any other activity relating to emergency management is a governmental function. The state, any political subdivision, any other agencies of the state or political subdivision of the state, or, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker complying with or reasonably attempting to comply with this chapter or any order or rule adopted under this chapter, or under any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, is not liable for the death of or injury to persons or for damage to property as a result of any such activity. This section does not affect the right of any person to receive:

(1) benefits to which the person would otherwise be entitled under:

- (A) this chapter;
- (B) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or
- (C) any pension law; or

(2) any benefits or compensation under any federal law.

(b) Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized emergency management worker who, in the course of performing duties as an emergency management worker, practices a professional, mechanical, or other skill during a disaster emergency.

(c) A volunteer working as an authorized emergency management worker may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-7 shall be used to determine the issue.

Sec. 16. (a) The director of a local organization for emergency management may develop or cause to be developed mutual aid arrangements with other public and private agencies within Indiana for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. An arrangement must be consistent with the state emergency management program and state emergency operations plan. During an emergency, a local organization for emergency management and the agency shall render assistance in accordance with the provisions of the mutual aid arrangement.

(b) The director of a local organization for emergency management and disaster:

- (1) may assist in the negotiation of reciprocal mutual aid agreements between the governor and the adjoining state or the state's political subdivisions; and
- (2) shall carry out arrangements or any agreement relating to the local and political subdivision.

(c) This subsection applies when the governor finds that two (2) or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services. The governor may, with the

concurrency of the affected counties, delineate by executive order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to disaster in that area, and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency operations plan, mutual aid, or an area organization for emergency management planning and services. A finding of the governor under this subsection must be based on one (1) or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on a unijurisdictional basis, including the following factors:

- (1) Small or sparse population.
- (2) Limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome.
- (3) Unusual vulnerability to disaster as evidenced by a history of disaster, topographical features, drainage characteristics, disaster potential, and presence of disaster prone facilities or operations.
- (4) The interrelated character of the counties in a multicounty area.
- (5) Other relevant conditions or circumstances.

(d) If the governor finds that:

- (1) a vulnerable area lies partly in Indiana and includes territory in another state or states; and
- (2) it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster;

the governor shall take steps to establish an interstate relationship. If action under this subsection is taken with jurisdictions that have enacted the interstate emergency management and disaster compact, any resulting agreement or agreements may be considered supplemental agreements under article 6 of the compact.

(e) If the other jurisdiction or jurisdictions with which the governor proposes to cooperate under subsection (d) have not enacted the interstate emergency management and disaster compact, the governor may negotiate special agreements with the jurisdiction or jurisdictions. An agreement, if sufficient authority for making the agreement does not otherwise exist, becomes

effective only:

(1) after the agreement's text has been communicated to the general assembly; and

(2) if a house of the general assembly does not disapprove of the agreement by the later of:

(A) the date of adjournment of the next ensuing session that is competent to consider the agreement; or

(B) not more than thirty (30) days after the date of the submission of the agreement.

Sec. 17. (a) A political subdivision is:

(1) within the jurisdiction of; and

(2) served by;

a department of emergency management or by an interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) A county shall:

(1) maintain a county emergency management advisory council and a county emergency management organization; or

(2) participate in an interjurisdictional disaster agency that, except as otherwise provided under this chapter, may have jurisdiction over and serve the entire county.

(c) The county emergency management advisory council consists of the following individuals or their designees:

(1) The president of the county executive.

(2) The president of the county fiscal body.

(3) The mayor of each city located in the county.

(4) An individual representing the legislative bodies of all towns located in the county.

(5) Representatives of private and public agencies or organizations that can assist emergency management considered appropriate by the county emergency management advisory council.

(6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

(d) The county emergency management advisory council shall do the following:

(1) Exercise general supervision and control over the emergency management and disaster program of the county.

(2) Select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who:

(A) has direct responsibility for the organization, administration, and operation of the emergency management program in the county; and

(B) is responsible to the chairman of the county emergency management advisory council.

(e) Notwithstanding any provision of this chapter or other law to the contrary, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political divisions if the governor finds that the establishment and maintenance of an agency or participation in one is necessary by circumstances or conditions that make it unusually difficult to provide:

(1) disaster prevention;

(2) preparedness;

(3) response; or

(4) recovery services;

under this chapter.

(f) A political subdivision that does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that political subdivision in the work of:

(1) disaster prevention;

(2) preparedness;

(3) response; and

(4) recovery.

(g) The county emergency management and disaster director and personnel of the department may be provided with appropriate:

(1) office space;

(2) furniture;

(3) vehicles;

(4) communications;

(5) equipment;

(6) supplies;

(7) stationery; and

(8) printing;

in the same manner as provided for personnel of other county agencies.

(h) Each local or interjurisdictional agency shall:

(1) prepare; and

(2) keep current;

a local or interjurisdictional disaster emergency plan for its area.

(i) The local or interjurisdictional disaster agency shall prepare and distribute to all appropriate officials a clear and complete written statement of:

(1) the emergency responsibilities of all local agencies and officials; and

(2) the disaster chain of command.

(j) Each political subdivision may:

(1) appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes, provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster resulting from enemy attack, provide for a comprehensive insurance program for its emergency management volunteers, and direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set by the federal emergency management agency and the state emergency management agency;

(2) appoint, employ, remove, or provide, with or without compensation:

(A) rescue teams;

(B) auxiliary fire and police personnel; and

(C) other emergency management and disaster workers;

(3) establish:

(A) a primary; and

(B) one (1) or more secondary;

control centers to serve as command posts during an emergency;

(4) subject to the order of the governor or the chief executive of the political subdivision, assign and make available for duty the employees, property, or equipment of the political

subdivision relating to:

- (A) firefighting;
- (B) engineering;
- (C) rescue;
- (D) health, medical, and related services;
- (E) police;
- (F) transportation;
- (G) construction; and
- (H) similar items or services;

for emergency management and disaster purposes within or outside the physical limits of the political subdivision; and (5) in the event of a national security emergency or disaster emergency as provided in section 12 of this chapter, waive procedures and formalities otherwise required by law pertaining to:

- (A) the performance of public work;
- (B) the entering into of contracts;
- (C) the incurring of obligations;
- (D) the employment of permanent and temporary workers;
- (E) the use of volunteer workers;
- (F) the rental of equipment;
- (G) the purchase and distribution of supplies, materials, and facilities; and
- (H) the appropriation and expenditure of public funds.

Sec. 18. (a) If the employees of a political subdivision render aid outside the political subdivision under section 17 of this chapter, the employees have the same:

- (1) powers;
- (2) duties;
- (3) rights;
- (4) privileges; and
- (5) immunities;

as if they were performing their duties in the political subdivisions in which they are normally employed.

(b) The political subdivision in which any equipment is used under this section:

- (1) is liable for loss or damage; and
- (2) shall pay any expense incurred in the operation and maintenance of the equipment.

A claim for the loss, damage, or expense is not allowed unless an itemized notice of the claim made under oath is served not more than sixty (60) days after the date the claim is sustained or incurred upon the chief fiscal officer of the political subdivision where the equipment was used.

(c) The:

- (1) rights;
- (2) privileges; and
- (3) obligations;

described in this section also apply if aid is rendered outside Indiana and if payment or reimbursement in this case shall or may be made by the state or political subdivision receiving the aid under a reciprocal mutual aid agreement or compact with the other state or by the federal government.

Sec. 19. (a) The governor or the director at the request of the governor may establish the number of mobile support units necessary to reinforce emergency management and disaster organizations in stricken areas with due consideration of the plans of the federal government and of other states. The director shall appoint a commander for each unit who has primary responsibility for the:

- (1) organization;
- (2) administration; and
- (3) operation;

of the unit. Mobile support units shall be called to duty upon orders of the governor or the director and shall perform their functions in any part of Indiana or in other states, upon the conditions specified in this section. Members serving on the mobile support units are immune from discipline or termination by their employers for serving in the units.

(b) While on duty, personnel of mobile support units, whether within or outside Indiana:

- (1) if they are employees of the state or a political subdivision of the state, whether serving within or outside the political subdivision, have the:
 - (A) powers;
 - (B) duties;
 - (C) rights;
 - (D) privileges; and

and

(3) all losses of or damage to supplies and equipment of the other state or a political subdivision of the other state resulting from the rendering of the aid;

if the laws of the other state contain provisions substantially similar to this section or if provisions substantially similar to this section are contained in a reciprocal mutual aid agreement or compact, or if the federal government has authorized or agreed to make reimbursement for the mutual aid.

(f) Personnel of mobile support units of Indiana may not be ordered by the governor to operate in any other state unless:

(1) the laws of the other state contain provisions substantially similar to this section;

(2) the reciprocal mutual aid agreements or compacts include provisions providing for such reimbursement; or

(3) the reimbursement will be made by the federal government by law or agreement.

(g) An officer or employee of the state by virtue of employment is subject to assignment:

(1) on a permanent basis to a mobile support unit in accordance with the state:

(A) emergency management program; and

(B) emergency operations plan; or

(2) on a temporary basis to an emergency management activity to meet a particular need in the event of an emergency.

Refusal to accept and perform the duties of an assignment constitutes grounds for dismissal from state employment.

Sec. 20. The governor may:

(1) formulate and execute plans and regulations for the control of traffic in order to provide for the rapid and safe movement of evacuation over public highways and streets of:

(A) people;

(B) troops; or

(C) vehicles and materials;

for national defense or for use in any defense industry; and

(2) coordinate the activities of the departments or agencies of the state and political subdivisions of the state concerned directly or indirectly with public highways and streets in a

manner that will best effectuate the plans.

Sec. 21. (a) If the governor considers it to be in the public interest, on terms and conditions as the governor considers necessary to promote the public welfare and protect the interests of the state, the governor may:

- (1) authorize a department or an agency of the state to lease or lend real or personal property of the state to the President of the United States, the heads of the armed forces, or the Federal Emergency Management Agency; and**
- (2) enter into a contract on behalf of the state for the:**
 - (A) lease or loan to a political subdivision of the state of real or personal property of the state; or**
 - (B) temporary transfer or employment of personnel of the state to or by a political subdivision of the state.**

(b) The president of the county fiscal body and the president of the county executive, if the county does not contain a consolidated city, or the county executive, if the county contains a consolidated city, of each county of the state and the executive of each city and town in the state may, in accordance with the emergency management program and emergency operations plan of the county in which the city or town is located, do the following:

- (1) Enter into a contract or lease with the state, accept any loan, or employ personnel. A political subdivision may equip, maintain, use, and operate any property and employ necessary personnel in accordance with the purposes for which the contract is executed.**
- (2) Do all things and perform acts that the governor considers necessary to effectuate the purpose of the contract.**

Sec. 22. (a) The political subdivisions and agencies designated or appointed by the governor may make, amend, and rescind orders, rules, and regulations as necessary for emergency management purposes and to supplement the carrying out of this chapter that are not inconsistent with:

- (1) orders, rules, or regulations adopted by the governor or by a state agency exercising a power delegated to it by the governor; and**
- (2) the:**
 - (A) emergency management program; and**
 - (B) emergency operations plan;**

of the county in which the political subdivision is located.

(b) Orders, rules, and regulations have the full force and effect of law when:

(1) adopted by the governor or any state agency and a copy is filed in the office of the secretary of state and mailed to all members of the county emergency management advisory council at their last known addresses; or

(2) filed in the office of the clerk of the adopting or promulgating political subdivision or agency of the state if adopted by a political subdivision or agency authorized by this chapter to make orders, rules, and regulations.

Sec. 23. This chapter may not be construed to compel a person, either on behalf of:

(1) the person;

(2) the person's child less than eighteen (18) years of age; or

(3) a protected person for whom the person acts as a guardian;

to submit to any physical examination, medical treatment, or immunization if the person, parent, or guardian relies in good faith on spiritual means or prayer to prevent or cure disease or suffering and objects to the treatment in writing.

Sec. 24. The law enforcement authorities of the state and of the political subdivisions shall enforce the:

(1) orders;

(2) rules; and

(3) regulations;

issued under this chapter.

Sec. 25. (a) If the federal government or an agency or officer of the federal government offers the state or through the state a political subdivision, services, equipment, supplies, materials, or funds under a gift, grant, or loan for purposes of emergency management:

(1) the state, acting through the governor; or

(2) the political subdivision, acting with the consent of the governor and through its executive;

may accept the offer.

(b) Upon the acceptance in subsection (a), the governor or the executive of the political subdivision may authorize an officer of the state or of the political subdivision to receive the services,

equipment, supplies, materials, or funds:

- (1) on behalf of the state or the political subdivision; and
- (2) subject to the terms of the offer and the rules of the agency making the offer.

(c) If a person, firm, limited liability company, or corporation offers to the state or a political subdivision services, equipment, supplies, materials, or funds under gift, grant, or loan for purposes of emergency management:

- (1) the state, acting through the governor; or
- (2) the political subdivision, acting through its executive;

may accept the offer.

(d) Upon the acceptance in subsection (c), the governor or the executive of the political subdivision may authorize an officer of the state or of the political subdivision to receive the services, equipment, supplies, materials, or funds:

- (1) on behalf of the state or the political subdivision; and
- (2) subject to the terms of the offer.

(e) A person, firm, limited liability company, or corporation owning or controlling real estate or other premises that voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of the whole or any part of the real estate or premises to shelter persons during an actual or impending national security, natural, or manmade emergency or disaster or a drill for any of those situations, together with successors in interest, is not civilly liable by reason of:

- (1) the condition of the real estate or premises; or
- (2) the conduct of persons engaged in directing or seeking shelter;

for negligently causing the death of or injury to any person on or about the real estate or premises or for loss of or damage to the property of any person during the emergency or disaster or during a drill.

Sec. 26. (a) An organization for emergency management established under this chapter may not:

- (1) participate in any form of political activity; or
- (2) be employed directly or indirectly for political purposes.

(b) Political qualifications may not be:

- (1) a consideration for appointment to the agency; or
- (2) a cause for dismissal;

except as provided in section 27 of this chapter. Full-time employees of the agency may not participate in political activities.

Sec. 27. (a) A person who:

(1) advocates a change by force or violence in the constitutional form of the government of the United States or the overthrow of any government in the United States by force or violence; or

(2) has been convicted of or is under indictment or information charging a subversive act against the United States;

may not be employed or associated in any capacity in any emergency management organization established under this chapter.

(b) An individual who is appointed to serve in an organization for emergency management shall, before entering upon the individual's duties, take a written oath before a person authorized to administer oaths in Indiana. The oath must be substantially as follows:

"I, _____, solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. I further swear (or affirm) that I do not advocate, nor am I a member of a political party or organization that advocates, the overthrow of the government of the United States or of Indiana by force or violence; and that during the time I am a member of the (name of emergency management organization), I will neither advocate nor become a member of a political party or organization that advocates the overthrow of the government of the United States or of Indiana by force or violence."

(c) For purposes of this section, the director and the county emergency management directors:

(1) may administer the oath provided in subsection (b) to emergency management and disaster personnel; and

(2) may delegate that authority to designated deputies and

assistants approved by the director.

Sec. 28. (a) The general assembly may appropriate the sums necessary to administer this chapter.

(b) The emergency management contingency fund is established. The fund consists of money appropriated by the general assembly. Money in the fund must be held in reserve and allocated for emergency management purposes upon:

- (1)** recommendation of the director; and
- (2)** approval of the governor and the budget committee.

Sec. 29. (a) A local disaster emergency:

- (1)** may be declared only by the principal executive officer of a political subdivision; and
- (2)** may not be continued or renewed for more than seven (7) days except by or with the consent of the governing board of the political subdivision.

Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly in the office of the clerk of the political subdivision.

(b) The effect of a declaration of a local disaster emergency is to:

- (1)** activate the response and recovery aspects of all applicable local or interjurisdictional disaster emergency plans; and
- (2)** authorize the furnishing of aid and assistance under the plans.

(c) An interjurisdictional agency or official may not declare a local disaster emergency unless expressly authorized by the agreement under which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services according to the agreement.

(d) If a local disaster emergency is declared under this section, the political subdivision may not prohibit individuals engaged in employment necessary to:

- (1)** maintain a safe rail system;
- (2)** restore utility service; or
- (3)** provide any other emergency public service;

from traveling on the highways within the political subdivision during the local disaster emergency.

Sec. 30. (a) In addition to disaster prevention measures as

included in the state, local, and interjurisdictional disaster plans, the governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At the governor's direction, and under any other authority state agencies have, state agencies, including those charged with responsibilities in connection with:

- (1) flood plain management;
- (2) stream encroachment and flow regulation;
- (3) fire prevention and control;
- (4) air quality;
- (5) public works; and
- (6) use and land use planning and construction standards;

shall make studies of disaster prevention related matters. The governor shall make recommendations to the general assembly, local governments, and other appropriate public and private entities to facilitate measures for prevention or reduction of the harmful consequences of disasters.

(b) In conjunction with the agency, an appropriate state agency shall keep land uses and construction of structures and other facilities under continuing study and identify areas that are particularly susceptible to:

- (1) severe land shifting;
- (2) subsidence;
- (3) flood; or
- (4) other catastrophic occurrence.

The studies under this subsection must concentrate on means of reducing or avoiding the dangers caused by this occurrence or its consequences.

(c) If the agency believes on the basis of the studies or other competent evidence:

- (1) that an area is susceptible to a disaster of catastrophic proportions without adequate warning;
- (2) that existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster; and
- (3) that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section;

the agency shall specify the essential changes to the governor. The

governor shall recommend changes to the agencies or local governments with jurisdiction over the area and subject matter that the governor finds to be essential upon review of the specified changes and a public hearing. If no action or insufficient action under the governor's recommendations is taken within the time specified by the governor, the governor shall inform the general assembly and request legislative action appropriate to mitigate the effect of disaster.

(d) The governor, at the same time that the governor makes recommendations under subsection (c), may:

- (1) suspend the standard or control that the governor finds to be inadequate to protect the public safety; and**
- (2) by rule place a new standard or control in effect.**

The new standard or control remains in effect until rejected by concurrent resolution of both houses of the general assembly or amended by the governor. When it is in effect, the standard or control contained in the governor's regulation is administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. Any action taken by the governor under this section is subject to judicial review, but no court has jurisdiction to stay or restrain that action before a hearing on the merits.

Sec. 31. (a) A person in Indiana shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. Compensation for services or for the taking or use of property may be made only to the extent:

- (1) that obligations recognized in this chapter are exceeded in a particular case; and**
- (2) that the claimant has not volunteered the claimant's services or property without compensation.**

(b) Personal services may not be compensated by the state or any subdivision or agency of the state except under statute, local law, or ordinance.

(c) Compensation for property may be paid only if the property was commandeered or otherwise used in coping with a disaster

emergency and its use or destruction was ordered by the governor or a member of the disaster emergency forces of Indiana.

(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter must make a claim for it. The claim must be filed and shall be adjudicated as provided in IC 32-24.

(e) This section does not apply to or authorize compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

Sec. 32. (a) The general assembly intends and declares to be the policy of the state that funds to meet disaster emergencies always be available.

(b) The general assembly intends that the first recourse shall be to funds regularly appropriated to state and local agencies. If the governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, the governor may make funds available from money in the budget agency from emergency or contingency appropriations available for emergency expenditures as provided in IC 4-12-1-15.

(c) Within the limits of the funds appropriated under this section, the governor may contribute to a political subdivision not more than twenty-five percent (25%) of the cost of emergency management agency personnel and administrative expenses that meet standards established by the governor.

Sec. 33. The department may reimburse the civil air patrol for fuel, lubricants, and maintenance for any missions not authorized by the United States Air Force using the same formula for reimbursement used by the:

- (1) United States Department of Defense; and
- (2) American Red Cross.

Sec. 34. A person who violates this chapter commits a Class B misdemeanor.

Chapter 4. State Disaster Relief Fund

Sec. 1. As used in this chapter, "disaster" has the meaning set forth in IC 10-14-3-1.

Sec. 2. As used in this chapter, "eligible entity" means a county, city, or town.

Sec. 3. As used in this chapter, "fund" refers to the state disaster relief fund established by this chapter.

Sec. 4. As used in this chapter, "public facility" means any:

- (1) building or structure;
- (2) bridge, road, highway, or public way;
- (3) park or recreational facility;
- (4) sanitary sewer system or wastewater treatment facility;
- (5) drainage or flood control facility;
- (6) water treatment, water storage, or water distribution facility; or
- (7) other improvement or infrastructure;

owned by, maintained by, or operated by or on behalf of an eligible entity.

Sec. 5. (a) The state disaster relief fund is established to provide money to assist eligible entities in paying for the costs of damage to public facilities resulting from disasters.

(b) The fund consists of money appropriated by the general assembly. The agency shall administer the fund. Expenses of administering the fund shall be paid from money in the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund is appropriated to carry out the purposes of the fund as provided in this chapter. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. Subject to the restrictions under this chapter, the agency may use money in the fund to make grants to an eligible entity that:

- (1) contains territory for which a disaster emergency has been declared by the governor;
- (2) has suffered damage to the entity's public facilities because of the disaster for which the disaster emergency was declared;
- (3) has applied to the department for a grant; and
- (4) complies with all other requirements established by the agency.

Sec. 7. Except as provided in section 8 of this chapter, the agency may not make a grant to an eligible entity under this section unless the damage to the entity's public facilities caused by

the disaster exceeds an amount equal to one dollar (\$1) multiplied by the population of the entity. A grant to an eligible entity under this subsection may not exceed an amount equal to:

- (1) fifty percent (50%); multiplied by
- (2) the result of:
 - (A) the total cost of the damage to the entity's public facilities caused by the disaster; minus
 - (B) an amount equal to one dollar (\$1) multiplied by the population of the entity.

Sec. 8. If the governor declares more than one (1) disaster emergency in the same year for territory in an eligible entity, the agency may, in addition to a grant under section 7 of this chapter, make a grant to the entity under this section if the total cumulative cost of the damage to the entity's public facilities caused by the disasters exceeds two dollars (\$2) multiplied by the population of the entity. A grant to an eligible entity under this section may not exceed:

- (1) the product of:
 - (A) fifty percent (50%); multiplied by
 - (B) the total cumulative cost of the damage to the entity's public facilities caused by all disasters in the year; minus
- (2) any grants previously made under section 7 of this chapter to the entity during the year.

Sec. 9. To qualify for a grant under this chapter, the executive of an eligible entity must apply to the agency on forms provided by the agency. The application must include the following:

- (1) A description and estimated cost of the damage caused by the disaster to the entity's public facilities.
- (2) The manner in which the entity intends to use the grant money.
- (3) Any other information required by the agency.

Sec. 10. The fiscal officer of an entity receiving a grant under this chapter shall:

- (1) establish a separate account within the entity's general fund; and
- (2) deposit any grant proceeds received under this chapter in the account.

The department of local government finance may not reduce an entity's maximum or actual property tax levy under IC 6-1.1-18.5

on account of grant money deposited in the account.

Sec. 11. The agency shall adopt rules under IC 4-22-2 to carry out this chapter.

Sec. 12. A person who violates this chapter commits a Class B misdemeanor.

Chapter 5. Emergency Management Assistance Compact

Sec. 1. ARTICLE I—Purpose and authorities.

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance among the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological hazard, man made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

Sec. 2. ARTICLE II—General implementation.

Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

Sec. 3. ARTICLE III—Party state responsibilities.

(a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

- (1) review individual state hazards analyses and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, manmade disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;
- (2) review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;
- (3) develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;
- (4) assist in warning communities adjacent to or crossing the state boundaries;
- (5) protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;
- (6) inventory and set procedures for the interstate loan and delivery of human and material resources, together with

procedures for reimbursement or forgiveness; and
(7) provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(b) The authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.

Sec. 4. ARTICLE IV—Limitations.

Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms of this compact. However, it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any

party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.

Sec. 5. ARTICLE V—Licenses and permits.

Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be considered licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

Sec. 6. ARTICLE VI—Liability.

Officers or employees of a party state rendering aid in another state under this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state under this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.

Sec. 7. ARTICLE VII—Supplementary agreements.

Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that among the states that are party to this compact, this

compact contains elements of a broad base common to all states, and nothing in this compact precludes any state entering into supplementary agreements with another state or affects any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

Sec. 8. ARTICLE VIII—Compensation.

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid under this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

Sec. 9. ARTICLE IX—Reimbursement.

Any party state rendering aid in another state under this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests. However, any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost, and any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall not be reimbursable under this article.

Sec. 10. ARTICLE X—Evacuation.

Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant shall be worked out and maintained between the party states and the emergency management services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees; the number of evacuees to be received in different areas; the

manner in which food, clothing, housing, and medical care will be provided; the registration of the evacuees; the providing of facilities for the notification of relatives or friends; and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

Sec. 11. ARTICLE XI—Implementation.

(a) This compact shall become effective immediately upon its enactment into law by any two (2) states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed under this compact before the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other appropriate agencies of the United States Government.

Sec. 12. ARTICLE XII—Validity.

This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or if the applicability of this compact to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability of this compact to other persons and circumstances shall not be affected.

Sec. 13. ARTICLE XIII—Additional provisions.

Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would, in the absence of express statutory authorization, be prohibited under 18 U.S.C. 1385.

Sec. 14. Right To Alter, Amend, or Repeal.

The right to alter, amend, or repeal this chapter is hereby expressly reserved. The consent granted by this chapter shall:

- (1) not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the subject of the compact;
- (2) not be construed as consent to the National Guard Mutual Assistance Compact;
- (3) be construed as understanding that the first paragraph of Article II of the compact provides that emergencies will require procedures to provide immediate access to existing resources to make a prompt and effective response;
- (4) not be construed as providing authority under Article III (a)(7) that does not otherwise exist for the suspension of statutes or ordinances;
- (5) be construed as understanding that Article III (c) does not impose any affirmative obligation to exchange information, plans, and resource records on the United States or any party which has not entered into the compact; and
- (6) be construed as understanding that Article XIII does not affect the authority of the President over the National Guard provided by Article I of the Constitution of the United States and 10 U.S.C.

Sec. 15. Construction and Severability.

It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.

Sec. 16. Inconsistency of Language.

The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the states.

Chapter 6. Interstate Emergency Management and Disaster Compact

Sec. 1. The general assembly of the state of Indiana hereby ratifies a compact on behalf of the state of Indiana with any other state legally joining therein in the form substantially as follows:

INTERSTATE EMERGENCY MANAGEMENT AND DISASTER COMPACT

The contracting states solemnly agree:

ARTICLE I

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from national security, natural, or manmade situations including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the emergency management agencies or similar bodies of the states that are parties to this compact. The directors of emergency management of all party states constitute a committee to formulate plans and to take all necessary steps for the implementation of this compact.

ARTICLE II

It shall be the duty of each party state to formulate emergency management plans and programs within such state. There shall be frequent consultation between the representatives of such states and with the United States government and the free exchange of information and plans, including inventories of any materials and equipment available for emergency management. In carrying out such emergency management plans and programs, the party states shall so far as possible provide and follow uniform standards, practices, and rules and regulations including the following:

- (1) Insignia, arm bands, and any other distinctive articles to designate and distinguish the different emergency management services.**
- (2) Mobilization of emergency management forces and other tests and exercises.**
- (3) Warning and signals for drills or actual emergencies or disasters.**
- (4) The effective screening or extinguishing of all lights and lighting devices and appliances.**
- (5) Shutting off water mains, gas mains, electric power connections, and the suspension of all other utility services.**
- (6) All materials or equipment used or to be used for emergency management purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party state.**
- (7) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or actual or impending emergencies or disasters.**
- (8) The safety of public meetings or gatherings.**
- (9) Mobile support units.**

ARTICLE III

Any party state requested to render mutual aid shall take such action as necessary to provide and make available the resources covered by this compact in accordance with the terms hereof as long as it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the emergency management forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges, and immunities as if they were performing their duties in the state in which normally employed or rendering services. Emergency management forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency management authorities of the state receiving assistance.

ARTICLE IV

Whenever any person holds a license, certificate, or other permit issued by any state evidencing the meeting of qualifications for professional, mechanical, or other skills, such persons may render aid involving such skill in any party state to meet an emergency or disaster in this state, and such state shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is rendered.

ARTICLE V

No party state or its officers or its employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection with it.

ARTICLE VI

Since it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that appropriate among other party states, this instrument contains elements of a broad base common to all states, and nothing in this agreement contained precludes any state from entering into supplementary agreements with another state or states. These supplementary agreements may comprehend but are not limited to provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility reconnaissance, welfare, transportation, and communications personnel, equipment, and supplies.

ARTICLE VII

Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency management forces of that state and the representatives of deceased members of the forces in case these members sustain injuries or are killed while rendering aid under the compact in the same manner and on the same terms as if the injury or death were sustained within that state.

ARTICLE VIII

Any party state rendering aid in another state under this compact shall be reimbursed by the party state receiving the aid for any loss or damage to or expense incurred in the operation of any equipment answering a request for aid and for the cost incurred in connection with the request. However, any aiding party

state may assume in whole or in part the loss, damage, expense, or other cost, or may loan the equipment or donate the services to the receiving party state without charge or cost. Any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States government may relieve the party state receiving aid from any liability and reimburse the party state supplying emergency management forces for the compensation paid to and the transportation, subsistence, and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment, or facilities so utilized or consumed.

ARTICLE IX

Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local emergency management areas thereof. Such plans shall include the manner of transporting such evacuees; the number of evacuees to be received in different areas; the manner in which food, clothing, housing, and medical care will be provided; the registration of the evacuees; the providing of facilities for the notification of relatives or friends; and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The plans must provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the evacuees; for expenditures for transportation, food, clothing, medicines, medical care, and like items. These expenditures shall be reimbursed by the party state of which the evacuees are residents or by the United States government under plans approved by it. After the termination of the emergency or disaster, the party state of which the evacuees are residents shall assume the responsibility for the ultimate support or repatriation of such evacuees.

ARTICLE X

This compact is to be available to any state, territory, or possession of the United States and the District of Columbia. The term "state" may include any neighboring foreign country or

province or state of any neighboring foreign country.

ARTICLE XI

The committee established under Article I of this compact may request the emergency management agency of the United States government to act as an informational and coordinating body under this compact. Representatives of this agency of the United States government may attend meetings of the committee.

ARTICLE XII

This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the emergency management agency and other appropriate agencies of the United States government.

ARTICLE XIII

This compact shall continue in full force and remain binding on each party state until the legislature or the governor of such party state takes action to withdraw therefrom. Such action shall not be effective until thirty (30) days after notice thereof has been sent by the governor of the party state desiring to withdraw to the governors of all other party states.

ARTICLE XIV

This compact is to be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances is not to be affected by it.

ARTICLE XV

(a) This article is in effect only as among those states which have enacted it into law or in which the governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this article or in any supplementary agreement made in implementation of it shall be construed to abridge, impair, or supersede any other provision of this compact or any obligation

undertaken by a state pursuant to the compact, except that if its terms so provide, a supplementary agreement in implementation of this article may modify, expand, or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrence, circumstances, and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements, and procedures of this compact apply to the following:

(1) Searches for and rescue of persons who are lost, marooned, or otherwise in danger.

(2) Action useful in coping with disasters arising from any cause or designed to increase capability to cope with any such disasters.

(3) Incidents, or the imminence of them, which endanger the health or safety of the public and which require the use of special equipment, trained personnel, or personnel in larger numbers than are locally available in order to reduce, counteract, or remove the danger.

(4) The giving and receiving of aid by subdivisions of party states.

(5) Exercises, drills, or other training or practice activities designed to aid personnel to prepare for, cope with, or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact to a supplementary agreement in force pursuant to it, any aid authorized by this compact or a supplementary agreement may be furnished by any agency of a party state, a subdivision of the state, or by a joint agency of any two (2) or more party states or of their subdivisions. Any joint agency providing this aid is entitled to reimbursement for it to the same extent and in the same manner as a state. The personnel of such a joint agency, when rendering aid under this compact, shall have the same rights, authority, and immunity as personnel of party states.

(d) Nothing in this article is to be construed to exclude from the coverage of Articles I through XIV of this compact any matter which, in the absence of this article, could reasonably be construed to be covered by them.

(e) Nothing in subsection (a) is to be construed to limit previous

or future entry into the Interstate Emergency Management and Disaster Compact of this state with other states.

Sec. 2. Duly authenticated copies of this chapter shall, upon its approval, be transmitted by the secretary of state to the governor of each state, to the president of the Senate of the United States, to the speaker of the United States House of Representatives, to the federal emergency management administration or any successor agency, to the secretary of state of the United States, and to council of state governments.

Sec. 3. Nothing contained in this chapter shall be construed as a limitation of powers granted in any other law to enter into interstate compacts or other agreements relating to emergency management, or impairing in any respect the force and effect thereof. The articles of the compact contained in section 1 of this chapter shall have the same force and effect as though each article were a section of this chapter.

Chapter 7. Interstate Earthquake Emergency Compact

Sec. 1. Indiana hereby adopts the interstate earthquake emergency compact with all other states legally joining therein in the form substantially as follows:

INTERSTATE EARTHQUAKE EMERGENCY COMPACT

ARTICLE I (purpose)

The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster caused by earthquakes or other seismic disturbances. The full, immediate, and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, is necessary to provide needed short-term earthquake disaster assistance to states requesting aid. These resources shall be incorporated into a plan or plans of mutual aid to be developed among the appropriate agencies of states that are parties to this compact. These agencies shall develop and follow procedures designed to assure the maintenance of resource inventories and the exchange of information about earthquakes and disaster response. It is the policy of the party states to carry out this compact in a spirit of cooperation to provide the most effective earthquake disaster assistance to the residents of the states and to provide an equitable division of any necessary

earthquake relief efforts in order to avoid a disproportionate allocation of contributed resources.

ARTICLE II (intrastate planning)

Each party state shall have the duty to formulate earthquake relief plans and programs within such state. There shall be frequent consultation between the representatives of such states and with the United States government and the free exchange of relief plans and information, including inventories of any materials and equipment available for response to earthquake emergencies. To this end, each state will maintain a bank of standardized data which will establish a comprehensive listing of all resources within the seven-state region (available) that might be needed during an earthquake disaster. The inventory will be shared equitably among the party states in the event of an earthquake or other emergency, recognizing each state's primary responsibility to assist and protect its residents. Each party state shall also share any available information on earthquake forecasts and reports of seismic activity.

ARTICLE III (responsibilities of states)

Whenever the Governor of a party state requests aid from the Governor of another party state pursuant to this compact in coping with an earthquake emergency, the requested state shall make available all possible aid to the requesting state consonant with the maintenance of protection for its residents and the policies stated in Article I.

ARTICLE IV (reciprocity)

Whenever the officers or employees of any party state are rendering aid in another state pursuant to the request of another party state under this compact, those officers or employees shall, while under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges, and immunities as comparable officers and employees of the state to which they are rendering aid. Any person holding a license, certificate, or other permit issued by any state demonstrating the meeting of qualifications for professional, mechanical, or other skills may render aid involving such skill in any party state to meet an earthquake emergency, and the state in which aid is rendered shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is

rendered.

ARTICLE V (immunity)

No party or its officers, employees, or other persons, certified by party states pursuant to agreed upon criteria and procedures for certification, rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on their part while so engaged or on account of maintenance or use of any equipment or supplies in connection therewith.

ARTICLE VI (supplementary agreements)

Nothing in this agreement precludes any state from entering into supplementary agreements with another state or states for the undertaking of mutual aid and exchange of information in the event of an earthquake emergency. These supplementary agreements may comprehend but are not limited to provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility reconnaissance, welfare, transportation and communications personnel, equipment, and supplies.

ARTICLE VII (compensation)

Each party state shall provide compensation and death benefits to its injured officers, employees, or other persons certified by party states, pursuant to agreed upon criteria and procedures for certification, and the representatives of deceased officers, employees, and other certified persons in case officers, employees, or certified persons sustain injuries or death while rendering aid in another state pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer, employee, or certified person was regularly employed.

ARTICLE VIII (reimbursement)

Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment answering a request for aid and for the cost of all materials, transportation, wages, salaries, and maintenance of officers, employees, and equipment incurred in connection with such request, including amounts paid under Article VII, provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense, or other cost or

from loaning such equipment or from donating such services to the receiving party state without charge or cost. Any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States government may under some circumstances relieve the party state receiving aid from any liability and reimburse the party state rendering aid for (some) loss, damage, or expense incurred within the terms of this article.

ARTICLE IX (evacuation plans)

Plans for the orderly evacuation and reception of the civilian population as the result of an earthquake emergency shall be worked out from time to time between representatives of the party states. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The plans must provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures and transportation, and for food, clothing, medicines, medical care, and like items. These expenditures shall be reimbursed by the party state of which the evacuees are residents or may be reimbursed by the United States government under plans approved by it. The party state of which the evacuees are residents shall assume the responsibility for the ultimate support or repatriation of such evacuees.

ARTICLE X (availability)

Any state of the United States shall be eligible to become party to this compact. As to any eligible party state, this compact shall become effective when its legislature shall have enacted it into law provided that it shall not become initially effective until enacted into law by two (2) party states.

ARTICLE XI (withdrawal)

Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until ninety (90) days after the governor of the

withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw. A withdrawing state shall be liable for any obligations which it may have incurred on account of its party status up to the effective date of withdrawal, except that if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.

ARTICLE XII (severability)

This compact is severable under IC 1-1-1-8.

Chapter 8. Transportation of High Level Radioactive Waste

Sec. 1. (a) This chapter applies to high level radioactive waste transported to or from facilities sited, constructed, or operated in accordance with the federal Nuclear Waste Policy Act of 1982.

(b) This chapter does not apply to radioactive materials shipped by or for the federal government for:

- (1) military;
- (2) national security; or
- (3) national defense;

purposes.

Sec. 2. As used in this chapter, "high level radioactive waste" means:

- (1) irradiated reactor fuel;
- (2) liquid wastes resulting from the operation of a first cycle solvent extraction system or its equivalent and the concentrated wastes from a subsequent extraction cycle or its equivalent in a facility for reprocessing irradiated reactor fuel; and
- (3) solids into which liquid wastes described in subdivision (2) have been converted.

Sec. 3. (a) Before a person may transport high level radioactive waste in Indiana, the person who is responsible for the shipment must submit the following to the director:

- (1) A notice that includes:
 - (A) the highway or railway route, date, and time of the shipment of high level radioactive waste; and
 - (B) other information required under 10 CFR 71.5(a) and

10 CFR 73.37(f).

(2) A transportation fee of one thousand dollars (\$1,000) for each total shipment of nuclear waste.

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

Sec. 4. (a) The director shall consult with:

- (1) the state health commissioner of the state department of health;**
- (2) the commissioner of the Indiana department of transportation;**
- (3) the commissioner of the department of environmental management;**
- (4) the director of the department of natural resources;**
- (5) the superintendent of the state police department;**
- (6) representatives of the:**
 - (A) United States Nuclear Regulatory Commission;**
 - (B) Federal Emergency Management Agency;**
 - (C) United States Department of Energy; and**
 - (D) United States Department of Transportation; and**
- (7) a representative of a local emergency management agency designated by the director;**

to prepare a plan for emergency response to a high level radioactive waste transportation accident in Indiana. The plan must include provisions for evacuation, containment, and cleanup and must designate the role of each state or local government agency involved in the emergency response plan.

(b) The director shall report to the general assembly each year on the:

- (1) status of the plan prepared under subsection (a); and**
- (2) ability of the state to respond adequately to a high level radioactive waste transportation accident in Indiana.**

Sec. 5. (a) Under 49 CFR Part 177, the director may require preferred highway routes for transporting high level radioactive waste in Indiana if the director determines under United States Department of Transportation "Guidelines for Selecting Preferred Highway Routes for Large Quantity Shipments of Radioactive Materials" that alternative routes are safer than proposed routes.

(b) The director shall:

- (1) annually review federally approved highway and railway**

routes for transporting high level radioactive waste in Indiana; and

(2) select new state designated routes in accordance with 49 CFR Part 177 if safety considerations indicate the alternate routes would be preferable.

(c) Before the director may require alternative routes under subsection (a) or select new state designated routes under subsection (b), the director must do the following:

(1) Consult with all of the persons described in section 4(a) of this chapter.

(2) Conduct or engage in substantial consultation with the affected local county authorities.

(3) Notify the:

(A) state health commissioner of the state department of health;

(B) commissioner of the department of environmental management;

(C) superintendent of the state police department; and

(D) local emergency management agency and applicable local fire and law enforcement agencies in each affected county;

of the director's final decision concerning an alternative route or a new state designated route before the date upon which the alternative route or new state designated route takes effect.

(4) If the director wishes to change the route of a railway shipment of high level radioactive waste, the director must notify the United States Department of Energy and the appropriate rail carrier of any changes the director feels should be made to the route.

(d) The state is not liable by requiring alternate routes to be used as provided under this section.

Sec. 6. (a) The nuclear response fund is established to provide appropriate education, training, and equipment to local emergency responders in counties that will be affected by the transportation of high level radioactive waste under this chapter.

(b) Sources of money for the fund consist of transportation fees deposited under section 3(b) of this chapter.

(c) The state emergency management agency shall administer

the fund. Money in the fund is annually appropriated to the state emergency response commission to be used for purposes described in subsection (a).

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

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

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

Sec. 7. This chapter does not require the disclosure of defense information or restricted data (as defined in the federal Atomic Energy Act of 1954 (42 U.S.C. 2014)).

Sec. 8. The agency may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 6. IC 10-15 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 15. EMERGENCY MANAGEMENT, FIRE AND BUILDING SERVICES, AND PUBLIC SAFETY TRAINING FOUNDATION

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Agency" refers to the state emergency management agency established by IC 10-14-2-1.

Sec. 3. "Department" refers to the fire and building services department established by IC 22-12-5-1.

Sec. 4. "Executive director" refers to the executive director of the Indiana emergency management, fire and building services, and public safety training foundation established by IC 10-15-2-1.

Sec. 5. "Foundation" refers to the Indiana emergency management, fire and building services, and public safety training foundation established by IC 10-15-2-1.

Sec. 6. "Funds" means the funds established by IC 10-15-3-1.

Sec. 7. "Institute" refers to the public safety institute established by IC 5-2-10.5-4.

Sec. 8. "Unit of local government" means a:

- (1) county;

- (2) city;
- (3) town; or
- (4) township;

in Indiana.

Chapter 2. Indiana Emergency Management, Fire and Building Services, and Public Safety Training Foundation

Sec. 1. The Indiana emergency management, fire and building services, and public safety training foundation is established as a public body corporate and politic.

Sec. 2. (a) The foundation consists of fifteen (15) voting members and four (4) nonvoting advisory members.

(b) The voting members shall be appointed by the governor. The voting members are as follows:

- (1)** The executive director, subject to subsection (d).
- (2)** The state fire marshal.
- (3)** The state building commissioner.
- (4)** The deputy director of the state emergency management agency.
- (5)** The deputy director of the state emergency management agency for emergency medical services.
- (6)** Ten (10) individuals appointed by the governor. Each Indiana congressional district must be represented by at least one (1) member who is a resident of that congressional district. Not more than five (5) of the members appointed under this subdivision may represent the same political party.

(c) The four (4) nonvoting advisory members are as follows:

- (1)** Two (2) members, one (1) from each political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.
- (2)** Two (2) members, one (1) from each political party, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.

(d) The executive director may vote for tie breaking purposes only.

(e) In the absence of a member, the member's vote may be cast by another member if the member casting the vote has a written proxy in proper form as required by the foundation.

Sec. 3. (a) A quorum consists of eight (8) of the voting members

of the foundation described in section 2(b)(2) through 2(b)(6) of this chapter.

(b) One (1) of the following is necessary for the foundation to take action:

- (1) An affirmative vote by at least a majority of the quorum.
- (2) A tie vote broken by the executive director.

Sec. 4. Membership on the foundation does not constitute the holding of a public office. A member may not be disqualified from holding a public office or position because of appointment to or service on the foundation. A member may not be required to forfeit an office, a position, or employment because of appointment to or service on the foundation.

Sec. 5. (a) The term of each member appointed under section 2(b)(6) of this chapter is four (4) years.

(b) A member appointed to fill the unexpired term of a member serves until the end of the unexpired term.

(c) At the expiration of a member's term, the member may be reappointed if the member continues to be a part of the represented entity. A person is no longer a member when the person ceases to be a part of the represented entity.

Sec. 6. The terms of the members appointed under section 2(b)(6) of this chapter begin on July 1.

Sec. 7. (a) At the foundation's first meeting after June 30 of each year, the voting members appointed under section 2(b)(2) through 2(b)(6) of this chapter shall select:

- (1) one (1) of the voting members who is not a state employee to serve as chairperson; and
- (2) one (1) of the voting members who is not a state employee to serve as vice chairperson.

(b) The vice chairperson shall exercise all the duties and powers of the chairperson in the chairperson's absence or disability.

Sec. 8. (a) The executive director and agency, institute, and department staff designated by the director shall act as advisers to the foundation.

(b) An adviser to the foundation may do the following:

- (1) Attend all meetings of the foundation.
- (2) Participate in all proceedings at foundation meetings other than voting.

Sec. 9. (a) The foundation may acquire personal property to be

donated under subsection (b). The foundation may receive donations of real property to be disposed of under subsection (c).

(b) Subject to subsection (d), the foundation may donate personal property to the following:

- (1) The department.
- (2) The institute.
- (3) The agency.
- (4) A unit of local government.

(c) The foundation shall dispose of real property donations in the following manner:

- (1) Real property may be accepted by the foundation for purpose of resale, either on the open market or to the state or a unit of local government at a price set by the foundation.
- (2) The proceeds from the sale of real property shall be donated to a fund that the donor has chosen or, if the donor has not chosen a fund, to a fund to be chosen by the foundation.

(d) The foundation must have the approval of the executive director to donate property to the state.

Sec. 10. The foundation may do the following:

- (1) Adopt bylaws for the regulation of the foundation's affairs and the conduct of the foundation's business.
- (2) Adopt an official seal, which may not be the seal of the state.
- (3) Maintain a principal office and other offices the foundation designates.
- (4) Sue and be sued in the name and style of "Indiana Emergency Management, Fire and Building Services, and Public Safety Training Foundation", with service of process being made to the chairperson of the foundation by leaving a copy at the principal office of the foundation or at the residence of the chairperson if the foundation has no principal office.
- (5) Exercise the powers or perform the following duties of the foundation:
 - (A) Acquire by any means a right or an interest in or upon personal property of any kind or nature. The foundation shall hold the legal title to property acquired in the name of the foundation.

(B) Dispose of a right or an interest in personal property.
(6) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the duties and the execution of the powers of the foundation under this chapter.

(7) Assist the agency, department, and institute to develop projects.

(8) Receive and accept from any person grants for or in aid of the acquisition, construction, improvement, or development of any part of the projects of the foundation and receive and accept aid or contributions from any source of money, personal property, labor, or other things of value to be held, used, applied, or disposed of only for the purposes consistent with the purposes of this chapter for which the grants and contributions may be made.

(9) Hold, use, administer, and expend money that may be acquired by the foundation.

(10) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 11. (a) The foundation shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for its employees; or

(2) submit to the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by the foundation by rule or policy under this section must be consistent with state law and approved by the governor.

Chapter 3. Funds

Sec. 1. (a) The following funds are established:

(1) Emergency management fund.

(2) Fire services fund.

(3) Building services fund.

(4) Emergency medical services fund.

(5) Stewardship fund.

(b) The funds established by subsection (a)(1) through (a)(4) consist of:

(1) gifts and proceeds received under section 5 of this chapter;

and

(2) fees from license plates as set forth in section 6 of this chapter.

(c) The stewardship fund established by subsection (a)(5) consists of fees from license plates as set forth in section 6 of this chapter.

Sec. 2. (a) The money in the emergency management fund shall be used to pay for projects of the agency.

(b) The money in the fire services fund shall be used to pay for projects of the office of the state fire marshal.

(c) The money in the building services fund shall be used to pay for projects of the office of the state building commissioner.

(d) The money in the emergency medical services fund shall be used to pay for emergency medical services projects of the agency.

(e) The money in the stewardship fund shall be used to pay for the promotion of safety first license plates under IC 9-18-45 and for the costs of administering this article.

Sec. 3. Expenditures from the funds may be made only to carry out the purposes of this chapter.

Sec. 4. The foundation shall do the following:

(1) Hold the funds in the name of the foundation.

(2) Administer the funds.

(3) Make all expenditures from the funds.

Sec. 5. Gifts of money to the funds or the foundation or the proceeds from the sale of gifts donated to the funds or the foundation shall be deposited in the designated fund.

Sec. 6. Fees from license plates issued under IC 9-18-45 shall be deposited as follows:

(1) Twenty-two and one-half percent (22.5%) of the fees in the emergency management fund.

(2) Twenty-two and one-half percent (22.5%) of the fees in the fire services fund.

(3) Twenty-two and one-half percent (22.5%) of the fees in the building services fund.

(4) Twenty-two and one-half percent (22.5%) of the fees in the emergency medical services fund.

(5) Ten percent (10%) of the fees in the stewardship fund.

Sec. 7. The expenses of administering this chapter shall be paid from money in the funds.

Sec. 8. The money in the funds at the end of a state fiscal year remains in the designated funds and does not revert to any other fund. If the foundation is terminated, the money in the funds reverts to the emergency management contingency fund established by IC 10-14-3-28.

Sec. 9. The funds are subject to audit by the state board of accounts.

Sec. 10. The foundation is exempt from taxes on real and personal property that the foundation acquires or disposes of or as a consequence of the foundation's transactions.

Sec. 11. Before October 1 of each year, the foundation shall prepare an annual report concerning the foundation's activities for the prior year for the public and the general assembly.

SECTION 7. IC 10-16 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 16. INDIANA MILITARY CODE

Chapter 1. Definitions

Sec. 1. The definitions in this chapter:

- (1) apply throughout this article, unless otherwise apparent from the context; and
- (2) are subject to organization modification as adopted by regular army and regular air force troop structures that are incorporated in this article by reference.

Sec. 2. "Air group" has the same meaning as comparably used in the national military establishment.

Sec. 3. "Battalion" has the same meaning as comparably used in the national military establishment.

Sec. 4. "Battery" has the same meaning as comparably used in the national military establishment.

Sec. 5. "Battle group" has the same meaning as comparably used in the national military establishment.

Sec. 6. "Commanding officer" means a company, a troop, a battery, a squadron, a battalion, an air group, a regiment, a battle group, a wing, or a division commander.

Sec. 7. "Company" has the same meaning as comparably used in the national military establishment.

Sec. 8. "Court martial" means a military or naval court of justice for the trial of cases within the jurisdiction of the armed

forces of the state.

Sec. 9. "Division" has the same meaning as comparably used in the national military establishment.

Sec. 10. "Federally recognized national guard" means that part of the Indiana national guard that has met all the requirements for and has been recognized by the national military establishment as a part of the reserve components of the armed forces of the United States.

Sec. 11. "General orders" means the official instructions issued by the military department of Indiana.

Sec. 12. "Headquarters" means the office of the appropriate commander.

Sec. 13. (a) "National guard" means the Indiana army national guard and the Indiana air national guard.

(b) The term may apply to the national guard of Indiana or the national guard of the United States according to the tenor of the appropriate section.

Sec. 14. "Officer" means a commissioned officer, including a warrant officer, in the armed forces of the state.

Sec. 15. "Organization" means unit or command.

Sec. 16. "Regiment" has the same meaning as comparably used in the national military establishment.

Sec. 17. "Regulations" means the official rules of the appropriate department.

Sec. 18. "Squadron" has the same meaning as comparably used in the national military establishment.

Sec. 19. "State and federal property" means:

- (1) state property, real or personal, owned by the state; or**
- (2) federal property owned by the federal government and consigned to the state for use in its armed forces.**

Sec. 20. "Troop" has the same meaning as comparably used in the national military establishment.

Sec. 21. "Unit" means military complements of a company, detachment, troop, battery, or any larger command organization.

Sec. 22. "Wing" has the same meaning as comparably used in the national military establishment.

Chapter 2. Military Department

Sec. 1. (a) The military department of the state:

- (1) is established; and**

(2) shall be administered and controlled by the governor as commander in chief.

(b) The military department consists of the following:

(1) An adjutant general, who shall be the executive and administrative head of the department.

(2) Other officers, enlisted individuals, and employees considered necessary and authorized.

Sec. 2. The military department shall administer all matters concerning or relating to the following:

(1) The militia.

(2) The national guard.

(3) Other military organizations under the jurisdiction of the state.

(4) Other duties as the governor may assign.

Sec. 3. (a) The governor shall:

(1) be the commander in chief of the military forces of the state;

(2) have supreme command of the military forces of the state while in the service of the state or until they are ordered and accepted into the service of the United States; and

(3) have power to:

(A) muster out any organization of the state;

(B) discharge enlisted men as provided; and

(C) perform other acts in keeping with the laws of the state, subject to the laws of the United States and regulations prescribed by the President of the United States.

(b) An armed military force from another state or territory may not enter Indiana without permission of the governor, unless the military force is:

(1) a part of the armed forces of the United States; or

(2) acting under the authority of the United States.

(c) An independent military organization under the jurisdiction of the state, except as a corps of cadets in the educational institutions, may not bear arms without first securing permission of the commander in chief.

Sec. 4. This article shall be interpreted liberally in favor of the exercise of all the constitutional powers of the governor as commander in chief.

Sec. 5. (a) The governor may appoint an honorary staff of aides with the brevet title of colonel, lieutenant colonel or major, or comparable naval rank.

(b) The staff officers hold office at the will of the governor. Their commissions expire with the term of office of the governor making the appointment.

(c) The adjutant general shall be ex officio chief of staff.

Sec. 6. (a) The governor shall appoint the adjutant general.

(b) The adjutant general must hold the rank of not less than brigadier general.

(c) The governor may increase the rank of the adjutant general not to exceed the rank of major general as a reward for efficient and loyal service to the state.

Sec. 7. The adjutant general shall appoint two (2) assistant adjutants general to serve at the will and pleasure of the adjutant general as follows:

(1) One (1) assistant adjutant general from the Indiana army national guard to be chief of staff to the adjutant general for all the Indiana army national guard forces. This assistant adjutant general shall perform duties assigned by the adjutant general and is responsible for all administrative and operational functions of the Indiana army national guard. A person is not eligible for appointment as assistant adjutant general unless the person is a member of the Indiana army national guard with at least six (6) years service in the Indiana army national guard and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the table of organization for the army national guard.

(2) One (1) assistant adjutant general from the Indiana air national guard to be chief of staff to the adjutant general for all the Indiana air national guard forces. This assistant adjutant general shall perform duties assigned by the adjutant general and is responsible for administrative and operational functions of the Indiana air national guard. A person is not eligible for appointment as air forces chief of staff unless the person is a member of the Indiana air national guard with at least six (6) years service as a commissioned officer and has

attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the tables of organization for the air national guard.

Sec. 8. The adjutant general shall do the following:

- (1) Execute all orders given by the commander in chief.
- (2) Give bond with surety to the state, to the approval of the governor, in the sum of ten thousand dollars (\$10,000) for the faithful discharge of the duties of the office of adjutant general.

Sec. 9. (a) The adjutant general shall perform duties required by law, in rules adopted under this chapter, and in the statutes of the United States and required by the governor. If the adjutant general:

- (1) fails or refuses to properly and efficiently perform the duties of the office; or
- (2) is guilty of misconduct or conduct prejudicial to good order and military discipline;

written charges setting forth the acts involved shall be filed with the governor. The governor shall take action on the charges for the best interests of the service.

(b) The adjutant general shall superintend the preparation of all returns and reports required by the United States from the state.

(c) The adjutant general shall:

- (1) keep a register of all the officers of the armed forces of the state; and
- (2) keep in the adjutant general's office all records and papers required to be kept and filed.

(d) If necessary, the adjutant general shall, at the expense of the state, cause:

- (1) the armed forces law;
- (2) the general regulations of the state; and
- (3) the uniform code of military justice of the United States;

to be printed, indexed, and bound in proper and compact form. One (1) copy of each publication shall be distributed to the commissioned officers, sheriffs, clerks of boards of county commissioners, and county treasurers of Indiana. The adjutant general shall issue to each commissioned officer and headquarters one (1) copy of the necessary textbooks and of such annual reports

concerning the militia as the governor directs.

(e) The adjutant general shall cause to be prepared and issued all blank books, blank forms, and blank notices required to implement this chapter. The books and blanks are property of the state.

(f) The adjutant general shall attend to the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military and naval property belonging to the state or issued to it by the United States. The governor shall order the adjutant general to dispose of all military and naval property of the state that after a proper inspection is found unsuitable for the use of the state. The adjutant general shall dispose of the property:

- (1) by public auction after advertisement of the sale weekly for three (3) weeks in at least one (1) newspaper published in the English language in the city or county where the sale is to take place;
- (2) by private sale when ordered by the governor; or
- (3) with the approval of the governor, by turning over the property to any other department, board, or commission of state government that can use the property.

If the adjutant general believes that better prices may or should be obtained, the adjutant general shall bid in the property or suspend the sale. All parts of uniforms before being offered for sale shall be mutilated so they cannot be again used as uniforms. The adjutant general shall periodically account to the governor of the sales made. The adjutant general shall expend the proceeds of the sales for the use and benefit of the military or naval forces of the state as the governor directs.

(g) The adjutant general shall keep an accurate account of all expenses necessarily incurred, including the following:

- (1) Pay of officers and enlisted persons.
- (2) Allowances to officers and organizations.
- (3) Pensions.
- (4) Any other money required to be disbursed by the adjutant general, including the following:
 - (A) Subsistence of the national guard.
 - (B) Transportation of the national guard.
 - (C) Transportation of all military and naval property of the state or of the United States.

These expenses shall be audited and paid in the same manner as other military and naval accounts.

(h) The adjutant general shall:

(1) issue military and naval property; and

(2) make purchases of military and naval property;

as the governor directs. Military or naval property may not be issued to persons or organizations other than those belonging to the state armed forces, except to those parts of the sedentary militia as the governor may call out.

(i) The seal used in the office of the adjutant general on January 1, 1954, shall be:

(1) the seal of that office; and

(2) delivered by the adjutant general to the successor in office.

(j) Except as provided in subsection (k), the adjutant general shall be the auditor of all military accounts payable by the state.

(k) The auditor of state shall audit expenditures made by the adjutant general or through the adjutant general's office. Copies of all orders and contracts relating to expenditures described in this subsection shall be filed in the auditor's office.

Sec. 10. (a) The adjutant general may be paid a sum equal to the pay received by an officer of the same grade in federal services, excluding allowances.

(b) The governor, with the approval of the budget committee, may periodically adjust the salary of the adjutant general to meet the pay adjustments of an officer of the same grade in federal service.

Chapter 3. State Armory Board

Sec. 1. (a) The state armory board is established to provide, manage, and care for armories for the use of the military and naval forces of Indiana.

(b) The board consists of the following members:

(1) The following ex officio members:

(A) The governor.

(B) The adjutant general.

(2) Five (5) members appointed by the governor. At least three (3) of the members must be or must have been officers of the military or naval forces of the United States or of the state of Indiana.

(3) The presidents of the local armory boards as provided

under IC 10-16-4-3(c).

Sec. 2. The state armory board established by section 1 of this chapter may contribute funds in support of the following authorized duties and responsibilities of the adjutant general:

- (1) The military department of the Indiana ceremonial unit.
- (2) The Indiana guard reserve.
- (3) The annual report of the adjutant general's department.
- (4) The medical treatment, pensions, and funeral expenses of officers and soldiers wounded, disabled, or killed while in the active service of the state.
- (5) Public relations expenditures of the adjutant general's department that are not paid by the United States Department of Defense.
- (6) Recruitment and retention expenditures of the adjutant general's department that are not paid by the United States Department of Defense.
- (7) The publication of the armed forces law of Indiana in accordance with IC 10-16-2-9(d).

Sec. 3. (a) The term of each member of the state armory board expires four (4) years from the date of the member's appointment.

(b) If there is a vacancy in the state armory board, the governor may fill the vacancy for the unexpired term.

Sec. 4. The members of the state armory board shall perform the duties imposed upon them by this chapter without compensation. However, the state shall pay the actual necessary expenses of the members that are incident to the performance of their duties from the appropriation made for armory purposes.

Sec. 5. (a) The state armory board shall erect or provide within Indiana armories for the use of the military and naval forces of the state for drill, meeting, and rendezvous purposes by the organization of the military or naval forces occupying the armories.

(b) All property of the United States or of the state issued to the occupying organization for military or naval purposes shall be stored and safely kept in the armories.

Sec. 6. (a) The state armory board may:

- (1) lease real estate from:
 - (A) the federal, the state, or a local government; or
 - (B) a federal, state, or local agency; or

(2) purchase real estate throughout the state; where necessary to provide armories.

(b) The state armory board shall lease or purchase real estate in the name and for the use of the state. The state armory board shall erect on the real estate an armory to be used for meetings, rendezvous, and drill purposes by the following organizations:

- (1) A company.
- (2) A battery.
- (3) A troop.
- (4) A battalion.
- (5) A regiment.
- (6) A division organization.
- (7) An air squadron.
- (8) A related group.

The ordnance stores, quartermaster stores, and other property issued to an organization described in this subsection and occupying the armory shall be stored in the armory.

(c) The state armory board shall arrange for the occupancy and use of the armories under the direction and responsibility of the senior officer in command of an organization described in subsection (b).

(d) An armory may not be erected on land that is leased for less than fifty (50) years.

(e) The Indiana wing of the civil air patrol and its subordinate units may use armory facilities without charge when the officer responsible for the armory determines the use would not interfere with operational training requirements of the military forces concerned.

Sec. 7. The state armory board shall constitute a board for the general management, care, and custody of the armories. The state armory board may adopt rules for:

- (1) the management and government of the armories; and
- (2) the guidance of the organizations occupying the armories.

Sec. 8. (a) This section applies if a contract for the procurement of property by the state armory board or a local armory board is awarded under this chapter by acceptance of bids, proposals, or quotations.

(b) A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

- (1) beneficiary of the trust; and
- (2) settlor empowered to revoke or modify the trust.

Sec. 9. (a) The state armory board may receive from any source donations of land or contributions of money to aid in providing or erecting armories throughout Indiana for the use of:

- (1) the armed forces of Indiana; and
- (2) the armed forces of Indiana called or inducted into federal service.

Property received under this subsection shall be held as other property for the use of the state.

(b) Counties, cities, and municipalities may make donations and contributions under subsection (a).

(c) This subsection applies to real estate:

- (1) donated under subsection (a); and
- (2) upon which the state of Indiana has not erected structures.

The state armory board may determine that real estate donated under subsection (a) is no longer usable or cannot be used by the military department. The state armory board may certify its determination to the adjutant general. The adjutant general may reconvey the real estate to the donor.

Sec. 10. All expenses incurred in the operation of state armories shall be paid out of:

- (1) the rentals;
- (2) the income;
- (3) the earnings;
- (4) any other receipts; and
- (5) any other appropriation provided by law;

to pay the expenses incurred in the operation of the armories.

Sec. 11. The state armory board may use the receipts under IC 10-16-9-3(a)(3) to make contributions to organizations that promote the public image of the national guard, the United States armed forces, or veterans of the United States armed forces. These contributions may be made for the following purposes:

- (1) Public events.
- (2) Activities on Veterans' Day, Memorial Day, the Fourth of July, and other holidays.
- (3) Monuments, plaques, or inscriptions that memorialize veterans of United States wars or military actions.
- (4) Other appropriate activities that the state armory board

approves.

Sec. 12. (a) If the state armory board receives from the governor information of the disbandment of the organization of the armed forces of Indiana occupying and using an armory, the state armory board shall take charge of the armory.

(b) The state armory board shall sell the armory for the highest price at public or private sale after publication of the sale for a period of ten (10) days and return the proceeds into the state treasury.

Sec. 13. (a) The state armory board may sell, lease, convey, or otherwise dispose of any real property belonging to the state and being under the charge and in the custody and possession of the state armory board if, in the judgment of the state armory board, the real property can no longer be used for the purpose for which it was acquired.

(b) The sale shall be made at public or private sale, after appropriate publication, for the highest price to be obtained for the same. If the state armory board takes bids in the sale of real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.

(c) All money derived from the sale, conveyance, or other disposition of any real property shall be paid into the state treasury, but may be used for the purchase of other real property for armory purposes.

Sec. 14. (a) If the state armory board sells, conveys, or otherwise disposes of any real property, the value of the property shall be determined by three (3) disinterested appraisers appointed by the state armory board with the approval of the governor.

(b) Real property may not be sold, conveyed, or otherwise disposed of for less than the appraised value of the real property. If the real property cannot be sold at its appraised value, it may be reappraised.

(c) Real property may not be sold, conveyed, or otherwise disposed of unless:

(1) the governor approves the sale, conveyance, or disposition; and

(2) the attorney general states in writing that all the

conditions necessary to the legal and valid sale, conveyance, or disposition of such property have been fully complied with.

Sec. 15. (a) The purchaser of real property sold under this chapter or to whom real property is conveyed or otherwise disposed of under this chapter shall pay the purchase money as agreed upon and certified by the state armory board to the treasurer of state for the use and benefit of the state armory board. The purchaser shall take the receipt of the treasurer of state.

(b) The auditor of state shall execute a deed of conveyance to the purchaser after the purchaser presents the following documents to the auditor of state:

- (1)** The receipt of the treasurer of state.
- (2)** A certified resolution approved by the state armory board setting forth the terms and conditions of the sale, conveyance, or other disposition.

The deed of conveyance shall be signed by the governor and officially attested by the auditor of state with the seal of the state.

Sec. 16. (a) The state armory board shall report annually of the proceedings incident to the location and management of the armories and a detailed account of disbursements.

(b) The report shall be filed in the office of auditor of state and a copy furnished to the adjutant general for publication in the annual report of the adjutant general's department.

Sec. 17. The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall make a full and complete examination and report of all transactions of all individuals, persons, trustees, boards, banks, firms, corporations, and others engaged in the acquisition of sites for and the construction of state armories, including examination of the following:

- (1)** The plans and specifications of armories.
- (2)** Construction work performed or being performed.
- (3)** The records of bonds issued and redeemed or proposed to be issued.
- (4)** The records of all lease contracts for building or maintaining armories.
- (5)** The records of receipts and earnings of all armories, except those earnings and receipts arising from shows, benefits, and other similar activities engaged in by members

of the armories and other volunteers for the use and benefit of the members.

(6) All money handled by the board or boards, by trustees of state armories, by the state armory board or local armory boards, or by the adjutant general, including all appropriations made for armories by the general assembly.

All powers conferred upon the state examiner, deputy examiner, field examiner, private examiner, and the attorney general under IC 5-11-6 by petition are conferred upon these officers, examiners, and the department without any petition. All the powers given these officers, examiners, and the department under any other statute may be used for the purpose of carrying out this chapter.

Sec. 18. (a) The state examiner, with the approval of the governor, may employ expert engineering and architectural services when necessary to assist the state examiner, deputy examiner, field examiners, or private examiners in making inspections and examinations under this chapter.

(b) The state examiner, with the approval of the governor, shall fix and determine the amount to be paid for the expert service. Field examiners of the state board of accounts, when employed in performing the services provided for in this chapter, are entitled to receive the per diem provided by IC 4-10-11-2 and IC 4-10-11-2.1 for field examiners and all necessary expenses incurred in carrying out their duties as provided for in this chapter.

Chapter 4. Local Armory Boards

Sec. 1. (a) There shall be a local armory board at each armory in Indiana.

(b) This subsection applies to an armory that is used and occupied by one (1) military unit. The local armory board consists of the following three (3) members:

- (1) One (1) member appointed by the state armory board.
- (2) The ranking two (2) officers of the local military unit.

(c) This subsection applies to an armory that is used and occupied by more than one (1) military unit. The local armory board consists of the following members:

- (1) One (1) member appointed by the state armory board.
- (2) The ranking officer of each major unit using and occupying the armory.

Sec. 2. (a) The local armory boards shall do the following:

(1) Carry into effect all rules and regulations adopted by the state armory board.

(2) Recommend rules and regulations concerning local matters to the state armory board.

(3) Prescribe their own rules and regulations concerning local matters.

(4) In the absence of any directive or rule from the state armory board, take local actions necessary to maintain and administer the needs of the local armory.

(b) A local armory board shall report any initial action described in subsection (a) to the state armory board for final ratification. An action described in subsection (a) is considered ratified by the state armory board if:

(1) the state armory board does not take any action; and

(2) the local armory board receives notification of any action; not more than twenty (20) days after the date the local armory board files a report under this subsection.

Sec. 3. (a) The senior member of a local armory board shall serve as president of the local armory board.

(b) The president of a local armory board shall do the following:

(1) Report all actions taken by the local board to the state armory board.

(2) Keep a record of all expenditures, income, and actions authorized by the local board.

(3) Submit an annual report to the state armory board of the information described in subdivisions (1) and (2) by January 15 of each year.

(c) A president of a local armory board is an ex officio member of the state armory board and may attend all meetings concerning the president's armory called by the president of the state armory board. A president of a local armory board may be a voting member of the state armory board only on matters of local concern and of specific nature involving the particular local armory of which the person is president.

Sec. 4. (a) A local armory board may receive from counties, cities, and municipalities donations of land or contributions of money to aid in providing or erecting improvements on the armories.

(b) A donation or contribution received under this section shall be held as other property for the use of the state.

Sec. 5. The state examiner of the state board of accounts personally, or through the deputy examiners or field examiners, shall make a full and complete examination and report upon the records and receipts of the local armory boards to the extent of and as provided for in the examination of the state armory board under IC 10-16-3-17.

Sec. 6. The members of the local armory boards shall perform the duties imposed upon them by this chapter without any compensation for their services. However, the actual expenses incurred by the members of the local armory boards incident to the management and care of the armories are payable from the local armory board funds.

Sec. 7. (a) A local armory board may retain all rental, income, earnings, and any and all other receipts accrued through its operation of the local armory.

(b) The local armory board shall keep a full and complete record of funds the board receives and disburses. The report is subject to audit and submitted to the adjutant general not later than July 1 of each year and at other times as the adjutant general requires.

(c) A local armory board, subject to approval of the state armory board, may expend revenue received for the improvement, including street improvement, alterations, repair, and maintenance of the armory and facilities under its control. The local armory board may expend the funds for the benefit of state military organizations assigned to the local armory. If the funds are not needed for the operation, repair, and maintenance of the armory, or if a military organization is not assigned to the armory, the state armory board may order the funds turned over to the state armory board. The transferred funds may be used for the benefit of other armories of the state or of the national guard of the state or expended as a whole.

Chapter 5. Military Department of Indiana Ceremonial Unit

Sec. 1. The adjutant general may organize and maintain a military department of Indiana ceremonial unit. The unit shall be operated for the following purposes:

(1) Rendering appropriate military honors at state functions

and at funeral services for those who have served in the military forces of the United States or the state of Indiana.

(2) Preserving the history of the Indiana military through the demonstration of close order marching, drill, and ceremonies.

Sec. 2. The membership of the ceremonial unit must be composed of officers, commissioned or warranted, and other members of the Indiana national guard who volunteer for service in the ceremonial unit and are appointed by the adjutant general or the adjutant general's designee.

Sec. 3. The members of the ceremonial unit shall perform the duties imposed upon them by this chapter in a volunteer status. However, the state armory board shall pay the actual expenses of the members incident to the performance of their duties from donations made to the board for the management and maintenance of the ceremonial unit.

Sec. 4. The state armory board may receive gifts of money or property from individuals, associations, institutions, or organizations to carry out the purposes of the ceremonial unit.

Chapter 6. Organization and Personnel

Sec. 1. Under Article 12, Section 1 of the Constitution of the State of Indiana, the militia consists of all able-bodied males who are:

- (1) at least eighteen (18) years of age; and
- (2) less than forty-six (46) years of age;

except those persons who are exempted by the laws of the United States or of Indiana.

Sec. 2. The militia shall be divided into two (2) classes, the sedentary militia and the national guard, as follows:

- (1) The sedentary militia consists of all persons subject to bear arms under the Constitution of the State of Indiana who do not belong to the national guard.
- (2) The national guard consists of those able-bodied citizens between the proper ages as established by this article who may be enrolled, organized, and mustered into the service of the state as provided in this article. The organized militia of the state constitutes and shall be known as the Indiana national guard.

Sec. 3. (a) The Indiana national guard consists of those units:

- (1) specified by:

- (A) the Secretary of the Army; and
- (B) the Secretary of the Air Force; and

(2) approved by the governor.

(b) The composition of authorized units shall be the same as those prescribed for the regular army and the regular air force. The forces of the Indiana national guard shall be fully armed, uniformed, organized, and equipped in accordance with the provisions of the national military establishment regulations governing the regular army and regular air force.

Sec. 4. (a) Officers shall be commissioned by the governor. The governor is, *ex officio*, the commander in chief.

(b) A commission may not be issued to any officer of the Indiana national guard except to general officers until the officer has passed a satisfactory examination before a board demonstrating:

- (1) the officer's knowledge of military affairs proportionate to the office to be held; and
- (2) the officer's general knowledge and fitness for the service.

(c) A person is not eligible for appointment:

- (1) to the office of adjutant general;
- (2) as a major general; or
- (3) as a brigadier general;

unless the person has served at least ten (10) years as a commissioned officer of the national guard, army, or air force of the United States.

(d) A person is not eligible for appointment to any staff (other than the governor's honorary staff), corps, or department unless the person has the technical training requisite to qualify for the appointment, to be determined by an examining board appointed for the purpose.

Sec. 5. (a) A person may not be commissioned as an officer of the Indiana national guard unless the person:

- (1) is temperate and of good moral character; and
- (2) has successfully passed tests as to physical, mental, and professional fitness as may be prescribed by the laws and regulations applicable to the federally recognized national guard.

(b) In the selection and appointment of commissioned officers, preference shall be given to:

- (1) a person with prior active military service;

- (2) an enlisted person;
- (3) a member of the air national guard; and
- (4) a graduate of a school teaching military science.

Sec. 6. (a) At any time, the moral character, capacity, and general fitness for the service of any Indiana national guard officer may be determined by an efficiency board of three (3) commissioned officers, senior in rank to the officer whose fitness for service is under investigation.

(b) The governor may convene the efficiency board. If the findings of the board are:

- (1) unfavorable to the officer; and
- (2) approved by the governor;

the officer shall be discharged.

(c) The commission of an officer in the Indiana national guard may be vacated:

- (1) upon the officer's resignation;
- (2) upon the officer's absence without leave for three (3) months;
- (3) upon the recommendation of an efficiency board; or
- (4) under a sentence of a court-martial.

However, an officer who has not returned or accounted for all the public property or funds for which the officer is responsible may not receive an honorable discharge or separation.

(d) Officers rendered surplus by the disbandment of their organization or other causes shall be separated from the Indiana national guard or placed in the inactive national guard at the discretion of the governor.

Sec. 7. A commissioned officer of the Indiana national guard, before entering upon the duties of the officer's office, shall take and subscribe to the following oath, or other oath as may be required by national guard regulations:

"I, _____, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and the governor of the state of Indiana, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of

_____, in the national guard of the state of Indiana upon which I am about to enter, so help me God."

Sec. 8. (a) The period of enlistment in the Indiana national guard is for the time prescribed by national guard regulations. The qualifications for enlistment must be the same as those prescribed by regulations for admission to the regular army or regular air force or national guard regulations. However, the privilege of continuing the active service during the whole of an enlistment period and of reenlisting in the service may not be denied except as otherwise provided.

(b) An enlisted person of the Indiana national guard shall sign an enlistment contract and take and subscribe to the oath required by national guard regulations.

(c) A federally recognized officer of the Indiana national guard may administer the enlistment oath.

(d) The adjutant general may authorize officers of the services on duty at armed forces entrance stations to administer the oath of enlistment to an applicant presented to them by an authorized representative of the Indiana national guard for enlistment in the Indiana national guard. The state adjutant general's authorization must be in writing.

Sec. 9. An enlisted person who is discharged from service in the Indiana national guard shall receive a discharge in writing in the form and with the classification prescribed by national guard regulations. In time of peace, a discharge may be given before the expiration of an enlistment term in the following cases:

- (1) By sentence of a general court-martial.**
- (2) By direction of the governor on account of disability.**
- (3) On account of sentence of imprisonment by a civil court, whether suspended or not.**
- (4) On account of a bona fide permanent change of residence to another state.**
- (5) For the purpose of enlisting in the United States Army, Air Force, Navy, or Marine Corps.**
- (6) For other causes prescribed by national guard regulations or the commander in chief.**

However, an enlisted person who has not returned or accounted for all of the public property for which the enlisted person is responsible may not receive an honorable discharge.

Sec. 10. All matters relating to:

(1) organization, commissioning, and separation of officers;
(2) enlisting and discharge of enlisted persons; and
(3) discipline and government of the Indiana national guard;
that are not otherwise provided in this article shall be decided by the uniform code of military justice governing the armed forces of the United States, the regulations, customs, and usage of the armed forces of the United States, or national guard regulations.

Sec. 11. (a) The inactive national guard of Indiana consists of those federally recognized officers and persons placed in the inactive national guard under the provisions of national guard regulations.

(b) The administration of the inactive national guard shall be in accordance with applicable national guard regulations.

Sec. 12. (a) A commissioned officer:

(1) who serves in the Indiana national guard for at least five (5) years; or
(2) who becomes permanently disabled from performing the officer's duties, irrespective of length of service;
may, upon honorable retirement from the service, whether by resignation or otherwise, and upon application to the adjutant general, be carried upon a roll to be established and maintained in the office of the adjutant general. The roll shall be designated the Indiana national guard retired list.

(b) The commissioned officer may wear, on occasion of ceremony, the uniform of the highest rank held by the officer.

(c) An officer carried on the Indiana national guard retired list, if qualified, is eligible for detail or appointment on the general staff or the staff of any commander when not physically disqualified for military duty. However, if an officer carried on the Indiana national guard retired list is appointed to a staff position as described in this section, the officer shall be recommissioned in the rank to which the officer has been appointed. The officer shall hold this rank during the time of the staff appointment unless the officer is promoted to a higher rank.

(d) If the officer retires for a second time from active service, the officer shall be entered on the Indiana national guard retired list with the officer's highest rank.

(e) An officer whose name appears on the national guard retired

list is not entitled to receive any military pay or emolument from the state during the time the officer remains on the national guard retired list unless the officer is specifically assigned to duty on orders from the governor. If the officer is assigned to duty on orders from the governor, the officer is entitled only to the military pay and allowance provided by law for officers of the rank to which appointed.

Chapter 7. Training and Active Duty of National Guard; Benefits of Members

Sec. 1. As used in section 6 of this chapter, "employer" refers to an employer:

- (1) other than the state or a county, township, municipality, or school corporation in Indiana; and
- (2) that employs any employee other than an employee in a temporary position.

Sec. 2. As used in section 5 of this chapter, "member" refers to the following:

- (1) A member of the Indiana national guard.
- (2) A member of a reserve component.
- (3) A member of the retired personnel of the naval, air, or ground forces of the United States.

Sec. 3. (a) Each detachment and unit in the national guard shall assemble for drill and instruction, including indoor target practice, in accordance with national guard regulations.

(b) In addition, each detachment and unit shall participate in encampments, maneuvers, or other exercises, including outdoor target practice, in accordance with national guard regulations, unless the unit or detachment is excused from participation by the governor.

(c) A commissioned officer and an enlisted person or a member of the Indiana air national guard shall be present and perform all the duties required of the officer, person, or member at each assembly for drill and instruction, encampment, maneuvers, or other exercises, unless regularly excused by competent authority.

Sec. 4. An employer who knowingly or intentionally refuses to allow a member of the Indiana national guard to attend any assembly at which the member has a duty to perform under this chapter commits a Class B misdemeanor.

Sec. 5. (a) This section applies to all officers and employees of

the state or any county, township, municipality, or school corporation in Indiana who are members.

(b) A member is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to regular vacation period without loss of time or pay for the time that the member is:

- (1) on training duties of the state under the order of the governor as commander in chief; or
- (2) a member of any reserve component under the order of the reserve component authority;

for any consecutive or nonconsecutive period that does not exceed a total of fifteen (15) days in any calendar year. The entitlement to a leave of absence without loss of time or pay provided in this subsection is not at the discretion of the member's employer.

(c) A member is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to the member's regular vacation period for the total number of days that the member is on state active duty under section 7 of this chapter. A leave of absence provided under this subsection may be with or without loss of time or pay at the discretion of the member's employer.

Sec. 6. A member of the Indiana national guard is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to the member's regular vacation period for the total number of days that the member is on state active duty under section 7 of this chapter. The leave of absence may be with or without loss of time or pay at the discretion of the member's employer.

Sec. 7. (a) The governor shall order on state duty all or part of the national guard in the following cases:

- (1) War.
- (2) Invasion.
- (3) Insurrection.
- (4) Public disaster.
- (5) Breach of the peace or imminent danger of breach of the peace.
- (6) Forcible obstruction of the execution of the laws, or reasonable belief that the execution of the laws will be obstructed.

(7) At any other time the governor considers necessary.

(b) A member of the Indiana national guard who is ordered out on duty may not be held civilly liable for any act done by the person in the discharge of the person's military duty. The member may not be subject to criminal prosecution if an alleged criminal act occurred while the member was carrying out the orders of a superior officer that the member reasonably believed to be legal orders under all of the attendant facts and circumstances.

(c) If the President of the United States calls, orders, or requisitions troops, the governor shall first order into the service of the United States the organization and arms of the service specified in the president's requisition.

(d) If a civil suit or proceeding is commenced in any court by any person against any member of the Indiana national guard acting under the authority of an order described in subsection (b), the attorney general shall defend the member. If the action or proceeding is criminal, the governor shall designate counsel to represent the accused and the state will be financially responsible for the expense of the defense of any civil or criminal action incurred. The expenses for the defense shall be paid by the adjutant general out of appropriated funds.

Sec. 8. On days of military duty, the Indiana national guard, called out by proper authority and performing military duty, is considered to be under military discipline. An officer or enlisted person is not subject to arrest on any civil process during this time.

Sec. 9. (a) If:

(1) insurrection, rebellion, invasion, tumult, riot, resistance to law or process, breach of the peace, or public disaster, occurs in the vicinity of a station of the Indiana national guard;

(2) the exigencies of a situation make it impossible for the senior commanding officer of the Indiana national guard station to communicate with the governor or the adjutant general; and

(3) the sheriff of the county involved or an officer acting on behalf of the sheriff provides the senior commanding officer of the Indiana national guard station with a written request signed by the sheriff of the county involved or officer stating the facts and the nature of the service desired;

the senior commanding officer may order out the Indiana national

guard units at that station and cause them to perform whatever duty is required by the circumstances.

(b) A commanding officer who has called out Indiana national guard units as described in subsection (a) shall immediately report what that officer has done and all the circumstances of the case to the governor. The actions performed shall be considered to have been taken by order of the governor.

Sec. 10. An officer whose command is called out under section 9 of this chapter and who is reporting to any civil officer may require the civil officer to make the order in writing and prescribe the outline of the duties required of the officer and the officer's command. The officer may decline to obey the orders until the orders are put in writing. Although the commanding officer must obey all lawful written orders of the civil officer, the military officer may use the officer's discretion as to the manner of carrying out the orders if the officer complies with their spirit.

Sec. 11. (a) Except as provided in subsection (b), before using any military force to disperse an unlawful assembly (as defined in IC 35-45-1-1):

- (1) the civil officer calling out the military force or a law enforcement officer; or
- (2) if a civil officer or law enforcement officer is not present, the officer in command of the troops or the officer's designee; shall command the persons comprising the unlawful assembly to disperse and retire peaceably to their homes or businesses. A particular form of words is not required in ordering the dispersion of any unlawful assembly.

(b) A person is not required to order an unlawful assembly to disperse if:

- (1) giving the order to disperse would put the person in imminent danger of loss of life or great bodily harm; or
- (2) the unlawful assembly is engaged in the commission of any felony or is causing violence to a person or property.

Sec. 12. (a) If a person taking part in an unlawful assembly described in this chapter refuses to disperse after having been ordered to disperse in accordance with this chapter or if a command to disperse is not required under this chapter and a civil officer to whom military force is ordered to report, or if a civil officer is not present, then the military officer (or if the command

is acting under the direct order of the governor, then the officer within the limits provided in the officer's instructions) shall:

- (1) arrest persons taking part in the unlawful assembly; or
- (2) disperse the unlawful assembly.

(b) If, in arresting a person or dispersing an unlawful assembly:

- (1) a person is killed, wounded, or otherwise injured; or
- (2) property is injured or destroyed;

by the civil officer or officer or member of the Indiana national guard, or other persons lawfully aiding them, the officer, member, or person shall be held blameless.

Sec. 13. If a part of the Indiana national guard or a person lawfully aiding the Indiana national guard in the performance of its duty as described in this chapter is attacked or in imminent danger of attack, the commanding officer:

- (1) is not required to await orders from a civil authority; and
- (2) may quell the attack, disperse the attacking party, and take any other necessary step for the safety of the officer's command.

Sec. 14. (a) Except as provided in subsection (b), any part of the Indiana national guard parading or performing a lawful duty has the right-of-way in any street or highway through which the Indiana national guard passes.

(b) The Indiana national guard may not interfere with the following:

- (1) The carriage of United States mail.
- (2) The operations of any fire engine or fire department.
- (3) A police vehicle.
- (4) Any other emergency vehicle.

Sec. 15. (a) If an unlawful assembly has occurred or is so imminent that the Indiana national guard has been called out under this chapter, the civil officer under whose orders the Indiana national guard is acting or the commanding officer of the Indiana national guard, if it is advisable in subduing or preventing the unlawful assembly, may:

- (1) prohibit a person from occupying or making use of a street or place where the Indiana national guard is located; and
- (2) otherwise regulate the passage and occupancy of streets and places.

(b) A person who knowingly or intentionally enters a street or

remains on a street after being informed that the Indiana national guard has prohibited this conduct commits a Class B misdemeanor.

(c) The officer in command of the Indiana national guard may immediately arrest or order the arrest of a person who violates subsection (b).

(d) If the officer in command of the Indiana national guard has arrested a person in accordance with this section, the officer shall deliver the person to a civil magistrate.

Sec. 16. (a) A muster or an assembly for instruction, review, or parade may not be held or called in any county on any day during which a general election or special election is held in the county, except in case of or imminent danger of riot, invasion, insurrection, or public disaster.

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

Sec. 17. An officer or enlisted person in active service of the state shall be paid the greater of:

(1) the sum equivalent to the pay and allowances received by officers and enlisted men of the same rank or grade in the service of the armed forces of the United States; or

(2) the sum per day equal to twelve (12) times the hourly federal minimum wage in effect at the time of active service.

However, with the approval of the budget committee, the adjutant general may adjust the pay of an officer or enlisted person to meet the pay and allowance adjustments of officers and enlisted persons of the same rank or grade for service in the armed forces of the United States.

Sec. 18. (a) A member of the Indiana national guard who:

(1) when on duty or assembled for duty, in case of riot, tumult, breach of peace, insurrection, invasion, public disaster or whenever ordered by the governor, the commanding general of the national guard, or called to the aid of civil authorities, is injured, is disabled, or contracts a disease because of the member's duty or assembly; or

(2) without fault or neglect on that member's part, is wounded or disabled while performing any lawfully ordered duty that temporarily incapacitates the member from pursuing the member's usual business or occupation;

shall, during the period of incapacity, receive the pay to which the

member was entitled while on or assembled for duty, plus any actual necessary expenses for care and medical attention.

(b) If a claim is made under this section, the adjutant general may cause examinations of the claimant to be made from time to time by a medical officer designated for that purpose by the adjutant general. The adjutant general may direct the removal of a claimant to and treatment in a hospital designated by the adjutant general. If the claimant refuses:

(1) to allow an examination; or

(2) to go to a designated hospital or to otherwise follow the advice or treatment prescribed;

the claimant forfeits and is barred from all right to any claim or allowance under this section.

(c) Under this chapter:

(1) a disability may not be considered temporary if the disability continues for more than one (1) year from the date of receiving the injury or of incurring or contracting the disease or disability; and

(2) pay and expenses for care and medical attendance for more than one (1) year is not allowed.

(d) The adjutant general may appoint a medical examiner or a board of three (3) officers, at least one (1) being a medical officer, to inquire into the merits of any claim arising under this section. However, the adjutant general may determine any claim without appointing a medical examiner and fix the amount to be allowed under this section. A medical examiner or board appointed under this section has the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers and punish their failures to do so as is possessed by a general court-martial. The findings of the medical examiner or board are subject to the approval of the adjutant general, who may return the proceedings of the medical examiner or board for revision and for taking further testimony. The amount found due a member by the medical examiner or board and approved by the adjutant general of the state shall be paid by the state in the same manner as other military accounts are paid.

Sec. 19. (a) A member of the Indiana national guard who is wounded or disabled or was disabled in the service of the state including service related to:

- (1) a riot;
- (2) a tumult;
- (3) a breach of the peace;
- (4) a resistance to process;
- (5) an invasion;
- (6) a public disaster;
- (7) the aid of civil authority; or
- (8) a lawfully ordered parade, drill, encampment, or inspection;

within ten (10) years preceding the member's application for a pension under this chapter shall, upon proof of the disability, be placed on the roll of invalid pensioners of the state and shall receive out of money in the state treasury not otherwise appropriated, upon the audit of the adjutant general and approval of the governor, the same pension or reward that a person under similar circumstances would receive from the United States. In case of a wound, an injury, or a disease that results in death, the surviving spouse, dependent children, or dependent parent of the member of the Indiana national guard shall receive the pension and reward dating from the time of receiving the injuries on account of which the pension or reward is allowed. An officer or enlisted person is not entitled while in active service to apply for or receive a pension.

(b) If a member of the Indiana national guard dies in the active service of the state, the member's reasonable funeral expenses, not exceeding four thousand dollars (\$4,000), shall be paid by the state in the manner as the governor directs.

(c) This section does not make applicable any provision of the national service life insurance law of the United States, and the pension or reward granted under this section shall be that provided for by the pension laws of the United States in substance, without regard to form.

Sec. 20. (a) Before the name of a person is placed upon the pension roll under this chapter, proof must be made under regulations as the adjutant general may prescribe that the applicant is entitled to a pension.

(b) The adjutant general, with the approval of the governor, shall strike from the pension roll the name of a person if it appears by satisfactory proof that the person was placed on the pension roll

through a false or fraudulent representation.

(c) The adjutant general, with the approval of the governor, may increase, reduce, or withdraw any pension according to the right, justice, and practice in the United States Department of Veterans Affairs pension office.

Sec. 21. (a) The adjutant general may appoint a pension examiner who shall inquire into the merits of any claim for pay and care and pension, whether pending or adjudicated. The pension examiner may administer oaths, orally examine witnesses, issue subpoenas, and take affidavits and depositions in the course of an examination.

(b) The adjutant general shall appoint examining boards consisting of not more than three (3) medical officers of the Indiana national guard, who shall, under the adjutant general's direction, make an examination of a claimant as directed by the adjutant general. The examining board shall certify the result of its examination in the form prescribed by the adjutant general.

(c) A person who is adversely affected by the report of one (1) medical officer is entitled, upon request, to an examination before a board consisting of three (3) medical officers. The adjutant general, with the approval of the governor and with the consent of the applicant, may commute any pension by payment of a lump sum to be accepted by the applicant in full satisfaction of all claims.

Sec. 22. If a member of the Indiana national guard or a member of a reserve component of the armed forces of the United States:

- (1) is a noncustodial parent (as defined in IC 31-9-2-83);
- (2) misses visitation as provided in an order issued under IC 31-14-14 or IC 31-17-4 due to participating in an activity required under this chapter; and
- (3) notifies the custodial parent at least seven (7) days before the member misses the anticipated visitation described in subdivision (2), unless the member is unable to provide notice due to a government emergency;

the member shall be allowed to make up the lost visitation at the member's earliest convenience but not later than one (1) month after the member misses the visitation under this section, if exercising the lost visitation does not conflict with the child's school schedule.

Chapter 8. Guard Reserve

Sec. 1. (a) To supplement the Indiana national guard, the governor may organize and maintain within Indiana military forces the governor considers necessary to defend Indiana if any part of the Indiana national guard is in active federal service.

(b) The Indiana guard reserve shall be composed of officers, commissioned or assigned, and able bodied citizens who volunteer for service, supplemented, if necessary, by members of the militia enrolled by draft or otherwise as provided by law.

(c) These forces:

(1) are additional to and distinct from the Indiana national guard; and

(2) shall be known as the Indiana guard reserve.

The members of the Indiana guard reserve may be uniformed.

Sec. 2. (a) The governor may adopt rules and regulations not inconsistent with this chapter governing the enlistment, organization, administration, equipment, maintenance, training, and discipline of members of the Indiana guard reserve. However, the rules and regulations must conform to applicable law governing and pertaining to the Indiana national guard and the rules and regulations adopted under those laws and under regulations as the Secretary of Defense of the United States may prescribe for the organization, standard of training, instruction, and discipline.

(b) The adjutant general is designated as the commanding officer of the Indiana guard reserve. The administration of the Indiana guard reserve shall be in the state military department.

(c) The governor may disband the Indiana guard reserve at any time the governor considers necessary and safe.

Sec. 3. The adjutant general shall determine and pay for administration, operation, training, and all expenses incidental to administration, operation, and training that are incurred in carrying out this chapter.

Sec. 4. (a) For the use of members of the Indiana guard reserve, the governor may requisition from the secretary of defense arms, ammunition, clothing, and equipment that the secretary of defense may issue.

(b) The governor shall make available the facilities of state armories and their equipment and other state premises and property as may be available.

(c) School authorities may allow the use of school buildings and school grounds by the Indiana guard reserve, on the terms and conditions set out by the adjutant general.

Sec. 5. The Indiana guard reserve may not be required to serve outside Indiana except as follows:

(1) Upon the request of the governor of another state, the governor of Indiana may order any part of or all the Indiana guard reserve to assist the military or police forces of another state who are engaged in defending the other state. The governor may recall these forces.

(2) An organization, a unit, or a detachment of the Indiana guard reserve, upon order of the officer in immediate command of the guard reserve, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of Indiana into another state until the insurrectionists, saboteurs, enemies, or enemy forces are apprehended or captured by the organization, unit, or detachment or until the military or police forces of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons. The pursuit is not authorized unless the other state gives authority by law for the pursuit by forces of Indiana. Any persons who are apprehended or captured in another state by an organization, unit, or detachment of the forces of Indiana shall without unnecessary delay be surrendered to the military or police forces of the state in which they are taken or to the United States. The surrender of insurrectionists or saboteurs to the military or police forces of the other state does not constitute a waiver by Indiana of its right to extradite or prosecute the insurrectionists or saboteurs for any crime committed in Indiana.

Sec. 6. (a) Military forces, organizations, units, or detachments of another state that are in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces may continue the pursuit into Indiana until the military or police forces of Indiana or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the insurrectionists, saboteurs, enemies, or enemy forces.

(b) Military forces, organizations, units, or detachments of

another state may arrest or capture insurrectionists, saboteurs, enemies, or enemy forces within Indiana while in fresh pursuit. A person who is captured or arrested by the military forces of the other state while in Indiana shall without unnecessary delay be surrendered to the military or police forces of Indiana to be dealt with according to law.

(c) This section may not be construed to make unlawful any arrest in Indiana that would otherwise be lawful. This section does not repeal any provision of IC 35-33-3.

Sec. 7. This chapter may not be construed to authorize the Indiana guard reserve or any part of the Indiana guard reserve to be called, ordered, or in any manner drafted into the military services of the United States. However, a person may not, by reason of the person's enlistment or commission in the Indiana guard reserve, be exempted from United States military service required under any law of the United States.

Sec. 8. A civil organization, a society, a club, a post, an order, a fraternity, an association, a brotherhood, a body, a union, a league, or any other combination of persons or civil groups may not be enlisted in the Indiana guard reserve as an organization or unit.

Sec. 9. A person may not be commissioned or enlisted in the Indiana guard reserve if the person is not a citizen of the United States or if the person has been expelled or dishonorably discharged from any military or naval organization of this state, of another state, or of the United States.

Sec. 10. The oath to be taken by officers commissioned in the Indiana guard reserve shall be substantially in the form prescribed for officers of the national guard, substituting the words "Indiana guard reserve" where necessary.

Sec. 11. A person may not be enlisted for more than three (3) years. However, an enlistment may be renewed. The oath to be taken upon enlistment in the Indiana guard reserve shall be substantially in the form prescribed for enlisted persons of the national guard, substituting the words "Indiana guard reserve" where necessary.

Sec. 12. (a) If the Indiana guard reserve or any part of the Indiana guard reserve is ordered out for active service or armory drill:

- (1) the uniform code of military justice governing the Indiana

national guard relating to courts-martial, their jurisdiction, and the limits of punishment; and

(2) the rules and regulations prescribed under the uniform code of military justice;

are in full force and effect as provided for in IC 10-16-9-1.

(b) An officer or enlisted person of the Indiana guard reserve may not be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where ordered to attend for military duty. An officer and enlisted person of the Indiana guard reserve is, during the service in the Indiana guard reserve, exempt from service upon any posse comitatus.

Sec. 13. The adjutant general of Indiana, with the approval of the governor, may procure a policy of group insurance for and covering members of the military forces of Indiana covering and insuring against any injury received or had by members from any accident while on drill or active duty.

Sec. 14. (a) The members of the Indiana guard reserve provided for in this chapter shall receive pay quarterly for time spent in authorized drill and instruction to be paid from any appropriation enacted for that purpose.

(b) The adjutant general shall:

(1) cause quarterly payrolls to be prepared and submitted; and

(2) provide regulations for the processing of payrolls.

(c) This section applies only to drill and instruction pay and does not apply to payroll for active duty.

Sec. 15. (a) Adequate provisions shall be made to allow the enlistment and induction of able bodied citizens of each and all racial groups in Indiana into all branches and departments of the Indiana guard reserve organized to defend and enforce the laws of Indiana. To that end, all racial groups in Indiana are entitled to that representation in each branch or department of the Indiana guard reserve in approximate proportion to the group or groups to the population of Indiana. However, this section or any other statute may not be construed so as to allow racial segregation.

(b) Race or color may not be a cause for excluding the application to serve or the service of any person in any branch of service provided for in this chapter.

Chapter 9. Court-Martial Procedures

Sec. 1. (a) Except as otherwise provided, if the Indiana national guard is in active service on behalf of the state:

(1) in case of:

- (A) public disaster;**
- (B) riot;**
- (C) tumult;**
- (D) breach of the peace; or**
- (E) resistance of process;**

(2) whenever called upon in aid of civil authorities;

(3) under martial law;

(4) at encampments or any scheduled training periods or drills for which a member is entitled to pay, within or outside Indiana; or

(5) upon any other duty requiring the entire time of the Indiana national guard, or any part of the Indiana national guard;

the uniform code of military justice governing the armed forces of the United States with any subsequent change approved by the adjutant general as applicable to Indiana military law is in force and regarded as a part of this article for the Indiana national guard until the Indiana national guard is relieved from duty.

(b) Confinement in a penitentiary under this article must be in a penitentiary in Indiana. An offense committed by the member of the national guard while in active service may be tried and punished by a court-martial lawfully appointed.

(c) Except as provided in subsections (d) and (e), if the accused member of the Indiana national guard is found guilty, the convicted member shall be punished according to the uniform code of military justice and the rules and regulations governing the United States armed forces but within the limits prescribed by federal law for court-martial in the national guard.

(d) If the offense charged is also an offense by the civil law of Indiana, the officer whose duty it is to approve the charge may order the person charged to be turned over to the civil authorities for trial.

(e) Punishment under the rules and articles of the uniform code of military justice that extend to the taking of life may not be inflicted, except in time of actual war, invasion, or insurrection, declared by proclamation of the governor to exist, or to be

threatened or anticipated.

(f) If a:

(1) person resisting the laws of the state or unlawfully or riotously assembled for that purpose; or

(2) bystander or other person in the vicinity;

is killed or injured by state forces called into active service under this article and acting in obedience to the orders of its commanding officer, the officer or member of the Indiana national guard is not subject to indictment, trial, or any civil process other than by a court-martial, to be convened for that purpose by the governor.

(g) The finding of the court-martial, when submitted to and approved by the governor, in accordance with the uniform code of military justice, is final and conclusive on all persons.

(h) If an indictment is found or information filed against the person, a writ or other process may not be issued by the clerk of the court where the indictment was returned or information filed against the defendant. The clerk shall immediately transmit to the governor a certified copy, and, upon the receipt of the certified copy, the governor shall cause to be convened a court-martial to determine the truth of the charges and the punishment, if any, to be inflicted.

Sec. 2. (a) The military courts of Indiana shall be organized as follows:

(1) General court-martial.

(2) Special court-martial.

(3) Summary court-martial.

(b) The courts shall be constituted, have cognizance of the same subject, and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing the armed forces of the United States. The proceedings of the courts-martial must follow the forms and modes of procedure prescribed for the courts governing the armed forces of the United States and as approved by the adjutant general.

(c) A general court-martial may be convened by orders of the governor and may try a person subject to military law. The general court-martial may impose fines of not more than two hundred dollars (\$200) and sentence a person to:

(1) a forfeit of pay and allowances;

(2) a reprimand;

- (3) dismissal or dishonorable discharge from the services;**
- (4) reduction of noncommissioned officers to the ranks; or**
- (5) any combination of two (2) or more of the punishments described in subdivisions (1) through (4).**

(d) The adjutant general or the commanding officer of each camp or other place, division, regiment, separate battalion, air squadron, group, or other detached command may appoint a special court-martial for that command. However, a special court-martial may be appointed by superior authority if the superior authority considers it desirable. The special court-martial:

- (1) may try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States or the state; and**
- (2) has the same powers of punishment as does a general court-martial, except that fines imposed by the courts may not exceed one hundred dollars (\$100).**

(e) The adjutant general or the commanding officer of each camp or other place, division, regiment, battalion, company, air squadron, group, or other detachment of the national guard may appoint for the place or command a summary court to consist of one (1) officer, who may administer oaths and try the enlisted persons of the place or command for breaches of discipline and violations of laws when governing the organizations. The court, when satisfied of the guilt of the soldier, may:

- (1) impose fines of not more than twenty-five dollars (\$25) for any offense;**
- (2) sentence noncommissioned officers to reduction in rank; and**
- (3) sentence to forfeiture of pay and allowances.**

The proceedings of the court must be informal and the minutes must be the same as prescribed for summary courts of the armed forces of the United States.

(f) All courts-martial of the Indiana national guard, including summary courts, may sentence to confinement instead of imposing an authorized fine if the sentence of confinement does not exceed one (1) day for each one dollar (\$1) of fine authorized.

(g) A sentence of dismissal from the service or dishonorable

discharge imposed by a national guard court-martial may not be executed until approved by the governor.

(h) A conviction by court-martial that has been approved by the convening authority under this article may be appealed to a military court of appellate review. The military court of appellate review must consist of three (3) Indiana national guard judge advocates appointed to the military court of appellate review by the adjutant general.

(i) Presidents of courts-martial and summary courts officers may do the following:

(1) Issue warrants to arrest an accused person and to bring the person before the court for trial if the person has disobeyed an order in writing from the convening authority to appear before the court. A copy of the charge must be delivered to the accused with the order.

(2) Issue subpoenas duces tecum.

(3) Enforce by attachment attendance of witnesses and the production of books and papers.

(4) Sentence for a refusal to be sworn or to answer as provided in action before civil courts.

(j) All processes of a court-martial, when it is impracticable to be executed by the military forces of the state, shall be:

(1) brought in the name of the state; and

(2) executed by the civil officers designated by the president of the court-martial or summary court officer issuing the process.

The designated civil officer shall execute all processes and return the processes to the officer who issued the processes. The civil officer shall be paid the fees and allowances provided for like processes in civil actions of the state. The fees shall be charged in case of conviction of the accused as a part of the penalty of the offense of which the accused may be convicted whether the punishment for the offense is imprisonment or a fine, or both. The payment of the costs in addition to the payment of the fine imposed shall be enforced by imprisonment until the payment is satisfied, at a rate of one dollar (\$1) per day of the costs or fine, or both.

Sec. 3. (a) Fines may be collected in the following manner:

(1) By the retention of any pay or allowances due or to become due from the state or the United States.

(2) By commitment to a jail designated by the reviewing authority until the fine is paid or until one (1) day is served for each one dollar (\$1) of the fine imposed.

(3) By payment to the county treasurer. The county treasurer shall immediately transmit the payment to the treasurer of state. The treasurer of state shall quarterly pay the sums to the armory board, and the sums are appropriated continuously for the purposes of IC 10-16-3-11. It is sufficient to record upon the payroll opposite the name of the person fined a notation of the sentence of the court-martial and the date of approval of the sentence, together with the name and rank of the reviewing authority.

(b) A sentence of imprisonment imposed by a court-martial during active service or at camps of instruction shall be carried out by confinement in a guardhouse, tent, or other places designated by the reviewing authority. A sentence of imprisonment imposed by court-martial upon persons not in active service or at camps of instruction shall be carried out by confinement in a jail to be designated by the reviewing authority.

Sec. 4. If a fine is assessed by a court-martial against a member of the Indiana national guard to whom pay is not due or about to become due, the member of the Indiana national guard fails or refuses to make payment to the treasurer of the state and the proceedings of the court have been approved by the reviewing authority, the reviewing authority in the case of a general or special court-martial, or the summary court officer in the case of a summary court-martial, shall issue a writ in a form approved by the adjutant general for the confinement of the member of the Indiana national guard until the:

(1) fine has been paid; or

(2) member has served one (1) day for each one dollar (\$1) of the fine imposed and costs of the action accrued.

Sec. 5. If a sentence of imprisonment is to be served in a place other than in a guardhouse or tent, the reviewing authority in the case of a general or special court-martial and the summary court officer in the case of a summary court-martial shall issue to the sheriff of the county where the confinement has been ordered by the reviewing authority an order of confinement in a form approved by the adjutant general.

Sec. 6. (a) The commanding officer of any detachment, company, or other unit or organization may impose disciplinary punishment upon any enlisted member of the officer's command.

(b) An officer exercising command normally exercised by a general officer may impose disciplinary punishment upon any warrant or commissioned officer of the exercising officer's command.

(c) A punishment imposed by authority of this section may include the following:

(1) Admonition.

(2) Reprimand.

(3) Withholding privileges for up to seven (7) twenty-four (24) hour duty days.

(4) Restriction to specific area limits for up to seven (7) twenty-four (24) hour duty days.

(5) Imposition of a fine of not more than two-thirds (2/3) of one (1) month's pay to which the member would have been entitled during the month of the offense.

(d) A commanding officer may also:

(1) order a member of the officer's command to be confined under correctional custody for not more than eight (8) days;

(2) reduce the member's rank to the next inferior grade; or

(3) order a member confined and reduce the member's rank as provided in subdivisions (1) and (2).

However, only the commanding officer who holds promotion authority over the member charged with an offense may prescribe the punishment of correctional custody, fine, or reduction in rank.

(e) Fines shall be collected as directed under section 3 of this chapter.

(f) Confinement shall be carried out in compliance with sections 5 and 11 of this chapter.

(g) This section may not be construed to be a waiver of the right to trial by court-martial.

(h) A sentence may not be executed until the right of appeal has been exhausted or waived as prescribed in the uniform code of military justice.

Sec. 7. (a) Officers, warrant officers, and enlisted persons of the Indiana national guard may be placed in arrest by their military superiors for violations of military offenses committed during

periods of authorized military duty.

(b) If any member of the Indiana national guard fails or refuses to report to the member's appointed place of duty, the commanding officer may:

- (1) arrest or cause to be arrested the member; and
- (2) have the member brought before the commanding officer at the member's unit or organization headquarters.

(c) If military personnel are not available to make the arrest or if the commanding officer considers it advisable, the commanding officer may issue a warrant to any sheriff, constable, or other law enforcement officer authorized to serve warrants of arrest under civil law. The law enforcement officer shall serve the warrant in the same manner as other warrants of arrest and make return of the warrant to the commanding officer issuing the warrant.

Sec. 8. (a) The president or military judge of a general and a special court-martial and a summary court officer may each appoint by warrant and at any time remove one (1) or more marshals. A marshal shall do the following:

- (1) If ordered by the president of a general or special court-martial or summary court officer, execute any process, mandate, or order issued by the president or court or officer.
- (2) Perform all acts and duties authorized to be performed by any sheriff, marshal, or constable under this article.

(b) A commanding officer imposing disciplinary punishment under section 6 of this chapter may request the summary court officer having jurisdiction over the unit to appoint a marshal to carry out the process, mandate, or order issued by the commanding officer.

Sec. 9. An action on civil proceeding may not be presented against:

- (1) any member of the armed forces of Indiana who prefers charges against any person subject to military discipline; or
- (2) any member of a military court or officer or person acting under the court's authority or reviewing its proceedings on account of the:
 - (A) approval, imposition, or execution of any sentence;
 - (B) imposition or collection of a fine or penalty; or
 - (C) execution of any warrant, writ, execution, process, or mandate of a military court.

Sec. 10. The jurisdiction of the courts and boards established by this chapter is presumed, and the burden of proof rests on any person seeking to oust the courts or boards of jurisdiction in any action or proceedings.

Sec. 11. (a) The reviewing authority shall designate:

(1) the jail of any county; and

(2) when ordered out of the state for duty, an appropriate place of confinement;

as the place where any sentence of confinement by a military court shall be executed.

(b) With regard to punishment under section 6 of this chapter, confinement shall be at the county jail designated by the officer holding appellate jurisdiction over the case and having the advice of a staff judge advocate as to the legality of the proceedings. However, at the discretion of the officer holding appellate jurisdiction, short term confinement may be carried out in an acceptable municipal jail.

(c) Unless the commanding officer who ordered the sentence directs otherwise, a sentence of confinement or correctional custody shall be served on a consecutive day basis.

Sec. 12. (a) A person connected with the military service:

(1) shall treat a court-martial with respect; and

(2) in default of respectful consideration, may be proceeded against by arrest and trial.

(b) A person who is not connected with the military service shall behave with respect and decorum toward a court-martial.

(c) A person who engages in disorderly conduct in the presence of a court-martial commits a Class C infraction.

Sec. 13. The general principle and spirit of the military laws and regulations for the government of the armed forces of the United States, when not in conflict with the express provisions of this chapter or the Constitution of the State of Indiana, shall be the guide of commanding officers and courts-martial.

Sec. 14. A lack of form may not vitiate the proceedings of a court-martial.

Sec. 15. An officer may administer oaths when necessary under this article.

Chapter 10. Public Property and Military Equipment

Sec. 1. (a) The officer in permanent or temporary command of

a station is responsible for the security of all public property of the command, whether in use or in store. Although for purposes of periodical accountability to proper authorities, the public property has been officially accepted and receipted for by any subordinate officers, the commanding officer is responsible and pecuniarily liable for the strict observance of the regulations in regard to its preservation, use, and issue. The officer shall take care that:

- (1) all storehouses are properly guarded;
- (2) only reliable agents are employed; and
- (3) only trustworthy enlisted persons are detailed for duty in storehouses or in connection with the property.

(b) If an officer, a soldier, or an airman responsible for state and federal property:

- (1) resigns;
- (2) is promoted;
- (3) is dismissed; or
- (4) is discharged;

the officer, soldier, or airman shall deliver all arms, accoutrements, or stores only to the officer appointed to receive the arms, accoutrements, or stores and take duplicate receipts for the arms, accoutrements, or stores and file a duplicate receipt with the adjutant general. In case of the death of an officer, a soldier, or an airman responsible for state and federal property, the next in command shall immediately take charge of the arms, accoutrements, or stores and deliver them to the person appointed to receive the arms, accoutrements, or stores. However, if the officer, soldier, or airman is commissioned in place of the deceased, the officer, soldier, or airman shall execute and file duplicate receipts for the arms, accoutrements, and stores with the adjutant general.

(c) An officer responsible for state and federal property shall be charged for any damage to or loss or destruction of the property unless the officer shows to the satisfaction of the adjutant general, by proper evidence, that the damage, loss, or destruction was caused by unavoidable causes and without fault or neglect on the officer's part.

(d) If an article of state or federal property is lost or damaged by the neglect or fault of an officer, a soldier, or an airman, the officer, soldier, or airman shall pay for the value of the property or

the cost of repairs, in a sum to be determined by the proper authority, upon the demand of the adjutant general.

(e) The amount charged against an enlisted soldier or airman on the muster and payrolls for loss of or damage or repairs to military property may not exceed the value of the article or cost of repairs. The charge may only be made:

- (1) on conclusive proof; and
- (2) with an inquiry if the soldier or airman demands it.

(f) The adjutant general may pay from the funds appropriated to the military department for operating expenses the expenses necessary for the apprehension and prosecution of any person absconding with property belonging to the state or United States if the person is not in Indiana.

Sec. 2. (a) If an officer, a soldier, or an airman or a former officer, soldier, or airman responsible for any national guard, state or federal equipment, property, or military stores has:

- (1) failed to return the property or any part of the property on demand of proper authority;
- (2) damaged the property beyond the injury resulting from the necessary use of the arms or other issues; or
- (3) caused a deficiency in the number or quantity of the state and federal arms, property, or military stores;

the amount of the unnecessary damages or losses shall be determined by a board of survey appointed in accordance with appropriate national guard regulations.

(b) The amounts due under subsection (a) shall be collected by law in the name of the state of Indiana and paid into the state military fund.

(c) The attorney general shall bring the suit in the name of the state of Indiana and cause the amounts collected to be paid into the state military fund.

Sec. 3. The uniforms, arms, and equipment of a member of the national guard, together with any military property of any detachment company, battery, battalion, regiment, division, air squadron, or group, are exempt from execution for debt.

Sec. 4. If property owned by the state for the use of the Indiana national guard is determined by the governor or the adjutant general to not be of value to the Indiana national guard, the governor or the adjutant general may enter in the records of the

military department an entry to the effect that the property is not valuable to the Indiana national guard.

Sec. 5. (a) If an entry under section 4 of this chapter is made, the governor or adjutant general may order the property sold at public or private sale as in their judgment will be for the best interests of the state.

(b) Payment for a sale of property under subsection (a) shall be made in cash to the adjutant general who shall:

- (1)** enter of record the receipt of the money;
- (2)** turn the property over to the purchaser; and
- (3)** pay the money to the treasurer of the state.

The money becomes and remains a part of the military fund to be used for the benefit of the Indiana national guard.

Sec. 6. A loan company or pawnbroker that possesses a license issued by the state or by a municipal corporation shall make a report, in writing, to the adjutant general, on a form prescribed and furnished by the adjutant general, showing, by item and serial number, all property of the United States government:

- (1)** received as security for a loan or loans of money; or
- (2)** purchased or otherwise obtained without the advancement of a loan;

and which is marked with the words "Property of the United States Government" or is stamped as to indicate that it is the property of one **(1)** of the military branches of the United States government.

Sec. 7. A loan company or pawnbroker may not sell or otherwise dispose of any property described in section 6 of this chapter, unless the loan company or pawnbroker has obtained a written permit from the adjutant general authorizing the sale or disposition of the property and that states that the property:

- (1)** cannot be identified as being the property of the United States government or of any of its military branches; and
- (2)** may be lawfully sold or otherwise disposed of according to the laws of Indiana and the United States.

Sec. 8. (a) An officer shall report illegal disposition of property.

(b) All law enforcement officers and all commissioned and noncommissioned officers of the national guard shall seize immediately all military property:

- (1)** found in the possession of any person who is not the legal custodian or owner of the property; or

(2) from a person who may secrete, sell, dispose of, offer for sale, purchase, or retain the military property;
after a demand has been made upon the person or the person's legal representative for the return of the military property.

(c) A law enforcement officer, commissioned officer, or noncommissioned officer of the national guard shall report the officer's action to the adjutant general.

Sec. 9. (a) A bill or an account may not be made by an officer or enlisted person with a view of the bill or account being paid by the state unless the expenditure is expressly authorized by the laws of Indiana or the adjutant general.

(b) An account may not be paid unless it is accompanied by vouchers or receipts showing by whomever paid or are to be paid, to whom paid, date of service, authority for, and amount of the expenditure, and for what purpose the expenditure was made.

Sec. 10. A personal payment may not be made under this article to the accountable officer of an organization or unit who does not fully and satisfactorily account to the adjutant general for all money paid or property issued to the accountable officer under this article.

Sec. 11. (a) Federal property loaned to the state for use by the Indiana national guard or other purposes shall be issued and accounted for in the manner prescribed by national guard regulations or other pertinent federal directives.

(b) State property shall be issued and accounted for in the manner prescribed by the governor or state laws.

(c) All public property:

(1) shall be used in the manner and for the purposes intended in the public service; and

(2) may not be used by an individual for the individual's personal benefit, pleasure, or gain.

Chapter 11. Military Funds

Sec. 1. The general assembly may appropriate the sums necessary to constitute a contingency fund to be known as the governor's civil and military contingency fund.

Sec. 2. The governor's civil and military contingency fund:

(1) remains in the state treasury; and

(2) shall be drawn on the warrant of the governor:

(A) for the expenses as may accrue under this chapter; and

(B) to pay the expenses of all encampments ordered or approved by the governor, inspections, courts-martial, boards of inquiry, inspection, examination, and survey, and pay of officers and soldiers on state active duty.

Sec. 3. The governor may, by general order:

- (1) provide for the disbursement of the governor's civil and military contingency fund for the proper organization of the national guard and the promotion of its discipline, instruction and military efficiency;**
- (2) appoint boards of examination, inquiry, and survey; and**
- (3) provide for the collection of any fine, penalty, or forfeiture due from any officer or member of the Indiana national guard out of any payment to be made to the officer or member by the state.**

Sec. 4. (a) The commanding officer of a company and regiment shall convene a council of administration at least two (2) times each year.

(b) A council of administration must consist of:

- (1) three (3) officers next in rank to the commanding officer;**
- (2) if there are only two (2) officers next in rank, then the next two (2);**
- (3) if there is only one (1) officer next in rank, then the next one (1); or**
- (4) if there is not any other officer other than the commanding officer, then the commanding officer shall act alone.**

Sec. 5. (a) The junior member of the council shall:

- (1) record the proceedings of the council in a book; and**
- (2) submit the book to the commanding officer.**

(b) If the commanding officer disapproves the proceedings and the council, after reconsideration, adheres to its decisions, a copy shall be sent by the commanding officer to the next higher commander. The decision of the next higher commander:

- (1) is final; and**
- (2) shall be entered in the council book.**

The decision and council book shall be published for the information and government of all concerned.

Sec. 6. (a) The proceedings of councils of administration shall be signed by the senior member of the council and recorded. The recorder of each meeting, after entering the whole proceedings,

together with the final order, shall deposit the book with the commanding officer.

(b) The approval or disapproval of the officer ordering the council shall be signed by the officer.

Sec. 7. The council of administration shall:

- (1) audit and settle the account of the organization for which the council is appointed; and
- (2) pass specific resolves for all expenditures of the funds of the organization.

Sec. 8. (a) An officer or a member of the Indiana national guard may not receive any compensation for duty at drills, parades, or encampments unless personally present for the duty, whether excused or not. A substitute for the member may not receive compensation.

(b) Officers and members shall sign payrolls before the last day of services for duty performed. The signature of a soldier shall be made in the presence of the member's commanding officer. If the member signs by mark, the mark must be attested to by the officer.

(c) The payrolls described in subsection (b) shall be prepared and submitted according to the orders and regulations of the state military department.

Sec. 9. An officer of the Indiana national guard charged with the disbursement or safekeeping of public money or of any of the funds authorized to be established by this article who does not:

- (1) render to the proper authorities a satisfactory account of the money; or
- (2) pay over to a successor the money:
 - (A) in the officer's hands; or
 - (B) the officer failed satisfactorily to account for;

shall be proceeded against as is provided in cases of fines by court-martial. The proceedings of the council of administration shall be taken as evidence in the case.

Sec. 10. (a) The governor, as trustee, may receive from the Secretary of Defense of the United States the funds:

- (1) designated as "Other Funds" in the custody of the Secretary of Defense;
- (2) that were collected by certain Indiana national guard organizations for their own use and benefit; and
- (3) that have not been disposed of because the Indiana

national guard organizations for whose benefit the funds were collected have been broken up and have never been reconstituted.

(b) The governor, as trustee, may receive from any branch of the United States government any military funds that may be recovered from the United States government. The funds received shall be:

- (1) paid into the state treasury; and
- (2) kept as a separate and distinct fund; and
- (3) distributed for the benefit of the Indiana national guard.

The funds are appropriated in the manner determined by the governor.

Chapter 12. Awards and Decorations

Sec. 1. The following awards and decorations are established to be bestowed upon the officers and enlisted persons of the armed forces of Indiana under the conditions and in the manner provided in this article:

(1) An Indiana Distinguished Service Cross shall be awarded to any commissioned officer or enlisted person of the militia, who:

(A) performs, at great personal danger and risk of life or limb in peace or war, any act of heroism designed to protect life or property; or

(B) in the face of a military or armed enemy of the United States government or of the state of Indiana, performs an act over and beyond the call of duty, which act, danger, or risk the officer or enlisted person could have failed to perform or incur without being subject to censure for neglect of duty.

(2) An Indiana Distinguished Service Medal shall be awarded to a commissioned officer or an enlisted person of the militia and other officers, enlisted persons, and civilians, who perform unusually distinguished or meritorious service, that:

(A) to a marked degree is reflected in the increased efficiency of the militia; or

(B) brings exceptional and great honor or credit to the Indiana armed forces and commands the attention and respect of the citizens of Indiana and of the military establishment throughout the United States.

(3) Long Service Medals shall be awarded to officers and enlisted persons for honest and faithful service in the federally recognized Indiana national guard for periods of:

- (A) ten (10) years;**
- (B) fifteen (15) years;**
- (C) twenty (20) years;**
- (D) twenty-five (25) years; and**
- (E) for longer periods.**

A symbol shall be worn on the ribbon of each medal, one (1) for each year in addition to the period for which the medal was issued, until the officer or enlisted person is entitled to a medal for the next period for which a different long service medal is issued.

(4) An Indiana national guard commendation medal shall be awarded to any commissioned officer or enlisted person of the militia and other officers, enlisted persons, and civilians, who have distinguished themselves by meritorious achievement or meritorious service. The required meritorious achievement or meritorious service while of lesser degree than that required for the award of the Indiana distinguished service medal must have been accomplished with distinction. The award may be made for acts of outstanding courage that do not meet the requirements for award of the Indiana distinguished service medal. It is particularly desirable that emphasis be placed on the award of this decoration to outstanding company grade officers, warrant officers, and enlisted personnel whose achievements and service meet the prescribed standards.

(5) An Indiana Emergency Service Ribbon shall be awarded to all currently assigned officers, warrant officers, and enlisted members of the Indiana national guard who have served on state active duty during a state emergency. For purposes of this subdivision, "state emergency" means any emergency for any period declared by the governor or the adjutant general. The Indiana emergency service ribbon shall be awarded to denote honorable state active military duty by members of the Indiana army and air national guard during state emergencies.

(6) Other medals for any war or campaign or mobilization for which a medal has not been awarded by the federal

government may be:

- (A) established by executive order of the governor; and
- (B) awarded to members of any federally recognized military force of the state who participated in the military force.

For the purposes of this article, officers and enlisted persons of the regular army assigned to the armed forces of Indiana as instructors and assistant instructors shall be considered as officers and enlisted persons of the Indiana armed forces.

Sec. 2. The medals and decorations provided for in this chapter must be of a character and design that shall be decided upon and approved by a board of officers of the federally recognized Indiana national guard selected by the adjutant general by order of the governor. The board shall select proper and appropriate designs for medals and ribbons and symbols that reflect the history and traditions of Indiana.

Sec. 3. The governor, through the military department, shall publish general orders necessary to:

- (1) carry out this chapter; and
- (2) prepare the rules and procedure by which recommendations or applications shall be made for any of the awards and decorations established under this chapter and for the method and manner of approving the recommendations and applications and the making of awards.

Chapter 13. Naval Battalion

Sec. 1. In addition to the military forces authorized in Indiana, a naval or military school in Indiana that is receiving recognition from the United States Department of the Navy under 34 U.S.C. 312, approved June 29, 1906, may organize not more than four (4) companies of naval militia that constitute a battalion to be known as the naval battalion of the Indiana national guard.

Sec. 2. The naval battalion is under the command of the commandant of the school, who shall hold the ex officio rank of lieutenant colonel.

Sec. 3. The officers of each naval battalion consist of one (1) commander and a staff to consist of the following:

- (1) One (1) executive officer, with the rank of lieutenant commander.
- (2) One (1) navigating officer and four (4) watch officers with

the rank of lieutenant.

(3) One (1) chief engineer, one (1) paymaster, and one (1) surgeon, each with the rank of lieutenant.

Sec. 4. Each company consists of the following:

(1) One (1) cadet lieutenant.

(2) One (1) cadet lieutenant (junior grade).

(3) One (1) cadet ensign.

(4) At least forty (40) and not more than one hundred (100) petty officers and enlisted persons.

Sec. 5. (a) The commissions of the battalion officers shall be issued by the governor upon the recommendation of the commandants and of the chairman of the board of trustees of the school.

(b) The commissions of cadet officers may be issued by the commandant. However, a cadet officer may not acquire any authority over militiamen other than a cadet of the school because of the issuance of the commission of cadet officer.

Sec. 6. The graduation and service of retired or honorably discharged United States naval officers and graduates of the United States Naval Academy may be accepted as evidence of fitness without further examination for appointment as officers of the naval battalion.

Sec. 7. The minimum age for the enlistment of cadets is fourteen (14) years of age and the minimum term of enlistment is one (1) year.

Sec. 8. When the regular term of the naval school is over for the year, the officers and cadets of the schools may:

(1) return to their homes; and

(2) be excused from weekly drills and from other duties and formalities;

until the school reopens, unless the officers and cadets are called together for special duty by the governor or the President of the United States.

Sec. 9. (a) In all matters not otherwise specifically provided for, the provisions of this article that provide for the organization of the Indiana national guard apply to the naval battalion.

(b) An officer or a cadet of the school may not receive from the state any allowance for uniform or any pay for drills, target practice, or any other military or naval duties unless called into the

service of the state by the governor in accordance with IC 10-16-7-17.

Sec. 10. (a) The general routine of duty, discipline, and exercise of naval battalions and posts must conform with the laws, customs, and usages of the navy, as far as the laws, customs, and usages of the navy apply.

(b) If the laws, customs, and usages of the navy do not apply, then the routine of duty, discipline, and exercise must conform to the laws governing the volunteer forces of the state.

Chapter 14. Naval Force

Sec. 1. In addition to the land military forces of the state, there is established a naval force to be known as the Indiana naval force.

Sec. 2. (a) The governor is the commander in chief of the Indiana naval force.

(b) The naval force is under the immediate command and jurisdiction of the adjutant general. The adjutant general has all the rights, powers, and duties in connection with the naval force as the adjutant general has in connection with the land military forces.

(c) The governor, as commander in chief, may:

- (1)** make all necessary rules; and
- (2)** issue orders;

the governor considers necessary for the organization, administration, and discipline of the naval force. The rules must conform, as far as practicable, with the military and naval laws of the state and the United States.

Sec. 3. All provisions of law relating to governing, maintaining, and equipping the land military forces of Indiana apply equally to and govern the naval forces, except for provisions that are inconsistent with the different nature of the service.

Sec. 4. The commander in chief may accept from the United States Navy or from any other source for the naval force, and use any vessel, lifeboat, boat gear, boat equipment, life-saving equipment, rifles, field pieces, and other naval equipment or life-saving equipment necessary to properly safeguard the lives and property of the citizens of Indiana.

Chapter 15. Marine Corps Battalion

Sec. 1. In addition to the land military forces of the state authorized by law, there is established a naval force to be known

as the Indiana marine corps battalion of militia.

Sec. 2. (a) The governor is the commander in chief of the marine corps militia forces of Indiana.

(b) The marine corps militia shall be under the immediate command and jurisdiction of the adjutant general. The adjutant general has all the rights, powers and duties in connection with the marine corps militia, as the adjutant general has in connection with the land military forces.

(c) The marine corps battalion of militia shall be divided into the following three (3) divisions by the adjutant general:

- (1)** One (1) for the southern division of the state.
- (2)** One (1) for the northern division.
- (3)** One (1) for the central division.

The adjutant general shall determine where each division shall be located.

(d) A person may not be appointed as an officer of the marine corps militia who does not hold a United States marine corps reserve commission.

(e) The governor, as commander in chief, may:

- (1)** make all necessary rules; and
- (2)** issue orders;

the governor considers necessary for the organization, administration, and discipline of the marine corps militia. The rules must conform, as far as practicable, with the military and naval laws of Indiana and the United States.

Sec. 3. All provisions of law relating to governing, maintaining, and equipping the land military forces of Indiana apply equally to and govern the marine corps militia forces, except provisions that are inconsistent with the different nature of the service.

Sec. 4. The commander in chief may accept and use from the United States Navy, or from any other source, for the marine corps militia any vessel, lifeboat, boat gear, boat equipment, life-saving equipment, rifles, field pieces, and any other naval equipment or life-saving equipment necessary to properly safeguard the lives and property of the citizens of Indiana.

Sec. 5. (a) The lieutenant colonel in command of the battalion of the marine corps militia shall be appointed by the governor from the regular marine corps reserve officers in Indiana.

(b) The lieutenant colonel shall act as chief of staff subject to the

orders of the:

- (1) governor;
- (2) adjutant general; and
- (3) major general commandant of the United States Marine Corps.

Chapter 16. Military Academy Officers and Miscellaneous Provisions

Sec. 1. An officer and enlisted person of the Indiana national guard is exempt from:

- (1) service on any jury in any court of Indiana; and
- (2) service in any posse comitatus.

Sec. 2. A person who:

- (1) fails to perform a duty imposed on the person by this article; or
- (2) otherwise violates this article;

commits a Class C infraction.

Sec. 3. Upon recommendation of the superintendent of any military, naval, or air academy in Indiana where:

- (1) there is stationed by the United States Department of Defense at least one (1) officer; and
- (2) there is established at least one (1) unit of the reserve officers training corps;

upon approval of the adjutant general, the governor may appoint the members of faculties and staffs as officers. In the unassigned Indiana national guard, the appointment may not be above the rank of colonel. In the Indiana naval forces, the appointment may not be above the rank of lieutenant commander.

Sec. 4. The military or naval laws of Indiana pertaining to the Indiana national guard or the Indiana naval forces do not apply to officers appointed under section 3 of this chapter. These commissions do not have any authority over the Indiana armed forces.

Sec. 5. The commissions made under section 3 of this chapter are in force at the pleasure of the governor and during the term of the governor and expire:

- (1) at the end of the term of office of the governor who made the appointment; and
- (2) upon the termination of any officer as a member of the faculty or staff of the military, naval, or air academy.

Chapter 17. Division of Graves Registration

Sec. 1. The director of the division of graves registration established by the adjutant general shall:

- (1) be a member of a patriotic organization;**
- (2) be appointed by the adjutant general; and**
- (3) serve without compensation.**

Sec. 2. (a) A burial permit may not be issued by an officer in Indiana having authority to issue burial permits until the following information is secured, if practicable, and except where an immediate burial should be made to avoid the danger of contagion:

- (1) Was the deceased a veteran of any of the wars in which the United States has been engaged?**
- (2) If so, what is the date when the veteran entered the service, and what is the date on which the veteran was discharged?**
- (3) What medals and decorations were won by the veteran?**
- (4) What was the division or regiment in which the veteran was enlisted?**

(b) If the death certificate shows that the deceased was a veteran of any war in which the United States has been engaged, that information shall be placed upon the burial permit.

Sec. 3. There is annually appropriated to the governor an amount of not more than one thousand dollars (\$1,000) from the state general fund to pay any expenses that are incurred in the administration and enforcement of this chapter.

Chapter 18. Stout Field; Ban on Commercial Flights

Sec. 1. A contract may not be entered into by the adjutant general or the armory board that provides for the use of Stout Field, Indianapolis, for purposes of commercial flying by transportation companies.

SECTION 8. IC 10-17 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 17. VETERANS' AFFAIRS

Chapter 1. Indiana Veterans' Affairs

Sec. 1. The purpose of this chapter is to create a department with full authority to aid and assist veterans of the armed forces of the United States entitled to benefits or advantages provided on or after March 3, 1945, by the United States, the state, or another state or government.

Sec. 2. (a) The Indiana department of veterans' affairs is established. The:

- (1) department;**
- (2) commission of veterans' affairs;**
- (3) director of veterans' affairs;**
- (4) county and city officers; and**
- (5) assistants and employees of persons described in subdivisions (1) through (4);**

acting under the supervision of and under the rules of the department may act at the request of any veteran of the armed forces or a veteran's spouse, surviving spouse, or dependent as necessary or reasonably incident to obtaining or attempting to obtain for the person making the request any advantage, benefit, or compensation accruing, due, or believed to be accruing or due to the person under any law of the United States, Indiana, or any other state or government by reason of the service of the veteran in the armed forces of the United States.

(b) The:

- (1) veterans' affairs commission shall supervise and control the department; and**
 - (2) director of veterans' affairs shall administer the department under the commission's supervision and control;**
- as provided in this article.**

(c) The domicile of the department is in Indianapolis. Suitable offices and quarters shall be provided in Indianapolis.

Sec. 3. (a) There is established a veterans' affairs commission. The commission consists of four (4) members appointed by the governor for four (4) year terms. However, terms of office of commission members terminate with the term of office of the governor or when successors are appointed and qualified. Members of the commission must be honorably discharged veterans who have had at least six (6) months service in the armed forces of the United States and are citizens of the United States and Indiana. Not more than two (2) members of the commission may be:

- (1) active members of the same veterans' organization; or**
- (2) members of the same political party.**

Vacancies in the commission must be filled by the governor, and the appointees shall serve for the remainder of the term of office of

the original appointee. Each member of the commission before entering upon the member's duties shall take and subscribe an oath that the member will support the Constitution of the United States and the Constitution of the State of Indiana and will faithfully discharge all the duties devolving upon the member as a member of the commission.

(b) Members of the commission shall each be paid ten dollars (\$10) for each day devoted to the work of the commission but not more than one thousand dollars (\$1,000) each in any one (1) fiscal year. Members are also entitled to reimbursement for necessary traveling and other expenses.

(c) The commission shall elect annually one (1) commission member as chairperson. The:

(1) principal office of the commission must be maintained in Indianapolis in space:

(A) provided by the proper state officials; or

(B) rented or otherwise provided if suitable space cannot be obtained in state buildings;

(2) records of the commission must be maintained in the principal office; and

(3) regular meetings of the commission must be held at the principal office unless the chairperson finds it is necessary or convenient in the performance of the duties of the commission to meet at some other place in Indiana.

At least one (1) regular meeting must be held per quarter. Special meetings may be held at times and places specified by the call of the chairperson, a majority of the commission, or the governor. Notice of the date, time, and place of meetings must be given in person or by mail by the director of veterans' affairs. A majority of the members of the commission constitutes a quorum for the transaction of business. The director of veterans' affairs shall act as secretary of the commission and shall keep adequate records and minutes of the commission's business and official actions.

(d) The governor may remove any member of the commission if the governor considers the member to be guilty of misconduct, incapability, or neglect of duty.

Sec. 4. The commission may do acts necessary or reasonably incident to the fulfillment of the purposes of this chapter, including the following:

- (1) Adopt rules under IC 4-22-2 to administer this chapter.**
- (2) Advise the veterans' state service officer in problems concerning the welfare of veterans.**
- (3) Determine general administrative policies within the department.**

Sec. 5. (a) The position of director of veterans' affairs is established. The governor shall appoint the director for a four (4) year term. However, the term of office of the director terminates when the term of office of the governor terminates or when a successor to the director is appointed and qualified. The director must be:

- (1) an honorably discharged veteran who has at least six (6) months service in the armed forces of the United States; and**
- (2) a citizen of Indiana and a resident of Indiana for at least five (5) years immediately preceding the director's appointment.**

(b) The director is entitled to reimbursement for necessary traveling and other expenses.

(c) The governor may remove the director if the governor considers the director guilty of misconduct, incapability, or neglect of duty.

(d) The governor shall appoint an assistant director of veterans' affairs. The assistant director is entitled to receive reimbursement for necessary traveling and other expenses. The assistant director has the same qualifications as the director of veterans' affairs and shall assist the director in carrying out this chapter.

Sec. 6. (a) The director of veterans' affairs:

- (1) is the executive and administrative head of the department of veterans' affairs; and**
- (2) shall direct and supervise the administrative and technical activities of the department;**

subject to the general supervision of the commission.

(b) The duties of the director include the following:

- (1) To attend all meetings of the commission and to act as secretary and keep minutes of the commission's proceedings.**
- (2) To appoint, by and with the consent of the commission, under this chapter and notwithstanding IC 4-15-2, the employees of the department necessary to carry out this chapter and to fix the compensation of the employees.**

Employees of the department must be:

(A) honorably discharged veterans who have had at least six (6) months service in the armed forces of the United States and who are citizens of the United States and Indiana; or

(B) spouses, surviving spouses, parents, or children of an individual described in clause (A).

An employee must qualify for the job concerned.

(3) To carry out the program for veterans' affairs as directed by the governor and the commission.

(4) To carry on field direction, inspection, and coordination of county and city service officers as provided in this chapter.

(5) To prepare and conduct service officer training schools with the voluntary aid and assistance of the service staffs of the major veterans' organizations.

(6) To maintain an information bulletin service to county and city service officers for the necessary dissemination of material pertaining to all phases of veterans' rehabilitation and service work.

(7) To perform the duties described in IC 10-17-11 for the Indiana state veterans' cemetery.

Sec. 7. The director of veterans' affairs may act as agent of a veteran under a power of attorney authorizing the director to act on behalf of the veteran in obtaining a benefit or an advantage provided under Indiana law.

Sec. 8. The commission may adopt rules necessary to:

(1) obtain benefits under present and future enactments of the Congress of the United States concerning veterans' affairs; and

(2) enter into on behalf of the state contracts or agreements with the government of the United States to receive benefits under present and future federal enactments concerning veterans' aid and benefits.

A contract or agreement entered into under subdivision (2) must first be approved by the governor and attorney general.

Sec. 9. (a) A county executive:

(1) shall designate and may employ a county service officer; and

(2) may employ service officer assistants;

to serve the veterans of the county.

(b) The fiscal body of a city may provide for the employment by the mayor of a city service officer and service officer assistants to serve the veterans of the city.

(c) If the remuneration and expenses of a county or city service officer are paid from the funds of the county or city employing the service officer, the service officer shall:

- (1) have the same qualifications and be subject to the same rules as other employees of the department of veterans' affairs; and
- (2) serve under the supervision of the director of veterans' affairs.

(d) County and city fiscal bodies may appropriate funds necessary for the purposes described in this section.

Sec. 10. A county or city service officer shall, in the discretion of the director of veterans' affairs, undergo a course of training to adequately address problems of discharged veterans in the service officer's county or city, including a thorough familiarization with laws, rules, and regulations of the federal government and the state that affect benefits to which the veterans and dependents of the veterans are entitled.

Chapter 2. County Recording of Military Discharge

Sec. 1. To provide a special and permanent record of discharges from a branch of the military service of the United States of members of a branch of the service who are residents of Indiana, the county recorder shall procure a sufficiently large and well bound book of good material in which the county recorder shall record all discharges.

Sec. 2. A book providing for the recording of discharges from the army, navy, or any other branch of the service must consist of printed forms in blank, similar to and in conformity with the wording of the forms of discharge used by the United States government, the size of type being reduced to permit the printing of the form of the discharge on one (1) page of the record. Each book must be provided with an alphabetical index.

Sec. 3. A fee may not be collected for recording a discharge under this chapter. The recorder shall immediately provide the discharged person with a certified copy of the discharge at no charge in accordance with IC 10-17-3-2.

Chapter 3. Certified Copies of Discharge Documents

Sec. 1. As used in this chapter, "honorably discharged veterans" includes persons placed on inactive duty under honorable conditions but not discharged from military service.

Sec. 2. The state or a political subdivision shall provide upon request, without charge or fee, one (1) certified copy of a document or record if it is shown that the certified copy is necessary to secure benefits to:

- (1) members of the military service;
- (2) honorably discharged veterans; or
- (3) surviving spouses or dependents of an individual described in subdivision (1) or (2);

under a federal or state law.

Sec. 3. The state or a political subdivision may collect a charge per copy of not more than the amount specified in IC 36-2-7-10(b) if a person requests more than one (1) certified copy of the document or record. The funds received under this section shall be placed in the general fund of the state or county.

Chapter 4. Leave of Absence for Military Training

Sec. 1. (a) A person who:

- (1) is a qualified member of the reserve components of the armed forces;
- (2) is a member of the Ready Reserve;
- (3) is a member of an organized unit;
- (4) in order to receive military training with the armed forces of the United States not to exceed fifteen (15) days in one (1) calendar year:

(A) leaves a position other than a temporary position in the employ of an employer; and

(B) provides evidence:

(i) defining date of departure and date of return for purposes of military training ninety (90) days before the date of departure; and

(ii) of the satisfactory completion of the training immediately after the training is completed; and

- (5) is qualified to perform the duties of the position described in clause (A);

is entitled to be restored to the person's previous or a similar position with the same status and pay.

(b) Seniority continues to accrue during a period of absence described in subsection (a), and the period of absence for military training must be construed as an absence with leave. At the discretion of the employer, the leave may be with or without pay.

Sec. 2. Absence for military training does not affect an employee's right to receive normal vacation, sick leave, bonus, advancement, and other advantages of the employee's particular position.

Sec. 3. If an employer fails to comply with sections 1 and 2 of this chapter, an employee may:

- (1) bring an action at law for damages for the employer's noncompliance; or**
- (2) apply to the circuit court for equitable relief that is just and proper under the circumstances.**

Sec. 4. (a) A person who, as a reserve member of the armed forces of the United States, is called upon to receive temporary military training is entitled to a temporary leave of absence from the person's employer not to exceed fifteen (15) days per calendar year. A person described in this section shall:

- (1) provide the employer with evidence of the dates of the person's departure and return as soon as practicable before the person's departure; and**
- (2) furnish the employer, upon the person's return, evidence of the person's satisfactory completion of the training.**

Upon the person's return, the person shall be restored to the person's previous or similar position, with the same status that the person held before leaving for the person's training period.

(b) A leave granted under this section may be granted, with or without pay, within the discretion of the employer.

(c) A temporary leave of absence granted under this section does not affect the rights of the person to vacation leave, sick leave, or other normal benefits of the person's employment.

Sec. 5. An employer that refuses to grant an employee a temporary leave of absence as provided in section 4 of this chapter is subject to a suit for any damages sustained by the person denied the leave of absence.

Chapter 5. Veteran Benefits

Sec. 1. A person who:

- (1) served in the:**

- (A) armed forces of the United States in World War II;
 - (B) active military or naval service on or after September 16, 1940, and before the termination of World War II;
 - (C) armed forces of the United States during the Korean crisis on or after June 25, 1950; or
 - (D) armed services of the United States during the Vietnam conflict on or after August 5, 1964;
- (2) sustained injury or disease in the line of duty:
- (A) as a direct result of armed conflict;
 - (B) while engaged in extra-hazardous service, including service under conditions simulating war; or
 - (C) while the United States was engaged in war; and
- (3) was discharged or released from the service specified under subdivision (1) under conditions other than dishonorable;

and the spouse, surviving spouse, or child of a person described in subdivisions (1) through (3) who is a resident of Indiana has the rights and privileges held by soldiers, sailors, nurses, or other veterans, spouses, surviving spouses, and children of World War I under section 2 of this chapter or other statutes.

Sec. 2. The:

- (1) soldiers and sailors of World War I;
- (2) soldiers and sailors of the war with Spain;
- (3) soldiers and sailors of the war in the Philippine Islands;
- (4) soldiers who were in service on the Mexican border during the years 1916 and 1917; and
- (5) soldiers and sailors who are in the regular service of the United States;

who are residents of Indiana and the surviving spouses and orphans of individuals specified in subdivisions (1) through (5) have the rights and privileges held by the soldiers and sailors of the Civil War and the surviving spouses and orphans of the soldiers and sailors of the Civil War.

Sec. 3. (a) A nurse who:

- (1) served as a nurse during World War I with the armed forces of the United States;
- (2) was honorably discharged from service; and
- (3) is a resident of Indiana;

has the benefits, rights, privileges, and immunities conferred under

Indiana law upon honorably discharged soldiers, sailors, and marines who served in World War I.

(b) The benefits, rights, privileges, and immunities described in subsection (a) that are conferred under Indiana law upon a representative, an heir, or a relative of an honorably discharged deceased soldier, sailor, or marine who served in the armed forces of the United States during World War I are also conferred upon a representative, an heir, or a relative of a deceased nurse described in subsection (a).

Chapter 6. Contracts of Minor Veterans Under Servicemen's Readjustment Act of 1944

Sec. 1. (a) A person who is:

- (1) less than twenty-one (21) years of age; and**
- (2) authorized to participate in the rights, privileges, and benefits conferred by the federal Servicemen's Readjustment Act of 1944, as amended, and other acts of Congress granting a right, privilege, or benefit to veterans;**

and the minor spouse of a person described in subdivisions (1) and (2) may execute a contract that is necessary to the full realization of the rights, privileges, and benefits conferred under the federal law if the person is otherwise competent to enter into agreements and contracts.

(b) A contract entered into under subsection (a) by a person who is less than eighteen (18) years of age has the same force and effect as contractual obligations of a person who is at least eighteen (18) years of age.

Chapter 7. Dependent Benefits of Vietnam Prisoners

Sec. 1. As used in this chapter, "dependent" means a child:

- (1) born before or during the period during which the child's father was a prisoner of war or person missing in action; or**
- (2) legally adopted or in the legal custody of the child's father before and during the period during which the father was a prisoner of war or person missing in action.**

Sec. 2. As used in this chapter, "prisoner of war or person missing in action" means a person who:

- (1) was a resident of Indiana at the time the person entered service of the United States armed forces; and**
- (2) while serving in the United States armed forces, was declared a prisoner of war or a person missing in action as**

established by the United States Secretary of Defense after January 1, 1960.

Sec. 3. (a) A dependent of a prisoner of war or person missing in action, upon the person's acceptance for enrollment in an Indiana state supported institution of higher education or state supported vocational school, may obtain a bachelor's degree or certificate of completion without tuition or charge as long as the dependent is eligible.

(b) A dependent is entitled to the benefits of this chapter notwithstanding any circumstance, including the return of the father or the reported death of the father.

Chapter 8. Reporting of Veterans Exposed to Chemicals

Sec. 1. As used in this chapter, "agent orange" means the herbicide composed primarily of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid.

Sec. 2. As used in this chapter, "department" refers to the Indiana department of veterans' affairs.

Sec. 3. As used in this chapter, "director" refers to the director of veterans' affairs.

Sec. 4. As used in this chapter, "veteran" means an individual who:

(1) was a resident of Indiana:

(A) at the time of the individual's induction into the armed forces of the United States; or

(B) on or before March 31, 1983; and

(2) served in Vietnam, Cambodia, or Laos during the Vietnam conflict.

Sec. 5. (a) A physician who has primary responsibility for treating a veteran who believes the veteran may have been exposed to chemical defoliants or herbicides or similar agents, including agent orange, while serving in the armed forces of the United States shall, at the request of the veteran, submit a report to the department on a form provided by the department. If there is no physician having primary responsibility for treating the veteran, the hospital treating the veteran shall, at the request of the veteran, submit the report to the department. If the veteran desires to submit a report directly to the department, the veteran must submit the report on a form provided by the department and made available to the veteran at physicians' offices, hospitals, and county

courthouses.

(b) The department shall provide forms to all physicians, hospitals, and county courthouses in Indiana for distribution to a veteran who believes that the veteran may have been exposed to chemical defoliants or herbicides or similar agents while serving in the armed forces of the United States. Forms provided under this subsection must request the following information:

- (1) Symptoms of the veteran that may be related to exposure to a chemical defoliant or herbicide or similar agent, including agent orange.
- (2) Diagnosis of the veteran.
- (3) Methods of treatment prescribed.

(c) The department may require the veteran to provide other information determined by the director.

Sec. 6. (a) The department, in consultation and cooperation with a department certified medical toxicologist and herbicide specialist, shall compile information submitted under this chapter into a report. The report must contain an evaluation of the information and shall be distributed annually to the legislative services agency, the United States Department of Veterans Affairs, the state department of health, and other veterans groups. The report must also contain:

- (1) current research findings on the exposure to chemical defoliants or herbicides or similar agents, including agent orange; and
- (2) statistical information compiled from reports submitted by physicians or hospitals.

(b) The department shall forward to the United States Department of Veterans Affairs a copy of all forms submitted to the department under section 5 of this chapter.

Chapter 9. Indiana Veterans' Home

Sec. 1. The conduct and maintenance of the Indiana Veterans' Home, located near Lafayette in Tippecanoe County, Indiana, are governed by this chapter and IC 16-19-6.

Sec. 2. The home may receive for the use of the institution and expend as the donor directs:

- (1) gifts;
- (2) legacies;
- (3) devises; and

(4) conveyances;
of real and personal property that are made, given, or granted to or for the home or in its name.

Sec. 3. The board of county commissioners in each county may appropriate money out of the general fund of the county to erect cottages or any other needed building on the grounds of the home.

Sec. 4. The superintendent of the Indiana Veterans' Home, subject to applicable orders and rules made by the administrative unit for special institutions of the state department of health:

- (1) has the immediate charge and management of the institution;
- (2) directs and controls the resident employees; and
- (3) superintends the care and management of the members in the home.

Sec. 5. (a) A person may not be appointed or employed in an office or a place in the institution by the superintendent of the Indiana Veterans' Home because of the political views or affiliation of the appointee or employee or for a reason other than capacity and fitness for the duties to be performed by the appointee or employee. However, among applicants for appointment found capable and fit, preference shall be given to an honorably discharged military veteran and the spouse, widow, widower, mother, and child of an honorably discharged military veteran.

(b) In appointing a candidate for the position of superintendent of the Indiana Veterans' Home, the state health commissioner shall give preference to a person who has been honorably discharged after service in the armed forces of the United States.

Sec. 6. The superintendent may remove or suspend an employee appointed by the superintendent of the Indiana Veterans' Home only for cause and subject to the state personnel act under IC 4-15-2.

Sec. 7. (a) The following persons who are legal residents of Indiana for at least three (3) years immediately preceding application for admission and who are disabled or destitute are eligible for admission to the home:

- (1) An honorably discharged member of the armed forces who has served with the United States in any of its wars.
- (2) An honorably discharged member of the armed forces who has served in an authorized campaign of the United States and

who has a service connected disability, as evidenced by a pension certificate or the award of compensation.

(3) The spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(4) The surviving spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).

(b) The administrative head of the administrative unit for special institutions of the state department of health or its successor shall adopt rules concerning admission to the home.

(c) In adopting rules governing the admission, maintenance, and discharge of members of the veterans' home, the administrative head of the administrative unit for special institutions of the state department of health or its successor may establish a fund called the veterans' home comfort and welfare fund. The administrative head shall deposit all money collected from the members for the cost of their care and maintenance in the fund. The administrative head shall expend this money in any manner that adds to the comfort and welfare of the members of the institutions.

(d) A part of the veterans' home comfort and welfare fund may be withdrawn and deposited in a special fund called the veterans' home building fund. The veterans' home building fund shall be used for the construction, maintenance, remodeling, or repair of buildings of the Indiana Veterans' Home.

(e) Preference under this section may be given to a person who served in an Indiana military organization. Except in cases where the surviving spouse of a veteran marries another veteran, the benefits of this chapter extend only to a surviving spouse and the spouse of a veteran if the contract of marriage was entered into more than five (5) years before the date of death of the veteran. Except as otherwise provided by law, upon the death of a person in the home, money paid to the person or due to the person from a bank, a trust company, a corporation, or an individual becomes an asset of the person's estate and shall be distributed in the manner prescribed by the probate law of the state.

Sec. 8. (a) Each member, the estate of a deceased member, or the estate of a member under guardianship is liable for the costs of maintenance of the member in an amount up to one hundred percent (100%) of the daily per capita cost of personal services and all other operating expenses for the preceding fiscal year. The per

capita charge may be adjusted to reflect the level of care provided.

(b) The level of care must be as consistent as possible with:

- (1) the care category of the facility in which the member is placed;
- (2) the rules of the Indiana health facilities council adopted under IC 16-28; and
- (3) the applicable code of the federal government covering reimbursement from the United States Department of Veterans' Affairs or another department of the federal government.

(c) The liability created for the costs of maintenance of a member constitutes a lien upon the real property of the member if the lien is recorded as provided in this chapter. The lien has priority over all liens subsequently acquired.

Sec. 9. (a) The billing and collection of the maintenance cost of a member under section 8 of this chapter shall be made by the superintendent of the Indiana Veterans' Home based on the per capita cost for the preceding fiscal year.

(b) All money collected shall be deposited in the veterans' home comfort and welfare fund. The fund shall be used in part by the state health commissioner for the comfort and welfare of the members and in part to reimburse the state general fund in an amount specified by the general assembly.

(c) Excess money in the veterans' home comfort and welfare fund shall be placed in the veterans' home building fund.

(d) The fund shall be used for new construction, maintenance, remodeling, and repair of the buildings at the Indiana Veterans' Home.

Sec. 10. (a) The superintendent of the Indiana Veterans' Home, with the approval of the state health commissioner, may accept payment at a lesser rate than prescribed in section 8 of this chapter. The superintendent of the Indiana Veterans' Home, in determining whether or not to accept the lesser amount, shall consider the amount of money necessary to maintain or support a dependent of the member. An agreement to accept a lesser amount is subject to cancellation or modification at any time by the superintendent of the Indiana Veterans' Home with the approval of the state health commissioner.

(b) A member who is issued a statement of a sum due as

maintenance charges may petition the superintendent of the Indiana Veterans' Home for a release from or modification of the statement. The superintendent shall submit a written statement of the facts to the state health commissioner for a final determination.

Sec. 11. (a) The superintendent of the Indiana Veterans' Home, with the approval of the state health commissioner, may adopt a standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home. A member shall receive at least thirty dollars (\$30) per month for personal needs before a maintenance charge is levied against current income.

(b) The monthly maintenance charge may not exceed one-twelfth (1/12) of the annual per capita cost of the preceding year.

(c) The superintendent may adjust the standard for determining the lesser rate to provide that in the case of married members with the spouses residing at the home this standard will allow at least forty dollars (\$40) to be deducted from income by the member before the charge for maintenance is applied.

(d) The superintendent, in adopting the standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home, shall take into account as current income:

- (1) a pension;
- (2) compensation or income from any source; and
- (3) benefits from:
 - (A) the federal Social Security Administration;
 - (B) the railroad retirement law; or
 - (C) a retirement annuity or insurance annuity.

(e) The agreement to accept a lesser rate from current income does not relieve the estate of the member of the charge for the full per capita cost for the period the member resided in the home. However, the claim for the full per capita cost will not be filed or allowed if there is a surviving spouse, dependent child less than eighteen (18) years of age, or dependent parent.

Sec.12. (a) If charges for the cost of maintenance of a member remain unpaid in whole or in part for a period of six (6) months, the superintendent of the Indiana Veterans' Home may file, in the office of the county recorder of the county in which the real

property is located, a notice of lien designating:

- (1) the name and place of residence of the member against whose property the lien is asserted;
- (2) the date when the charges become delinquent for more than six (6) months; and
- (3) a legal description of the real property subject to the lien.

One (1) copy of the notice of lien shall be retained by and filed in the office of the superintendent, and one (1) copy shall be furnished to the member or guardian.

(b) From the date on which notice of lien is recorded in the office of the county recorder, the recorded notice constitutes due notice of a lien against the member or the member's estate for any amounts then recoverable and any amounts that become recoverable under this chapter and gives a specific lien in favor of the Indiana Veterans' Home. The lien continues from the date of filing until the lien is satisfied or released.

Sec. 13. (a) The attorney general, upon notification of the superintendent of the Indiana Veterans' Home, shall file a claim in the name of the state on behalf of the superintendent of the home against the estate of a person who fails to make payment as required in this chapter. If the claim is allowed or judgment is obtained, the claim or judgment constitutes a lien against that part of the estate of the person described in the claim.

(b) The attorney general may bring suit against the legal guardian of a patient for failure to comply with an established maintenance agreement or for failure to make an agreement. Suit may be brought for the amount due the state for the maintenance charges of the member. The court may order the payment of maintenance charges for a period as the circumstances require. An order may be entered against one (1) or more of the defendants. An order for the payment of money may be enforced by attachment, garnishment, or a proceeding supplemental against the defendants. Other judgments at law and costs may be adjudged against the defendants and apportioned among them.

(c) The attorney general may bring a proceeding to foreclose on a lien arising from maintenance charges under section 8 of this chapter during the lifetime of the member if the superintendent believes it is in the best interest of the veterans' home to foreclose on the lien.

(d) Upon:

- (1) the death of a member whose property is encumbered by a lien arising under section 8 of this chapter; and**
- (2) notification by the superintendent;**

the attorney general shall file a claim against the member's estate for recovery of all charges for maintenance that have accrued at the date of death. Notwithstanding any other law, a claim filed for recovery of charges for maintenance has priority in order of payment from the estate over all other claims except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses. However, if real property of the deceased member is occupied by a surviving spouse of the member, the home may not assert its lien or claim during the lifetime of the surviving spouse. However, if other claimants or persons have opened an estate and are attempting to enforce their claims, or if there have been fraudulent attempts to avoid the claim or lien, the veterans' home shall file and assert the claim for recovery of costs of treatment and maintenance.

Sec. 14. The superintendent of the Indiana Veterans' Home may make agreements with instrumentalities of the federal government for application of monetary awards to be applied toward the maintenance charges to provide a sufficient amount of the periodic award to be deposited in the member's trust account to meet the immediate personal needs of a member. The amount applied toward the settlement of maintenance charges may not exceed the amount specified in section 8 of this chapter.

Sec. 15. (a) If space is available, the superintendent of the Indiana Veterans' Home, with the approval of the state health commissioner, may accept a veteran who is:

- (1) otherwise eligible for admission to the home;**
- (2) in need of nursing home care; and**
- (3) transferred at the request of the United States Department of Veterans' Affairs from one (1) of its facilities.**

(b) The United States Department of Veterans' Affairs under United States Department of Veterans' Affairs' regulations shall award the cost of care to the home. A rate of charge described in section 8 of this chapter may not be used to determine the cost of care under this section.

Sec. 16. (a) The treasurer of state may require an investigation

to determine the true number of members in the home at any time.

(b) Twenty percent (20%) of the money annually allowed by the government of the United States for a military veteran maintained in the home shall be deposited in the state general fund to the credit of the veterans' home building fund. Money deposited in the state general fund may be invested in securities of the United States government. The money in the building fund shall be used only for the maintenance, remodeling, or repair of buildings at the Indiana Veterans' Home. Money deposited in the building fund is appropriated and subject to allocation by the budget committee. The remaining eighty percent (80%) of the money annually allowed by the government of the United States for a military veteran maintained in the home shall be deposited in the state general fund as a reimbursement to the general fund for operating expenses of the home.

Chapter 10. Veterans' Burial Allowance

Sec. 1. If:

(1) a person who dies:

(A) has served as a member of the armed forces of the United States as a soldier, sailor, or marine in the army, air force, or navy of the United States or as a member of the women's components of the army, air force, or navy of the United States, is a resident of Indiana, and while a member of the armed forces and before discharge from the armed forces or after receiving an honorable discharge from the armed forces; or

(B) is the spouse or surviving spouse of a person described in clause (A) who is a resident of Indiana; and

(2) a claim is filed for a burial allowance:

(A) by an interested person with the board of commissioners of the county of the residence of the deceased person; and

(B) stating the fact:

(i) of the service, death, and discharge if discharged from service before death; and

(ii) that the body has been buried in a decent and respectable manner in a cemetery or burial ground;

the board of commissioners shall hear and determine the claim like other claims and, if the facts averred are found to be true, shall

allow the claim of not more than one hundred dollars (\$100) for service rendered and material furnished in care of the body and where necessary an amount of not more than twenty-five dollars (\$25) for a place of burial of the body.

Sec. 2. (a) Not more than one (1) claim may be allowed for a decedent who qualifies under this chapter.

(b) The total sum of the claim filed and for which allowances must be made may not exceed one hundred dollars (\$100). However, if the federal government provides a marker for the grave of the person, the board of commissioners shall make a further allowance of not more than one hundred dollars (\$100) for setting of the marker.

Sec. 3. Money expended by a county under this chapter shall be considered a gift. Persons for and on behalf of the state or a political subdivision of the state may not file a claim for a lump sum death benefit with the federal Social Security Administration claiming reimbursement for money so expended.

Sec. 4. Before a person enters into a contract to set a grave marker provided by the federal government as described in section 2(b) of this chapter with a person who receives the grave marker from the federal government or the person's representative, the person who will set the grave marker must disclose the following information to the person who receives the grave marker or the person's representative:

(1) The price of the least expensive installation procedure that the person who will set the grave marker will charge and a description of the goods and services included in the procedure.

(2) The prices of any other installation procedures or options that may be performed or provided by the person who will set the grave marker and a description of the goods and services included in the procedures or options.

Chapter 11. Indiana State Veterans' Cemetery

Sec. 1. As used in this chapter, "cemetery" refers to the Indiana state veterans' cemetery established by this chapter.

Sec. 2. As used in this chapter, "commission" refers to the veterans' affairs commission established by IC 10-17-1-3.

Sec. 3. As used in this chapter, "department" refers to the Indiana department of veterans' affairs established by

IC 10-17-1-2.

Sec. 4. The Indiana state veterans' cemetery is established.

Sec. 5. The cemetery consists of real property located on the grounds of Madison State Hospital in Jefferson County, Indiana.

Sec. 6. The director of veterans' affairs or the director's designee may act under this chapter as the official representative for the commission in accordance with IC 10-17-1-8.

Sec. 7. The department may do the following:

- (1) Adopt rules under IC 4-22-2 to carry out this chapter.**
- (2) Contract with persons or agencies to carry out the duties established under this chapter.**

Sec. 8. The department shall do the following:

- (1) Oversee the construction of the cemetery.**
- (2) Operate and maintain the cemetery.**

Sec. 9. (a) The Indiana state veterans' cemetery fund is established as a dedicated fund for the purpose of providing money for planning, construction, operation, and maintenance of the cemetery. The fund shall be administered by the director of veterans' affairs.

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

- (1) Money appropriated by the general assembly for purposes of this chapter.**
- (2) Money donated to the department and designated for use under this chapter.**
- (3) Funds received from the federal government.**
- (4) Funds received in payment for services.**

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished by the budget agency, all money in the fund reverts to the state general fund.

(e) All earnings accruing to the state veterans' cemetery fund is appropriated continuously for the purposes specified in this section.

(f) Except as provided in subsection (e), money in the fund must

be retained in the fund unless the money is appropriated for a specific purpose by the general assembly upon the recommendation of the budget committee.

Sec. 10. (a) A veteran who is eligible to be buried in a national cemetery according to 38 U.S.C. 2402 is eligible to be buried in the Indiana state veterans' cemetery established under this chapter.

(b) The spouse of a veteran who is eligible to be buried in a national cemetery according to 38 U.S.C. 2402 is eligible to be buried in the Indiana state veterans' cemetery established under this chapter.

SECTION 9. IC 10-18 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 18. WAR MEMORIALS

Chapter 1. Indiana War Memorials Commission

Sec. 1. As used in this chapter, "commission" refers to the Indiana war memorials commission established by section 2 of this chapter.

Sec. 2. (a) The Indiana war memorials commission is established.

(b) The commission consists of ten (10) members. Each Indiana congressional district must be represented by at least one (1) member who is:

- (1)** a resident of that congressional district;
- (2)** a veteran of service in the armed forces of the United States of America in time of war;
- (3)** a citizen of Indiana at the time of the service; and
- (4)** appointed:
 - (A)** in the manner;
 - (B)** for the terms;
 - (C)** to have the powers; and
 - (D)** to perform the duties;

as provided in this chapter.

(c) The commission:

- (1)** as the commission and in the commission's name, may prosecute and defend suits; and
- (2)** has all other duties, rights, and powers that are:
 - (A)** necessary to implement this chapter; and
 - (B)** not inconsistent with this chapter.

(d) The members of the commission are not liable in their individual capacity, except to the state, for any act done or omitted in connection with the performance of their duties under this chapter.

(e) A suit against the commission must be brought in a court with jurisdiction in Marion County. Notice or summons of the suit shall be served upon the president, vice president, or secretary of the commission. In a suit against the commission, it is not necessary to name the individual members of the commission as either plaintiff or defendant. Commission members may sue and be sued in the name of the Indiana war memorials commission.

(f) The commission shall:

- (1) report to the governor through the adjutant general; and
- (2) be under the adjutant general for administrative supervision.

Sec. 3. (a) The governor shall appoint members of the commission for a term of three (3) years, subject to removal as provided in this section.

(b) The commissioners:

- (1) must be persons of high standing and character; and
- (2) serve without compensation, except for reimbursement for any reasonable expenses necessarily incurred by the commissioners in the performance of their duties.

(c) The commissioners shall be selected without regard to their political affiliations. However, not more than six (6) of the commissioners at any time may be members of the same political party.

(d) The governor may, for just cause, based upon written charges specifying alleged misconduct, remove any member of the commission, after notice to the member and a public hearing.

(e) The governor shall appoint a qualified person to fill the unexpired term of a member who does not complete the member's term.

Sec. 4. (a) The governor shall execute a certificate of appointment that makes reference to this chapter and sets forth the term of appointment for each member of the commission. The governor shall deposit the certificates of appointment in the office of the secretary of state, who shall record the certificates in a book kept for that purpose.

(b) The secretary of state shall notify each person appointed as a commissioner of the person's appointment. The person's acceptance of the appointment shall be signified by subscribing to an oath, to be endorsed on the certificate of appointment:

- (1) to support the Constitution of the United States and the Constitution of the State of Indiana; and**
- (2) to faithfully and honestly discharge the person's duty under the law as a commissioner.**

(c) The secretary of state shall deliver the certificate, when recorded, to the person named in the certificate. The certificate constitutes the commission of the person named as a member of the commission for the term specified.

(d) If a person appointed fails to qualify under this section within ten (10) days after notice of the person's appointment, the governor shall appoint another qualified person as a commissioner.

Sec. 5. (a) The commission shall elect the following:

- (1) One (1) member of the commission to serve as president.**
- (2) One (1) member of the commission to serve as vice president.**
- (3) One (1) qualified person who is not a member of the commission to serve as secretary of the commission.**

The commission shall elect officers each year. Officers shall hold their respective offices for one (1) year or during the pleasure of the commission.

Sec. 6. (a) The president and vice president of the commission shall, before entering upon the discharge of their duties, give bond to the approval of the governor, each in the sum of ten thousand dollars (\$10,000), conditioned for the faithful performance of the duties as may be imposed upon them by law.

(b) The officers and any other officers required to give a bond under this chapter may furnish as surety any surety company authorized to transact business in Indiana that meets the approval of the commission, and the premium on any bond shall be paid as a part of the expenses of the commission.

Sec. 7. (a) The president shall do the following:

- (1) Preside over the meetings of the commission.**
- (2) Sign all vouchers approved by the commission under this chapter.**
- (3) Sign all contracts and agreements in the name of the**

commission that have been authorized by the commission. The secretary shall attest to contracts signed by the president.

(b) If the president is absent or unable to act, the vice president shall perform the president's duties.

Sec. 8. (a) The secretary appointed by the commission shall take an oath to faithfully perform the duties of the secretary's office.

(b) The secretary shall do the following:

(1) Keep a record of the proceedings of the commission.

(2) Make a record of contracts and obligations.

(3) Furnish each contractor with a copy of the contractor's contract that:

(A) is endorsed "approved by order of the commission";

(B) lists the date of the approval; and

(C) is signed by the secretary.

A contract is not valid until endorsed and delivered by the secretary.

(4) Certify all vouchers ordered by the commission.

(5) Keep a set of books to show the financial condition of the commission.

(6) Make quarterly statements as provided in this chapter of the costs and expenditures of the commission, a complete list of vouchers, and for what purpose and to whom paid. The reports shall be filed with the auditor of state as provided in this chapter and are open to the inspection and use of the general assembly.

(c) The secretary shall give a bond in the sum of ten thousand dollars (\$10,000) for the faithful performance of the secretary's duties.

(d) The contracts for any purpose connected with the Indiana World War Memorial shall be recorded by the secretary in a book kept for that purpose. The secretary shall retain on file all vouchers and other valuable papers of value to the commission, to the contractor, and to the public.

Sec. 9. (a) The commission may employ a superintendent.

(b) The superintendent shall give bond in an amount and with surety to be approved by the commission.

(c) The superintendent's duties and compensation shall be prescribed by the commission.

Sec. 10. (a) The commission shall employ an individual who is

responsible for the care and preservation of all personal property owned by the commission that has historic significance.

(b) The individual employed by the commission under subsection (a) must meet the qualifications set by the division of state museums and historic sites of the department of natural resources.

Sec. 11. (a) The commission shall do the following:

(1) Keep a record of the commission's proceedings.

(2) Make a quarterly report for public use that includes the following:

(A) A detailed account of the expenditures of the commission.

(B) A summary of the commission's proceedings that includes:

(i) a statement of all contracts let;

(ii) the name of the person to whom the contracts were let; and

(iii) the amount of each contract.

(b) The report required under subsection (a) must be filed with the auditor of state.

(c) Reports created and filed under this section are public records.

Sec. 12. (a) The commission may adopt rules that set forth:

(1) the time, place, and method of calling and conducting meetings; and

(2) the manner and method of the conduct of business, including:

(A) the government and regulation of the commission's employees; and

(B) the management of the ground and premises under the commission's care and control;

as the commission considers prudent and not inconsistent with this chapter and other statutes.

(b) The commission shall meet at the call of the commission's president or at the time set forth in the commission's rules. A majority of the members constitutes a quorum for the transaction of business. However, all official action of the commission must receive the approval in a meeting of a majority of all the members of the commission.

Sec. 13. (a) The commission shall designate one (1) of its members to do the following:

(1) Assume general charge of and preserve all Indiana battle flags.

(2) Have custody of all battle and organization flags in the possession of the state that were used by any of the military organizations of the state:

(A) in any of the wars or campaigns in which the United States has been engaged; and

(B) in which Indiana veterans have participated.

(3) In the preservation of the battle flags, as far as possible, see that the name and the branch of service in which the organization served are attached to or preserved with the flag.

(4) Collect data in reference to each organization or military unit whose flag is in the possession of the commission and place the data with the flag or banner of each of the organizations or military units.

(b) The commission shall do the following:

(1) Collect Indiana battle flags not in the possession of the state from the United States, patriotic societies, or individuals.

(2) Reinforce, collect the data for, and otherwise prepare all battle flags for preservation.

(3) Collect, systematize, and prepare a brief history of each flag and index and catalogue each flag.

(4) Collect, purchase, and procure all necessary materials for the preservation of the flags.

(5) For the purpose of collecting and preparing the necessary data, reinforcing the flags, and performing other duties required by this chapter:

(A) with the approval of the budget agency, employ and fix the compensation of employees as may be necessary; and

(B) purchase material of any character that is required in carrying out this chapter.

Sec. 14. (a) The Civil War flags fund is established to restore and preserve Civil War flags.

(b) The commission:

(1) shall administer the fund; and

(2) may spend the money in the fund for the purposes of the fund.

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

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) All money accruing to the fund is appropriated continuously for the purposes of the fund.

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

Sec. 15. (a) All flag cases completed shall be in the custody of the commission. The superintendent shall have the cases cleaned periodically as necessary.

(b) The commission may determine the method and manner in which the flags shall be preserved.

Sec. 16. (a) Out-lot five (5) and out-lot thirty-six (36), in Indianapolis, according to the original plat of the city, are dedicated and set apart as grounds for the Indiana War Memorial subject to the provisions of this chapter.

(b) Out-lots five (5) and thirty-six (36) dedicated in subsection (a), together with all or any part of squares five (5) and sixteen (16) or any part of those squares, in Indianapolis, according to the original plat of the city, that are acquired, dedicated, and set apart and added to the real estate dedicated in subsection (a) by:

(1) the state; or

(2) Indianapolis, by Marion County, or Indianapolis and Marion County jointly and then conveyed by the city, county, or city and county jointly by proper deed, grant, or contract to the state;

for War Memorial and other public purposes constitutes and shall be referred to as "Memorial Place". The permanent name of "Memorial Place" shall be selected by the commission.

(c) A necessity is declared to exist to limit:

(1) the kind, character, and height of buildings upon; and

(2) the use of real estate and buildings that are located within three hundred (300) feet of the outside boundaries of;

Memorial Place as constituted in this chapter. The commission may acquire, by purchase, donation, or condemnation, the right to limit the kind, character, and height of buildings upon and the use

of real estate and buildings on real estate within three hundred (300) feet of the outside boundaries of Memorial Place.

(d) The commission shall erect and maintain in Indianapolis, upon or within grounds dedicated or acquired under this chapter, as the commission considers best, a suitable structure or structures:

(1) to commemorate the valor and sacrifice of the soldiers, sailors, and marines of the United States and of all others who rendered faithful, loyal, heroic, and self-sacrificing service at home and overseas in World War I;

(2) to provide a place or places of meeting and headquarters for organizations of soldiers, sailors, and marines or any other patriotic societies or associations;

(3) to keep records, archives, documents, flags, mementos, and relics; and

(4) for other public meetings and other public purposes;

to inculcate a true understanding and appreciation of the duties, benefits, and privileges of American citizenship and inspire patriotism and respect for the law to the end that peace may prevail, good will be promoted, justice be administered and established, public order maintained, and liberty and freedom under the law perpetuated.

Sec. 17. (a) If squares five (5) and sixteen (16) or any part of those squares in Indianapolis, according to the original plat of the city, are acquired, dedicated, and set apart and added to the real estate dedicated in this chapter by the state for war memorial and other public purposes by Indianapolis, by Marion County, or by the city and county jointly by proper deed, contract, or grant, by which the city or county, or the city and county jointly, convey the real estate or any part of the real estate to the state for war memorial and other public purposes, the commission may accept from the city, the county, or the city and county jointly the deed, grant, or contract by which the real estate or any part of the real estate is conveyed to the state for war memorial and other public purposes, subject to the terms, conditions, and provisions contained in the deed, grant, or contract.

(b) The commission may agree that, to the extent that the city, the county, or the city and county jointly appropriate and use money in the acquisition of the real estate or any part of the real

estate, the real estate and interests in the real estate and the memorial structures erected on the real estate (to the extent of the money so appropriated and used by the city, by the county, or by the county and city jointly) shall be a city war memorial, a county war memorial, or a joint war memorial.

(c) If the real estate or any part of the real estate is acquired and conveyed to the state, the commission may erect structures on outlots five (5) and thirty-six (36) dedicated in this chapter or upon any part of the real estate so dedicated or acquired as provided in this chapter as the commission considers best.

(d) The commission shall develop any part or all of the real estate described in this chapter that has been dedicated or acquired as provided in this chapter as a memorial place, together with square twenty-five (25), known as University Square in Indianapolis, according to the original plat of the city, to secure a harmonious and unified architectural and aesthetic effect of the entire series of grounds used and dedicated for memorial purposes. The grounds must include square twenty-five (25), known as University Square, which shall be and constitute a part of the memorial park, and shall be used as a public park.

(e) The commission may sell buildings and improvements situated on outlots five (5) and sixteen (16) when they come under the commission's jurisdiction, custody, and control or remove the buildings and improvements as the commission considers best. The commission may contract with Indianapolis, with Marion County, or with the county and city jointly, concerning the use and rents of the buildings and improvements on squares five (5) and sixteen (16) until it is necessary to remove the buildings for the purpose of erecting the memorial structure or structures. The commission may contract with the city or county or the city and county jointly with reference to the sale of buildings and improvements upon the real estate that may be acquired and conveyed to the state by the city or county or by the city and county jointly for War Memorial and other public purposes. The contracts must provide how the proceeds from the rent or sale of buildings and improvements shall be applied.

Sec. 18. The commission may do the following:

(1) Make and execute contracts and other instruments that may be required in connection with the erection and

maintenance of a suitable structure or structures upon or within Memorial Place.

(2) Adopt rules for the following:

(A) The proper management, government, and use of Memorial Place and the structures situated on Memorial Place.

(B) The government of employees.

(3) Acquire by condemnation the right to limit the kind, character, and height of buildings upon and the use of real estate or buildings located within three hundred (300) feet of the outside boundaries.

(4) Adopt reasonable rules as are proper to limit the kind, character, and height of buildings located or erected within three hundred (300) feet of the outside boundaries of Memorial Place and the use of the buildings or real estate. A building constructed or maintained or business conducted in violation of any rule may be abated as a nuisance in an action begun and prosecuted by the commission.

(5) Receive donations, gifts, devises, and bequests and use them in connection with the purposes of this chapter.

Sec. 19. (a) The grounds that belong to the state in Indianapolis:

(1) designated in the Constitution of the State of Indiana as Governor's Circle;

(2) later called "Circle Park"; and

(3) known and designated as "Monument Place";

shall be known and designated as "Monument Circle".

(b) All written instruments and all laws that relate to the grounds described in subsection (a) in statutes are effective for the purpose intended when the grounds are described and designated as Monument Circle.

Sec. 20. The commission shall adopt rules for the government of the monument and Monument Circle. The rules are binding and effective when approved by the governor.

Sec. 21. (a) The commission:

(1) has general control of the State Soldiers' and Sailors' Monument Circle; and

(2) may employ a superintendent.

(b) The superintendent may, with the advice and consent of the commission, appoint engineers, elevator operators, electricians,

and watchmen as are actually required, all of whom are subject to removal at any time by the commission for any reason satisfactory to the commission.

(c) The superintendent:

(1) has direct charge and supervision of the monument and Monument Circle, subject to the orders of the commission; and

(2) may require watchmen to act as elevator operators and elevator operators to act as watchmen.

(d) The superintendent and the engineers, watchmen, and elevator operators have police powers with all powers of a constable.

Sec. 22. (a) The superintendent shall execute a bond in the penal sum of five thousand dollars (\$5,000), to be approved by the commission.

(b) The superintendent shall:

(1) on the first day of each month, make a sworn statement to the auditor of state of all receipts and expenditures, with vouchers attached for the preceding month, on account of the monument; and

(2) at the same time, pay over to the treasurer of state all money received by the superintendent from all sources in the operation of the monument for the preceding month.

The auditor of state shall draw a warrant on the treasurer of state, payable to the superintendent, engineers, elevator operators, and watchmen, for the amounts due them as salaries and to the superintendent for a total of expenditures other than salaries incurred in the management of the monument and Monument Circle as shown by the vouchers.

Sec. 23. The Soldiers' and Sailors' Monument and all approaches to the monument and all surroundings belonging to the state shall be maintained perpetually and inviolate for the purpose originally designed.

Sec. 24. A person may not desecrate the Soldiers' and Sailors' Monument in Indianapolis, the street known as Monument Circle, or any of the premises or approaches surrounding the monument by building a wall, fence, or other obstruction in or about the premises, approaches, or street known as Monument Circle surrounding the monument:

- (1) to sell or offer to sell any article of merchandise;
- (2) to have or to hold any show, carnival, circus, or masquerade;
- (3) to maintain any tent or building in or about the street, premises, or approaches;
- (4) to hold a political meeting;
- (5) to in any way obstruct the view or approaches to the street, or premises; or
- (6) to use the premises, street, or approaches;

for purposes other than those intended in this chapter.

Sec. 25. A person who intentionally damages or removes any of the property of the state on Monument Circle is liable for the payment of a penalty not less than twice the sum necessary to repair the damage or restore the lost property. The penalty may be collected by the commission in a civil action.

Sec. 26. (a) The commission may do the following:

- (1) Make or sell the following:
 - (A) Pictures, models, books, and other representations of the monuments and grounds.
 - (B) Souvenirs.
- (2) Establish and maintain souvenir shops on property that the commission manages.
- (3) Hire and pay salaries for full-time or part-time employees for the souvenir shops.
- (4) Contract with a nonprofit organization or corporation for the continuous management of the souvenir shops.
- (5) Report annually to the governor on the activities, revenues, expenditures, and profits of the souvenir shops.

(b) Notwithstanding section 27 of this chapter, the following apply to the profits from souvenir shop sales:

- (1) The souvenir shop fund is established. The souvenir shop fund shall be administered by the commission.
- (2) Profits from the sales at souvenir shops established under subsection (a) shall be deposited in the souvenir shop fund.
- (3) The treasurer of state shall invest the money in the souvenir shop fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.
- (4) The expenses of administering the souvenir shop fund shall

be paid from money in the fund.

(5) The commission may spend the money in the souvenir shop fund for the following purposes:

(A) Maintenance or repair of properties managed by the commission.

(B) Maintenance, repair, and acquisition of the following:

(i) Battle flags.

(ii) Appropriate artifacts.

(iii) Appropriate memorabilia.

(6) All money accruing to the souvenir shop fund is appropriated continuously for the purposes listed in subdivision (5).

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

(c) A person may not make or sell pictures, models, books, or other representations of the monuments or grounds unless the person is authorized to do so by the commission.

Sec. 27. Money recovered or accrued under this chapter shall be used:

(1) to keep:

(A) the State Soldiers' and Sailors' Monument and subsidiary monuments; or

(B) the Monument Circle and its decorations and improvements;

in repair; and

(2) to restore any parts of the monuments or the Monument Circle that have been broken, destroyed, removed, or injured.

Sec. 28. The superintendent of the State Soldiers' and Sailors' Monument and of Monument Circle and those serving under the superintendent who are appointed by the commission have police powers and may make arrests or do other things as may be needed to enforce the laws for the protection and care of the monuments and Monument Circle.

Sec. 29. The commission may grant the use for public purposes of any structures or any parts of structures erected by the commission under this chapter without rent or charge or for only a nominal rental:

(1) to any organizations of soldiers, sailors, and marines and others as a place for their meeting and headquarters and for

the keeping of records, archives, documents, flags, mementos, and relics; and

(2) for other public meetings and other public purposes not inconsistent with the purpose of this chapter;

for the time and upon the terms and conditions as the commission determines.

Sec. 30. (a) The commission may not enter into a contract for:

(1) the purchase or sale of property, material, or supplies; or

(2) the performance of work or labor, except for salaries of employees;

if the work and labor or materials and supplies cost more than ten thousand dollars (\$10,000) without first giving notice of its intention to purchase or sell the materials or supplies or to contract for the work or labor by publication in a newspaper of general circulation printed and published in the English language in Indianapolis for two (2) successive weeks before the time fixed for the letting of the contract or the sale of the property.

(b) A contract under this section must be in writing. The other contracting party shall furnish bond for the faithful performance of the contract in an amount fixed by the commission and with surety to the commission's approval, conditioned upon the faithful performance of the contract. However, if the commission decides to purchase a patented article or material or an article or material of a special type, character, or design of construction or make that may be purchased from only one (1) person, firm, limited liability company, or corporation, their agents or representatives, or for which there is a fixed, standard price, the commission is not required to take or receive competitive bids. However, the commission shall publish in the manner set forth under subsection (a) the number and character of the article or kind and quality of material proposed to be purchased, the unit price, and the total sum to be paid.

(c) A contract made in violation of this section is void.

Sec. 31. (a) The Indiana War Memorial fund:

(1) is subject to the laws of this state that concern the deposits and safekeeping of public funds; and

(2) shall be deposited under the advisory supervision of the state board of finance in the same way and manner and at the same rate of interest and under the same restriction as state

funds.

(b) Interest that accrues to the fund shall be added to and become a part of the Indiana War Memorial fund.

(c) The Indiana War Memorial fund and the accounts of each public officer, employee, or person entrusted by law with the raising, disposition, or expenditure of the fund or any part of the fund are subject to the same penalties and the same provisions for publicity as are provided by law for state funds and state officers.

Sec. 32. The commission, with the approval of the governor, may let a contract for the erection of additional structures on the site of the Indiana World War Memorial, in accordance with plans and specifications adopted by the commission, with the approval of the governor, to any competent and reliable contractor.

Sec. 33. (a) The commission shall commemorate the valor of those loyal citizens of this state who served with the armed forces of the United States during World War II and the Korean Conflict by placing their names in the archives of the World War Memorial located at Indianapolis.

(b) The names must be placed in the archives in the same manner as those honored by Indiana who served in World War I.

Sec. 34. (a) The commission shall commemorate the valor of those loyal citizens of Indiana who served with the armed forces of the United States during the Vietnam conflict by placing their names in the archives of the World War Memorial located at Indianapolis.

(b) The names must be placed in the archives in the same manner as those honored by Indiana who served in World War I, World War II, and the Korean Conflict.

Sec. 35. A suit to enjoin the enforcement of this chapter or to prevent the levy or collection of taxes under this chapter may not be commenced.

Sec. 36. All property of every nature and kind constituting a memorial or used in connection with a memorial is exempt from taxation for all purposes.

Sec. 37. Except as otherwise provided in this chapter, a person who violates this chapter commits a Class B infraction.

Sec. 38. It is a Class D felony for a member of the commission or the architect, secretary, superintendent, or any other person in the employ of the commission to:

(1) knowingly be interested in or derive any profit from any contract, employment, or purchase connected with the Indiana World War Memorial or with any action of the commission; or

(2) knowingly be interested in any claim against the commission or the state growing out of the erection or maintenance of the Indiana World War Memorial;

other than for the compensation for their services or for their expenses as provided in this chapter.

Chapter 2. World War Memorials

Sec. 1. As used in this chapter, "world war memorial" means:

(1) World War I memorial parks and artificial lakes in World War I memorial parks; or

(2) World War I structures.

Sec. 2. (a) A county may through its county executive acquire by:

(1) purchase;

(2) donation; or

(3) condemnation;

suitable real estate to construct and maintain structures to commemorate the bravery, courage, valor, and sacrifice of the soldiers, sailors, and marines of the United States and of all others who rendered faithful, loyal, heroic, and self-sacrificing service at home or overseas in World War I.

(b) At a world war memorial, a county may do the following:

(1) Provide a place for meetings and headquarters for organizations of active or retired military personnel or any other patriotic associations.

(2) Provide storage for the keeping of records, archives, documents, flags, mementos, and relics.

(3) Provide space for public meetings and for other public purposes.

(4) Inculcate an understanding and appreciation of the duties, benefits, and privileges of American citizenship.

(5) Inspire patriotism and respect for the law to the end that peace may prevail.

(6) Promote good will and justice.

(7) Perpetuate liberty and freedom.

(c) In addition to the powers provided under subsections (a) and

(b), a county may do the following:

(1) Acquire by purchase, donation or condemnation any interest in real property to be dedicated by the county and added to any real property that is dedicated by the state for World War Memorial and other public purposes, by proper contract, deed, or grant. The real property acquired shall be conveyed by the county to the state for World War Memorial and other public purposes as provided in the contract, deed, or grant.

(2) Join with any city located in the county to acquire by purchase, donation, or condemnation, interests in real property to be dedicated by the county and the city jointly and added to any real property that is dedicated by the state for World War Memorial and other public purposes, by proper contract, deed, or grant. The real property acquired shall be conveyed by the county and city jointly to the state for World War Memorial purposes and other public purposes as provided in the contract, deed, or grant.

(3) Join with any city located in the county to:

(A) acquire by purchase, donation, or condemnation interests in real property;

(B) construct and maintain on the real property a joint city and county World War Memorial; and

(C) use the real property for other public purposes as provided in this chapter.

Sec. 3. (a) A county executive may appropriate, without any appropriation by the county council of the funds of the county for a world war memorial and other public purposes.

(b) Funds appropriated for a world war memorial may not exceed one-half of one percent (0.5%) of the adjusted value of taxable property of the county, to be determined under IC 36-1-15.

(c) The county shall use the funds appropriated to acquire real estate and construct structures for a world war memorial and other public purposes, as authorized by this chapter.

Sec. 4. (a) A county and its county executive may appropriate money for any or all of the purposes as provided in this chapter:

(1) out of the general funds of the county; or

(2) from the proceeds of a bond issue.

(b) A county may issue and sell bonds for the purpose of raising

funds to comply with this chapter.

(c) If:

(1) a county executive decides to establish a world war memorial; and

(2) there is sufficient money in the county's general fund to pay the entire cost of the world war memorial;

money from the county's general fund may be appropriated.

(d) If there is not sufficient money in a county's general fund, the county auditor shall certify to the county executive, who may authorize and make a loan not exceeding one-half of one percent (0.5%) of the adjusted value of the taxable property of the county, to be determined under IC 36-1-15.

(e) It is not necessary to obtain:

(1) the authorization of the county council; or

(2) the appropriation by the county council;

for any money for the payment of the bonds authorized under this section or the interest on the bonds.

(f) A county executive may issue bonds in the name of a county to fund or refund a loan or loans as authorized by this chapter.

(g) A bond for world war memorials shall be issued in any denomination of not more than one thousand dollars (\$1,000) each and in not less than twenty (20) or more than fifty (50) series.

(h) Each bond series is to be for an amount determined by the county executive and shall be payable one (1) series each year, beginning on July 1 of the fifth year after the bonds are issued.

(i) A bond shall be negotiable as inland bills of exchange and shall bear interest at a rate not exceeding five percent (5%) per annum, payable semiannually on July 1 and January 1 of each year.

(j) A bond shall be exempt from taxation for any and all purposes.

(k) All proceeds of bonds issued and sold under this chapter by a county, including any premium, shall be kept in a separate and specific fund to be known as the world war memorial fund.

(l) Any surplus remaining in a world war memorial fund after all the demands of the county have been paid and discharged shall be transferred by the county executive to the world war memorial bond funds.

(m) A series of bonds issued under this chapter may not be for

less than one-fiftieth (1/50) of the total amount of bonds issued.

(n) A suit to question the validity of bonds authorized to be issued by this chapter may not be instituted after the date set for the sale of the bonds. All bonds are incontestable for any cause except for excess of constitutional limit.

Sec. 5. (a) If a county issues bonds for a world war memorial under this chapter, the county fiscal body, county executive, and any other county official who fixes rates or levies taxes shall yearly tax all real and personal property within the county at a rate on each one hundred dollars (\$100) of taxable property to meet the interest and principal on world war memorial bonds as they mature.

(b) Taxes levied for world war memorial bonds:

(1) shall be collected by the treasurer of a county or other proper officer in the same manner as other taxes are collected and enforced;

(2) shall be kept in a separate fund to be known as the world war memorial bond fund;

(3) shall be applied to the payment of the bonds issued under this chapter and interest as the bonds mature; and

(4) shall be deposited in an interest earning account with one (1) or more of the depositories in the county, with all interest earned becoming a part of the fund.

Sec. 6. (a) A county executive establishing a world war memorial shall adopt a design and a plan for the construction of a world war memorial.

(b) A county executive:

(1) may employ architects and other personnel necessary to design and supervise the building of a world war memorial; and

(2) shall not adopt any design or plan for a world war memorial that, together with the cost of real estate and other expenses for the establishment of the memorial, exceeds the amount authorized for the project. However, this limitation may not restrict the right of a county executive to enter into any contract with any city located in the county for the joint construction of a world war memorial.

Sec. 7. All changes made in the designs or plans for a world war memorial are subject to the following:

(1) Changes must be agreed upon in writing, in advance, between the county executive and the contractor and architect.

(2) Compensation may not be paid for design or plan changes.

(3) Changes may not be made that will increase the total cost of the world war memorial.

(4) Changes may not affect the obligation of or release any surety or bondsmen on any contract or bond executed or given in connection with the building of the world war memorial. However, the liability shall be extended to embrace and cover the changes.

Sec. 8. The architect employed to supervise the building of world war memorial structures:

(1) shall, at the time of employment, execute a proper bond in an amount fixed by the county executive and with surety to the approval of the county executive;

(2) is liable on the bond for:

(A) any failure in faithfully discharging duties;

(B) all losses and damages that may be incurred on account of negligence; or

(C) violating this chapter; and

(3) is entitled to receive compensation as agreed upon in advance.

Sec. 9. (a) If a county executive has adopted designs or plans for the construction of world war memorial structures as provided in section 6 of this chapter, the county executive shall:

(1) contract with a reliable contractor for all or any part of the construction of the world war memorial structure, as provided in this chapter; and

(2) publish for at least three (3) weeks, one (1) time each week, in a newspaper of general circulation published in the county a notice informing the public and contractors:

(A) of the nature of the structures to be constructed;

(B) that the designs and plans are on file in the office of the county executive; and

(C) that sealed proposals for contractors to work on the construction of the world war memorial are due not earlier than thirty (30) days from the first published notice.

(b) A county executive shall, by order, impose conditions upon:

- (1) bidders;**
- (2) contractors;**
- (3) subcontractors; and**
- (4) materialmen;**

with regard to bond and surety and guaranteeing the faithful completion of work according to contract.

(c) All contracts with builders, architects, or materialmen must reserve to the county executive for good cause shown the right to cancel a contract and to relet work to others. If a contract is canceled, at least ten percent (10%) shall be reserved from payments on estimates on work done in progress until the contracts are completed and the work done, inspected, and accepted by the county executive.

(d) A payment, partial or final, may not be construed as a waiver of defective work or materials or as a release for damages on account of defective work or materials.

(e) A surety may not be released from any obligation on its bond if the contractor is paid the whole or any part of the percentages required to be reserved from current estimates. A surety may not be released by any final payment made to the contractor.

Sec. 10. (a) If a county has appropriated money to be used by the county executive under this chapter, the county executive may enter into a contract with any city located in the county for the joint acquisition of real estate for a world war memorial.

(b) Contracts between counties and cities for the joint acquisition of real estate for developing a world war memorial shall be made through the city's board of public works with the approval of the mayor.

(c) If a county executive decides to contract with a city for the joint acquisition of real estate and development of a world war memorial, the county executive shall adopt a resolution signifying their desire and send a certified copy of a resolution to the mayor of the city. The mayor shall refer the resolution to the board of public works for action. Within sixty (60) days after the receipt of the resolution, the board of public works shall determine by resolution whether or not the city will join with the county in the execution of any contract for any purpose authorized by this chapter.

(d) If a county and city agree to join in the acquisition of real

estate to be dedicated for a world war memorial as authorized by this chapter, the county executive shall execute a contract between the county and the city describing the real estate and interests in the real estate to be acquired jointly and the costs for the county and the city. The contract shall be executed in duplicate and shall be included in the minutes of the proceedings of the county executive and of the board of public works of the city.

(e) If a county and city agree to establish a joint world war memorial, then the county executive, acting for the county, and the board of public works, with the approval of the mayor, shall execute a contract between the county and city that must provide the following:

(1) For the acquisition of real estate and the construction of a joint world war memorial suitable for the county and city.

(2) The respective parts of the total cost of the world war memorial that shall be paid by the county and by the city and the time and manner of the payments.

(3) That the acquisition of real estate and the execution of all necessary contracts for the construction of the joint world war memorial shall be made by a board of trustees consisting of five (5) members to be appointed and have the powers and perform the duties as provided in this chapter.

(4) That the total costs of the acquisition of the real estate for the joint world war memorial and the construction of the world war memorial may not exceed the amount of money appropriated by the county executive and the common council of the city.

(5) That the necessary cost and expenses for the management, maintenance, repairs, and improvement of the memorial shall be paid by the county and city in the same proportion that they contribute to the establishment of the memorial.

(6) That the contract may contain any other terms, conditions, and provisions that may be agreed upon between the county and city, not inconsistent with this chapter.

(f) The county shall pay its part due under any contract executed by the county with any city within the county under this chapter from:

(1) the general funds of the county; or

(2) the proceeds of bond issue as provided in this chapter.

(g) The county, acting through its county executive, may issue and sell bonds for the purpose of raising funds to pay its part of the cost under any contract executed by the county with any city located within the county under this chapter.

(h) The county executive shall issue and sell the necessary bonds and levy and collect the necessary taxes to pay the bonds as they mature, together with interest, all as authorized in this chapter.

Sec. 11. (a) If a county enters into a contract with any city for the establishment of a joint county and city world war memorial, as provided in this chapter, there is established a board of trustees that consists of five (5) members, to be known as "Trustees of the World War Memorial for the County of _____ and the City of _____", giving the name of the county and the name of the city.

(b) The trustees shall be appointed as follows:

(1) Three (3) trustees shall be appointed by the county executive of the county.

(2) Two (2) trustees shall be appointed by the mayor of the city.

(c) One (1) of the trustees appointed by the mayor shall be appointed for a term of two (2) years and one (1) for a term of three (3) years. Subsequently, the trustees shall be appointed by the mayor for a term of three (3) years. Two (2) of the trustees appointed by the county executive shall be appointed for a term of two (2) years and one (1) for a term of three (3) years. Subsequently, the trustees shall be appointed by the county executive for a term of three (3) years.

(d) The trustees shall be selected without regard to their political affiliations. Not more than three (3) trustees may be of the same political party. The mayor may not appoint more than one (1) trustee from any political party. The county executive may not appoint more than two (2) trustees from any political party.

(e) The board of trustees must be persons of high standing and character and serve without compensation but may receive reimbursement for any reasonable expenses necessarily incurred by them in the performance of their duties.

(f) The mayor or county executive may, for just cause, based upon written charges specifically alleging the misconduct, remove any member appointed by the mayor or county executive, after

notice to the trustee board and a public hearing.

(g) In case of vacancy caused by removal or otherwise, the mayor or the county executive making the original appointment shall appoint a qualified person to fill the unexpired term.

(h) Each trustee shall do the following:

(1) Execute a bond to the county and city in the sum of five thousand dollars (\$5,000), conditioned for the faithful performance of duties as a trustee, with sureties to be fixed and approved by the judge of the circuit court.

(2) Take an oath that the trustee will support the Constitution of the United States and the Constitution of the State of Indiana and will faithfully discharge all of the duties as a trustee. The oath shall be endorsed on the bond, and the bond and oath shall be filed with the clerk of the circuit court.

(i) If a joint county and city world war memorial is established, the board of trustees shall have all the powers and perform all the duties in relation to the acquisition of the ground and the construction of the joint county and city world war memorial as provided in this chapter to be done and performed by the county executive in relation to a county world war memorial.

(j) If a joint county and city world war memorial is established, all money appropriated by the county and the city shall be disbursed upon estimates submitted by the board of trustees and certified to the proper officers of the county and city as provided for in the contract between the county and city.

(k) A board of trustees may not be established if a county contracts with a city located in the county to jointly acquire real estate and interests in the real estate to be dedicated and added to an existing war memorial operated by the state.

Sec. 12. The county executive shall:

(1) provide a fund as is necessary for the:

(A) management;

(B) maintenance;

(C) repair; and

(D) improvement;

of any county world war memorial;

(2) pay its part of the cost of:

(A) management;

(B) maintenance;

(C) repair; and

(D) improvement;

of any joint county and city world war memorial, as determined by contract; and

(3) raise money for the fund by taxation in the manner as provided by law for all other county expenses.

Sec. 13. (a) If a county decides to join a city located in the county to acquire real estate to be dedicated, set apart, and added to any real estate that may be designated for use or dedicated and set apart by the state as a world war memorial and other public purposes, as provided in this chapter, the county, through its county executive, shall execute proper deeds, grants, or contracts with the state to convey the real estate to the state for world war memorial and other public purposes, as authorized by this chapter.

(b) The deed, grant, or contract must provide:

(1) for the use by the county, or by the county and city jointly, of the memorial grounds and structures; and

(2) that, to the extent of the money appropriated and used by the county in the acquisition of the memorial grounds and structures, the memorial grounds and structures shall be a county world war memorial.

Sec. 14. (a) A county executive may allow any organizations of soldiers, sailors, and marines, and others to use any structure that is part of a world war memorial constructed under this chapter as a place for meetings and headquarters.

(b) A county executive may allow a structure at a world war memorial to be used for any public purposes.

(c) A county executive shall determine the terms and conditions of leasing space at a world war memorial under this section, including:

(1) whether to charge rent; and

(2) if rent is charged, the rental price.

Sec. 15. (a) A county may receive donations, gifts, devises, and bequests for the county executive to use in connection with a world war memorial.

(b) Any money donated to a county for its world war memorial shall be paid out upon warrants drawn by the auditor of the county, without any appropriation by the county fiscal body, to the county executive.

(c) The county may use money received as donations, gifts, or devises for the:

- (1) construction of a world war memorial, alone or with any city; or**
- (2) acquisition by the county, or jointly by the county and any city located in the county, of real estate and interests in real estate to be dedicated, set apart, and added to any real estate that may have been designated for use or dedicated and set apart by the state for world war memorial and other public purposes;**

as provided in this chapter.

Sec. 16. (a) A county executive, acting jointly with the board of public works of a city located in the county to acquire grounds, real property, and interests in real property, by purchase or condemnation for any of the purposes authorized by this chapter, may proceed under IC 32-24, together with all the powers of eminent domain granted under this chapter.

(b) Before a county executive may purchase real property or interests in real property, by the county, jointly by the county and a city located in the county, by the county executive or board of trustees, as provided in section 11 of this chapter, or by the county executive acting jointly with the board of public works of any city located in the county, the county executive must:

- (1) have the real property appraised at its true cash value by at least three (3) disinterested freeholders of the county; and**
- (2) may not pay more than the appraised value for any real property and interests in real property.**

(c) If an owner refuses to sell real property at the appraised value, the property must be acquired by condemnation. If a county acts alone, an attorney representing the county shall conduct all the legal proceedings necessary in the purchase or condemnation of real property. The legal department of a city and an attorney representing the county, if the county and city act jointly under this chapter, shall conduct all the necessary legal proceedings, without additional compensation, for the purchase or condemnation of real property.

(d) If a county acquires real property for any of the purposes provided for by this chapter or joins with a city located in the county in the acquisition of real property for any of the purposes

provided for in this chapter, the county, acting by and through its county executive, or the county, by and through its county executive acting jointly with any city located in the county, by and through its board of public works, with the approval of the mayor, may sell the buildings and improvements on the real property.

(e) The net rent or proceeds of the sale of the building and improvements on the real property at a war memorial, if the real property was acquired by the county, shall be added to and become a part of the county world war memorial fund. If the real property was acquired by the county and any city located in the county jointly, the rent and proceeds of sale shall be added to the county world war memorial fund and the city world war memorial fund in the same proportions that the city and county contributed to the acquisition of the real property, buildings, and improvements, or the county.

(f) The county and a city located in the county acting jointly, as provided in this chapter, may convey any real property acquired to the state. The contract with the state must provide for the rent of buildings and improvements on real property, until necessary to remove the buildings and improvements, and for the sale of the buildings and improvements if the real property is needed by the board of trustees for world war memorial and other public purposes. The contract must provide how the net rent or proceeds will be applied.

(g) If a county institutes proceedings to condemn any real property or interests in real property or other property under this chapter, the suit must be brought:

- (1) in the name of the county;
- (2) by an attorney representing the county; and
- (3) at the direction of the county executive.

(h) If the joint condemnation of real property under this chapter is by a county and by a city located in the county, the suit must be brought in the name of the county, as provided in this section, and in the name of the city by its legal department, without additional compensation, at the direction of the board of public works. The county, or the county and the city jointly, may:

- (1) join in one (1) action naming as defendants the owners and all persons interested in one (1) or more tracts of real property to be condemned; or

(2) institute proceedings to condemn separate tracts of real property.

Sec. 17. (a) A county executive, instead of making a loan or loans as provided in section 4 of this chapter, may make a loan for a period of not more than ten (10) years for any of the purposes authorized by this chapter.

(b) A loan issued under this section must be at a rate of interest not exceeding six percent (6%) per annum, payable semiannually. The loan must be evidenced by the bonds of the county, which shall be payable at their maturity and not later than ten (10) years after the date of issue.

(c) A bond issued under this section is exempt from taxation for all purposes.

(d) If a bond issued under this section is issued for a longer period than five (5) years:

(1) at least one-fiftieth (1/50) of the total issue of the bonds must mature each year after the fifth year; and

(2) the balance of the bond must mature and be paid or refunded not later than ten (10) years after the date of issue.

(e) A county executive may refund a loan issued under this chapter with another bond issue in accordance with this chapter.

(f) A county executive may name the date when the first series of refunding bonds is due. However, the first of the series may not be for a longer period than five (5) years from the date of issue.

Sec. 18. In the establishment and maintenance of a county world war memorial, a county executive or a board of trustees of a joint county and city world war memorial has all the powers and duties conferred upon the Indiana War Memorials Commission under IC 10-18-1, in so far as the powers and duties are not inconsistent with this chapter. However, a county executive or board may not employ a secretary.

Sec. 19. (a) If a county executive desires to carry out this chapter, the county executive must adopt a declaratory resolution in substance as follows:

"Be it resolved, by the county executive of _____ County, that said county should proceed alone, or jointly with the city of _____ located in such county, to carry out the purposes of IC 10-18-2."

(b) The resolution shall be recorded in the proceedings of the

county executive. Notice of the adoption of the declaratory resolution shall be given by the county executive by the publication of the resolution in full by two (2) insertions published at least a week apart in accordance with IC 5-3-1-4.

(c) The county executive may:

- (1) appropriate money;
- (2) make loans;
- (3) issue bonds;
- (4) levy taxes; and
- (5) do everything that may be necessary to carry out this chapter.

If any bonds are issued under this chapter by a county and the bonds have to be refunded, it is not necessary for the county executive to adopt a declaratory resolution.

(d) The rights and powers of this chapter vested in any county executive may not be exhausted by being exercised one (1) or more times, but are continuing rights and powers.

(e) If there is a second or other subsequent exercise of power under this chapter by any county, it is not necessary for the county executive to adopt a declaratory resolution. Any county acting a second or subsequent time may proceed to carry out this chapter without any appropriation by the county fiscal body and without being required to comply with any other law relating to appropriations and budgets except for section 2 of this chapter.

Sec. 20. A political subdivision (as defined in IC 36-1-2-13) or municipal corporation (as defined in IC 36-1-2-10) may erect or cause to be erected a memorial to the armed forces of World War II under the same conditions that a memorial to the armed forces of World War I may be built.

Sec. 21. A suit to enjoin the enforcement of this chapter or to prevent the levy or collection of taxes under this chapter may not be commenced.

Sec. 22. All property that is:

- (1) part of a county world war memorial;
- (2) part of a joint county and city world war memorial;
- (3) used in connection with a world war memorial; or
- (4) acquired by a county or jointly by a county and a city located in the county for any purpose authorized by this chapter;

is exempt from taxation for all purposes.

Chapter 3. City and County War Memorials

Sec. 1. (a) Counties and cities may provide and maintain a suitable memorial to commemorate the:

(1) courage, valor, and sacrifice of the members of the armed forces who served the United States in World War I or World War II; and

(2) faithful, loyal, and self-sacrificing service rendered by others to our country in those wars.

(b) A proceeding for the establishment and maintenance of memorials initiated under the provisions of another law may be continued and completed under this chapter without compliance with sections 2 through 5 of this chapter if the board of commissioners of the county or common council of the city has:

(1) determined to proceed with the memorial; and

(2) published notice of the determination.

(c) Before proceeding under this chapter, the board of commissioners or common council shall:

(1) by resolution, declare its intention to establish and maintain a memorial; and

(2) appoint a board of trustees in accordance with section 6 of this chapter.

Sec. 2. (a) The board of commissioners of a county or the common council of a city shall, on petition of at least one hundred (100) adult citizens of the county or city, appoint a committee to be known as the memorial committee. The appointments may not be made until after notice of the filing of the petition has been published for at least two (2) weeks. Publication must occur once each week in a newspaper of general circulation in the county or city.

(b) The committee must have at least five (5) but not more than fifteen (15) members. Each committee member must be a citizen of the county or city in which the memorial is proposed. The members must be appointed based solely upon their fitness, and the committee must include representatives of educational, benevolent, labor, and other interests.

(c) The members of the committee serve without compensation. However, the board of commissioners or common council may compensate members for necessary expenses in the performance

of their duty, including compensation of expert advisers. The board of commissioners or common council may make an appropriation in advance to compensate members for necessary expenses.

(d) The committee shall make a careful study of the subject of a suitable memorial in the county or city and report its conclusions to the board of commissioners or common council. The report must include:

- (1) the kind of memorial regarded by the committee as appropriate;
- (2) the estimated cost of erection and maintenance;
- (3) the method of control; and
- (4) any other matter the committee considers proper.

The committee shall make the report within six (6) months after appointment, unless a longer time is given by the board of commissioners or common council. A committee that fails to report within the time allowed is immediately regarded as dissolved, and the board of commissioners or common council shall appoint a new committee. A new committee appointed under this subsection is governed by the same rule regarding the filing of a report and dissolution.

(e) A vacancy in the committee shall be filled by the board of commissioners or common council.

(f) A county or city in which a memorial committee has been appointed may not erect or provide for the erection of a memorial until the committee has made its report.

Sec. 3. (a) Public notice must be provided in the manner set forth under subsection (b) if a petition signed by:

- (1) at least five hundred (500) citizens and taxpayers of a county; or
- (2) at least two hundred (200) citizens and taxpayers of a city; requests the establishment and maintenance within the county or city of a memorial for the soldiers and sailors of World War I. The petition must be addressed to the board of commissioners of the county or the common council of the city and filed in the office of the auditor of the county or clerk of the city.

(b) The auditor or clerk shall:

- (1) publish a notice that includes a copy of the petition or a summary of the petition in a newspaper of general circulation printed and published in the county or city;

(2) post a notice that includes a copy of the petition or a summary of the petition in at least ten (10) public places in the county; and

(3) post a notice that includes a copy of the petition or a summary of the petition at the door of the county courthouse.

Notice under this subsection must also include the day the petition will be presented to the board. The day of the hearing must be fixed by the auditor or clerk at least thirty (30) days but not more than forty (40) days after the day of the filing of the petition. Notice of the petition signed by the auditor or clerk must be published for three (3) consecutive weeks and posted for at least twenty (20) days before the day designated by the auditor or clerk for the hearing.

Sec. 4. A petition filed under section 3 of this chapter must set forth the character and kind of a memorial proposed to be established or constructed and the probable cost of the memorial to the county or city.

Sec. 5. (a) On the day designated by the auditor or clerk for a hearing under section 3 of this chapter, the petitioners may make proof of the publication and posting of the notice of the hearing and present the petition to the board of commissioners or common council. However, if on or before the day of the hearing a written remonstrance is filed with the board of commissioners or common council, the board of commissioners or common council shall fix a new hearing date at least thirty (30) days but less than forty (40) days after the original hearing date. A written remonstrance must:

- (1) be signed by citizens and taxpayers of the county or city;
- (2) be equal in number to the signers of the petition; and
- (3) ask that the memorial not be established or protest against the kind of memorial proposed and provide reasons for the protest. Before the new hearing date, additional names of citizens and taxpayers may be added to or withdrawn from the petition and remonstrance. A person who signs the petition may not be counted on a remonstrance against it. On or after the first day designated, a taxpayer may be added to a petition and remonstrance for hearing.

(b) If a remonstrance is not filed, the board of commissioners or common council may grant the petition and order the establishment of a memorial, subject to the conditions of this chapter. If a proper remonstrance is filed on the first day

designated for the hearing, the board of commissioners or common council may grant the petition on or after the second day of the hearing as fixed by the board of commissioners, unless there is a greater number of qualified remonstrators against the memorial than petitioners for the memorial at that time. If this occurs, the petition shall be dismissed at the cost of the petitioners.

(c) A taxpayer of the county aggrieved by the action of the board may appeal its decision to the circuit court of the county within ten (10) days in the same manner as other appeals are taken from the action of the board. The cause must be tried de novo.

Sec. 6. (a) Upon ordering the establishment of a memorial, a board of trustees must be appointed under this section for the establishment, maintenance, management, and control of the memorial.

(b) The board of commissioners of a county or common council of a city shall name five (5) trustees, not more than three (3) of whom may be members of the same political party. The appointees constitute a board for the establishment, maintenance, management, and control of the memorial. The trustees shall serve as follows:

(1) One (1) of the trustees named by the board of commissioners or common council serves until the first Monday of the following January.

(2) One (1) trustee serves until the first Monday of the second January following the trustee's appointment.

(3) One (1) trustee serves until the first Monday of the third January following the trustee's appointment.

(4) Two (2) trustees serve until the first Monday of the fourth January following the appointment of the trustees.

On the expiration of the term of a trustee, a successor shall be appointed under this section to serve a term of four (4) years. Each subsequent trustee serves a term of four (4) years.

(c) The board of trustees shall elect a president, vice president, secretary, and treasurer. Elections must occur annually on the second Monday in January of each year or as soon after that day as possible. A trustee serves without compensation, except that a trustee is allowed all necessary expenses incurred in the performance of the trustee's duties.

(d) Bond for the faithful and honest performance of a trustee's

duties is required. The form and amount of the bond is fixed by the board of commissioners or common council. If a surety bond is furnished by a trustee, the expense of the bond shall be borne by the county or city.

Sec. 7. (a) As soon as selected, a trustee shall be notified of the appointment by the auditor or city clerk. The auditor or clerk shall fix a date for the trustees to meet for the purpose of electing officers and adopting suitable rules for the government of the board.

(b) The board of trustees shall select a proper site for the memorial. A county memorial must be located at or near the county seat of the county and must have plans and specifications drawn for the establishment of the memorial. The plans and specifications must provide for a memorial of the kind and character ordered established and constructed by the board of commissioners or common council.

Sec. 8. (a) The cost of establishing and constructing a memorial and the expense of maintaining the memorial shall be derived from revenue generated by the memorial. If this revenue is not sufficient, the costs shall be borne by the county or city as provided in subsections (b) and (c).

(b) For the purpose of raising money to pay for the establishment of a memorial, the bonds of the county or city may be issued, not to exceed the amount of:

- (1)** the contract price;
- (2)** expenses incurred and damages allowed prior to the awarding of the contract;
- (3)** a sum sufficient to pay the per diem of the engineer, architect, and superintendent during the construction of the memorial; and
- (4)** other estimated costs necessary for the memorial.

The bonds must be in denominations of at least fifty dollars (\$50) each, payable not more than twenty (20) years after the date of issue.

(c) The bonds shall be sold at not less than face value. The proceeds shall be kept as a separate and specific fund to be used by the county or city to pay for construction of the memorial and all proper expenses incident to construction. A payment may not be made for more than eighty percent (80%) of the engineer's

estimate of work done by the contractor. The whole amount of the contract may not be paid until the memorial is fully approved by the board of commissioners or common council and the board of trustees and determined to be completed and satisfactory.

Sec. 9. For the purpose of raising money to:

- (1) meet the bonds and interest on the bonds; or
- (2) establish or erect a memorial without the issuance of bonds;

the county or city authorities shall annually, at the time the general tax levy is made, levy a special tax on the taxable property of the county or city, subject to this chapter. Funds may be raised in yearly amounts until a sufficient amount has accrued to enable the board or common council to proceed with the erection or establishment of the memorial.

Sec. 10. (a) A county or city may not issue bonds or any other evidence of indebtedness payable by taxation for the construction of a memorial if the total issue of the bonds exceeds two percent (2%) of the adjusted value of the taxable property of the county or city in which the memorial is located as determined under IC 36-1-15.

(b) Bonds or obligations issued in violation of this section are void.

(c) Bonds issued under section 8 of this chapter are exempt from taxation.

Sec. 11. (a) A surplus remaining from the sale of bonds for the establishment of a memorial must remain as a separate fund for the maintenance, repair, improvement, or extension of the memorial.

(b) Each year the board of county commissioners and the county council or the common council shall provide a fund necessary for the management, maintenance, repair, improvement, and extension of the memorial. Money for the fund shall be raised by taxation in the manner provided by law for other county or city expenses.

Sec. 12. (a) If a city desires to erect or establish a memorial and the common council of the city:

- (1) adopts a resolution declaring the desire;
- (2) pledges the city to proceed promptly to erect the memorial in or near the city; and
- (3) files a certified copy of the resolution with the board of

county commissioners before the board has made an order granting a petition for a county memorial;
the taxable property of the city is exempt from the taxation authorized in this chapter for the erection, establishment, management, maintenance, repair, improvement, and extension of a county memorial. However, if the city, within one (1) year from the date of the order, has not in good faith begun the erection or establishment of a memorial that costs as much or more than the amount that would be derived from taxation of the taxable property of the city for the erection or establishment of the county memorial, then the exemption fails, and the property of the city shall be taxed for the county memorial in the same manner as other property of the county is taxed.

(b) If a person, an association, or a corporation establishes or erects in a city a suitable memorial for the permanent use of all people of the city as provided in section 15 of this chapter, and the cost of the memorial is equal to or more than the amount that would be derived from taxation of the property of the city for the erection or establishment of a county memorial, then the taxable property of the city is exempt from the taxation authorized in this chapter for the erection, establishment, management, maintenance, repair, improvement, and extension of a county memorial. However, the exemption fails unless the donor files with the board of county commissioners of the county in which a city is located a certificate signed by the donor declaring the intention to immediately begin the establishment or erection of the memorial. The signed certificate must be filed with the board of county commissioners before the board has issued an order granting a petition for a county memorial.

(c) A corporation, instead of filing the certificate described in subsection (b), shall file with the board a certified copy of a resolution of its board of directors declaring the intention to immediately begin the establishment or erection of the memorial. The resolution must declare that the title to the memorial and the land upon which it is located are held by a board of trustees composed of five (5) members. The board of trustees and its successors are appointed by each donor. If there is a failure to make an appointment, the city council of the city shall have appointive power.

(d) The donors shall create an efficient organization among the people of the city to manage, maintain, repair, and improve the memorial under the powers and restrictions described in section 15 of this chapter. The organization consists of six (6) citizens of the city. Members of the organization:

- (1) serve in a manner and for a term as lawfully provided by the donors;**
- (2) act in conjunction with the board of trustees as a board of managers; and**
- (3) have full charge and supervision of the establishment and erection of the memorial and its management, maintenance, repair, and improvement.**

If the cost of management, maintenance, repair, and improvement exceeds the income derived from the memorial, the costs must be provided by voluntary contributions, donations, or endowments. The board of managers shall organize and adopt rules and bylaws for the conduct of its business as are usually adopted by similar bodies.

(e) If the memorial building and ground cease to be used for this purpose, the trustees shall reconvey the title to the donors, their heirs, successors, or assigns.

Sec. 13. The board of trustees have:

- (1) full charge and supervision of the construction of the memorial adopted; and**
- (2) authority to employ a superintendent, an engineer, or an architect.**

Each person employed must be qualified and experienced and shall give bond for the faithful performance of the person's duties. The form and amount of the bond shall be fixed by the board of county commissioners or common council.

Sec. 14. If the erection or establishment of a memorial is governed by another statute, the procedure for erection, establishment, maintenance, control, and management prescribed by the other statute shall be followed instead of the procedure prescribed by this chapter.

Sec. 15. (a) If the memorial established is a hall, coliseum, or building of a similar nature, the hall, coliseum, or building must be used for public purposes of all kinds, but especially for the purpose of perpetuating and keeping those principles alive for which World

War I was fought.

(b) Space must be provided for memorial tablets, works of art, relics, souvenirs, war records, and things that are:

- (1) connected with or growing out of the war; and**
- (2) appropriate in the building in the opinion of the board of trustees.**

Institutes, exhibits, shows, and entertainment of all kinds may be held in the building in the discretion of the board of trustees.

(c) The trustees may let the building for hire and fix a charge for letting the building for hire.

(d) A preference may not be shown to a church, political party, or class of society. However, this provision may not be construed to require or permit the use of the building by an organization or person to promulgate doctrines inimical to the government of the United States or Indiana.

(e) The memorial may not be:

- (1) located, in whole or in part:**
 - (A) upon land; or**
 - (B) within land;**
- (2) connected to land; or**
- (3) used in connection with a land enclosure or other structure:**

for which an admission fee is charged or that is used or controlled by a person or an organization other than the trustees in charge of the memorial.

Sec. 16. (a) The trustees shall make an annual report under oath to the board of county commissioners or common council. The annual report must include the activities of the trustees and of the receipts and expenditures of the memorial. The trustees shall prepare an annual budget and estimate for the board of commissioners and county council or common council so that adequate appropriation of funds may be made for the proper maintenance, repair, improvement, and extension of the memorial. A report must be made at other times if required by the board of commissioners or common council.

(b) All claims for expenditures incident to the maintenance of the memorial must be in the form used for the payment of other claims by the county or city. The claims must be:

- (1) approved by the president of the board of trustees of the**

memorial; and

(2) allowed by the board of commissioners or common council in the same manner as other claims.

(c) All revenue from a memorial shall be accounted for by the board of trustees and delivered to the county treasurer or city fiscal officer on the first Monday of January and July of each year.

Sec. 17. This chapter does not prevent a gift or bequest by deed, will, or otherwise of property to a county or city for a memorial of the kind described in this chapter. A county and city may accept a bequest and gift. Property given to the county or city in this manner may be used exclusively or in conjunction with other donated property or county or city funds for a memorial. If a gift or bequest is made to a county or city, proper recognition of the gift or bequest shall be shown in connection with the memorial.

Sec. 18. (a) The governor may appoint a commission known as the memorial art commission.

(b) The commission must consist of not more than seven (7) qualified persons who serve without pay. However, members are to be paid necessary expenses as certified by the governor to the auditor of state.

(c) The commission shall consider the artistic qualities of a plan for a proposed memorial.

(d) A memorial consisting of a building, monument, statue, tablet, picture, arch, or work of art of any kind may not be erected without first:

(1) submitting the plans to the memorial art commission; and

(2) securing criticism and advice from the commission with respect to the memorial.

If a state art commission is established by law, it is ex officio the memorial art commission.

Sec. 19. A bid must be received and a contract awarded for the memorial in the same manner as provided by law for a county or city building. Land for a memorial may be acquired under the power of eminent domain in the same manner as other land is acquired by a county or city for a public building.

Sec. 20. This chapter does not authorize the establishment of more than one (1) memorial at the expense of the county.

Sec. 21. (a) A trustee of a memorial may be removed and the position declared vacant by the board, common council, or judge

appointing the trustee upon a showing that the trustee is incompetent, dishonest, or not performing the duties required by:

- (1) law; or
 - (2) the governing rules of the board of trustees.
- (b) At any time after a memorial building has been:
- (1) erected and used for public purposes described in section 15 of this chapter; and
 - (2) fully paid for and all bonds or other indebtedness issued for the construction of the memorial has been retired;

the board of county commissioners or common council may by a two-thirds (2/3) vote of the board of commissioners or common council abolish and terminate the existence of the memorial board of trustees. The board of county commissioners or common council must have a signed petition requesting abolition and termination by all members of the board of trustees and the consent of the circuit court judge of the judicial circuit in which the county or city is situated. The judge's consent must be included on the signed petition. The board of county commissioners or common council shall fix a time not less than thirty (30) days or more than ninety (90) days from the date of the vote when the termination becomes effective.

(c) If the board of trustees has been abolished and terminated, the county auditor or city clerk shall notify the secretary of the board of trustees in writing of the time for the termination of the board of trustees.

(d) The board of trustees shall make a full and final report of its activities in the same manner as other reports required by this chapter. The report must be completed on or before the day fixed in the notice for termination.

(e) On and after the date fixed for the abolition and termination of the board of trustees, the custody, control, and management of the memorial shall be exercised by the officers, board, common council, or committee of the county or city that manages and controls other county or city buildings. The officers, board, common council, or committee of the county or city that manages and controls other county or city buildings shall perpetuate the memorial features of the building.

Chapter 4. City War Memorials

Sec. 1. As used in this chapter, "board of public works" refers

to the following:

- (1) The board of public works and safety established in a city under IC 36.
- (2) The board of public works in a city that has established a separate board of public works and a separate board of public safety under IC 36.

The term includes the department of public works in a city in which a department of public works has been established under IC 36.

Sec. 2. (a) A city, acting through its board of public works, with the approval of its mayor, when money has been appropriated for that purpose by an ordinance adopted and approved as provided in section 22 of this chapter, may do the following:

- (1) Acquire, by purchase, donation, or condemnation, suitable interests in real property located in the city.
- (2) Do the following on the real property described in subdivision (1):

(A) Erect and maintain upon the real property suitable structures to commemorate the bravery, courage, valor, and sacrifice of the soldiers, sailors, and marines of the United States and of all others who rendered faithful, loyal, heroic, and self-sacrificing service at home and overseas in World War I.

(B) Provide a place or places of meeting and headquarters for the following:

- (i) Organizations of soldiers, sailors, and marines or patriotic societies or associations.
- (ii) The keeping of records, archives, documents, flags, mementoes, and relics.
- (iii) Other public meetings and public purposes.
- (iv) The teaching of a true understanding and appreciation of the duties, benefits, and privileges of American citizenship to inspire patriotism and respect for the law to the end that peace may prevail, good will be promoted, justice be administered and established, public order maintained, and liberty and freedom under the law be perpetuated.

(b) In addition to the power given under subsection (a), a city may do the following:

(1) Acquire, by purchase, donation, or condemnation, any interest in real property to be dedicated by the city and added to any real property that is dedicated by the state for World War memorial and other public purposes by proper contract, deed or grant. The real property acquired shall be conveyed by the city to the state for World War memorial and other public purposes, as provided in the contract, deed, or grant.

(2) Join with the county in which the city is located to acquire by purchase, donation, or condemnation interests in real property to be dedicated by the city and the county jointly and added to any real property that may have been or may be designated for use, dedicated, or set apart by the state for World War memorial and other public purposes by proper contract, deed or grant. The real property acquired shall be conveyed by the city and the county jointly to the state for World War memorial and other public purposes, as provided in the contract, deed, or grant.

(3) Join with the county in which the city is located to:

(A) acquire by purchase, donation, or condemnation of interests in real property;

(B) construct and maintain on the real property a joint city and county World War memorial; and

(C) use the real property for other public purposes as provided in this chapter.

Sec. 3. (a) The legislative body of a city may, upon recommendation of the mayor and city controller, if applicable, by ordinance adopted and approved as provided in section 22 of this chapter, appropriate for the use of the board of public works of the city money of the city for World War memorial and other public purposes.

(b) Any money and the total of all money appropriated under this chapter may not exceed six-tenths of one percent (0.6%) of the adjusted value of the taxable property of the city as determined under IC 36-1-15.

(c) The board of public works, with the approval of the mayor, may use the funds so appropriated for any of the purposes described in section 2 of this chapter.

Sec. 4. (a) The board of public works of a city, in the acquisition of real property as authorized by this chapter, shall acquire the

real property under the statutes applicable to the city for acquisition of real property by donation, purchase, or condemnation.

(b) Except as provided in this chapter, the board of public works, in the construction of a memorial structure authorized by this chapter, shall act under the statutes related to the letting of contracts for public work applicable to the city.

Sec. 5. (a) A city may appropriate money for use of the board of public works of the city for any of the purposes provided in this chapter, either out of the general funds of the city or from the proceeds of a bond issue for those purposes.

(b) A city may sell bonds for the purpose of raising funds to comply with this chapter.

(c) Except as provided in this chapter, the appropriation of money and the sale of bonds by a city is governed by the law relating to the appropriation of money and the sale of bonds by the city for other city purposes.

(d) The legislative body of a city may, by ordinance adopted and approved as provided in section 22 of this chapter, do any of the following:

(1) Authorize the city controller, if applicable, and the mayor, in the name of the city, to make permanent loans of money for any of the purposes of this chapter of any amount not more than six-tenths of one percent (0.6%) of the adjusted value of taxable property of the city as determined under IC 36-1-15.

(2) Authorize the city controller, if applicable, and mayor of the city to issue bonds for the purpose of funding or refunding loans made by the city under this chapter. Except as provided in this chapter, any loans must be made and governed by the law concerning permanent loans by cities. Any bonds must satisfy all of the following:

(A) The bonds may be issued in any denomination of not more than one thousand dollars (\$1,000) each and in not less than twenty (20) or more than fifty (50) series. Each series must be for the amount as provided by the ordinance.

(B) The bonds must be payable one (1) series each year, beginning on July 1 of the fifth year after the issue of the bonds.

(C) The bonds must be negotiable as inland bills of exchange.

(D) The bonds must bear interest at the rate of not more than six percent (6%) a year, payable semiannually on July 1 and January 1 of each year.

(3) Authorize the city controller, if applicable, and mayor, in advertising for the sale of bonds, to ask for competitive bids on the bonds on any series of not less than twenty (20) nor more than fifty (50). The city controller, if applicable, and mayor may accept the bid that, in their judgment, is the most advantageous bid to the city.

(e) Bonds issued under this chapter are exempt from taxation for all purposes.

(f) A series of bonds issued under this chapter may not be for less than two percent (2%) of the total amount of bonds issued.

(g) The proceeds of bonds sold under this chapter by the city, including any premium on the bonds, must be kept as a separate and specific fund, to be known as the World War memorial fund. Money in the fund may be used only for any of the purposes described in section 2 of this chapter.

(h) The city legislative body may, by ordinance, transfer to the World War memorial bond fund any surplus finally remaining in the World War memorial fund, after all the demands on the city for money in the World War memorial fund have been paid and discharged.

(i) A suit to question the validity of any bond issued under this chapter may not be instituted after the date set for the sale of the bonds. All bonds, beginning on the date set for the sale of the bonds, are incontestable for any cause.

Sec. 6. (a) To raise money to pay the bonds and the interest on the bonds issued under this chapter, the legislative body of the city and all other officials, whether city or state, shall levy each year, in addition to all other taxes the city may levy, a tax on all property, real or personal, within the city, in the manner and at a rate on each one hundred dollars (\$100) of taxable property in the city as to meet the principal of the bonds as they severally mature and interest accruing on the bonds. The legislative body of the city and the fiscal officer of the city shall certify the taxes levied each year to the auditor of the county in which the city is located or other

proper officer not later than the first Monday of September in each year or at the time of the certification of the city's annual tax levy.

(b) Taxes levied and certified under this section shall be collected and enforced in the same manner as other taxes are collected and enforced. As the taxes are collected, the taxes shall be:

- (1) kept in a separate fund to be known as the "World War Memorial bond fund"; and
- (2) applied to the payment of the bonds issued under this chapter and interest accruing on the bonds as they severally mature, and for no other purpose.

All money collected for the payment of the bonds and the interest accruing on the bonds shall be deposited at interest with one (1) or more of the depositories as other public funds of the city. All interest collected becomes a part of the fund.

(c) In a city in which there has been established a sinking fund and a board of sinking fund commissioners:

- (1) the World War Memorial bond fund shall be under the care, custody, control, and jurisdiction of the board of sinking fund commissioners; and
- (2) all taxes authorized and required to be levied and collected under this section to pay the bonds as they mature and interest accruing on the bonds shall be used and applied by the board of sinking fund commissioners to pay the bonds as they mature with interest on the bonds.

Sec. 7. (a) The board of public works of the city shall select designs, plans, and all necessary specifications for the erection of the World War memorial. The board of public works shall publish notice:

- (1) in at least:
 - (A) three (3) newspapers of general circulation, printed and published in the English language in Indiana, at least one (1) of which must be published in the city; and
 - (B) seven (7) other newspapers or publications published outside Indiana;

selected by the board of public works; and

- (2) that, not less than four (4) months and not more than eight (8) months after the date of publication of the notice, the board of public works will receive and examine designs, plans,

and specifications for the World War memorial structures submitted to the board by competing architects or artisans skilled in that work.

(b) Each architect or artisan competing must submit all the following:

(1) Full and careful estimates of the cost of construction of the World War memorial structures.

(2) A sealed proposal of the compensation the architect or artisan will require if the architect's or artisan's plan is adopted.

(3) A separate statement of the compensation the architect or artisan will require to superintend construction of the memorial structures.

(c) The board of public works may not adopt a design, plan, or specification that will cost more than the sum of the following:

(1) The amount appropriated for the memorial structures.

(2) The amount of any donations, devises, or bequests the city has received at the time the contract is awarded.

(d) To insure adequate competition, the board of public works may offer premiums of not more than fifteen thousand dollars (\$15,000) for the best design, plans, or specifications for the World War memorial. The amount of any premium must be divided and awarded as first, second, and third premiums in the amounts and under the rules the board adopts.

(e) The board of public works may:

(1) reject any plans, designs, and specifications submitted if the board considers them unsuitable; and

(2) readvertise in the same manner as provided in this section for additional designs, plans, and specifications.

If the board of public works considers none of the designs, plans, and specifications suitable, the board may not award the premiums. Any premium awarded to the architect who becomes the supervising architect in building the World War memorial shall be considered fully paid by the commission or percentage agreed upon as specified in this chapter.

(f) In the selection of designs, plans, and specifications, the board of public works shall call for the assistance of all the following:

(1) The city's civil engineer.

- (2) At least one (1) competent architect:**
 - (A) of known skill and ability in the architect's profession;**
 - and**
 - (B) who did not submit a design, a plan, or specifications for competition.**
- (3) One (1) contractor in good standing in the contractor's respective vocation.**
- (4) Other disinterested expert assistants as the board considers wise.**

(g) The board of public works shall give the designs, plans, and specifications that have been submitted a thorough, critical examination and direct the experts called under subsection (f) to thoroughly examine the designs and specifications and carefully test the estimates submitted.

(h) If the board of public works finds:

- (1) the specifications and estimates to be correct;**
- (2) that the designs, plans, and specifications, or any of them, can be constructed within the limits described in subsection (c); and**
- (3) that the designs, plans, and specifications are suitable in regard to permanence and appearance, adapted to all the purposes and aims for the World War memorial, and in keeping with the dignity of the city;**

the board of public works may select the most meritorious of the designs, plans, and specifications and shall notify the successful architect of the selection. The board of public works shall return the rejected designs, plans, and specifications to the respective authors.

Sec. 8. (a) Subject to subsections (b) and (c), any changes made in the designs, plans, and specifications in the progress of the work:

- (1) must be agreed upon in advance between the board of public works and the contractor and architect; and**
- (2) must have the cost of the changes fixed by contract in writing.**

If changes made do not comply with subdivisions (1) and (2), the person making the changes is not entitled to any compensation for the changes.

(b) A change may not be made that will increase the total cost of the World War memorial as prescribed in this chapter.

(c) Any changes do not affect the obligation of or release any surety on any contract or bond executed or given in connection with the building of the World War memorial structures, but the liability of the surety is extended so as to cover the change.

Sec. 9. (a) The architect who is selected as supervising architect in the building of the World War memorial structures is liable on the architect's bond for any of the following:

- (1) Failure in faithfully discharging the architect's duties.
- (2) All losses and damages that are incurred on account of the architect:
 - (A) violating this chapter; or
 - (B) neglecting the architect's duties.

(b) The architect is entitled to the compensation agreed upon in advance.

Sec. 10. (a) After the board of public works has adopted the necessary designs, plans, and specifications for construction of the World War memorial structures as provided in this chapter, the board of public works shall award contracts for all or any part of the World War memorial structures to competent and reliable contractors as provided in this section.

(b) The board of public works shall publish for at least three (3) weeks, once each week, in a newspaper of general circulation, printed and published in the English language in the city, a notice:

- (1) informing the public and contractors of the general nature of the structures to be constructed and of the fact that designs, plans, drawings, and specifications are on file in the office of the board of public works; and
- (2) calling for sealed proposals for the work on a day not earlier than thirty (30) days from the first of such publications.

(c) The board of public works shall, by order, impose conditions upon bidders, contractors, subcontractors, and materialmen with regard to bond and surety, guaranteeing the good faith and responsibility of the bidders, contractors, subcontractors, and materialmen and insuring the faithful completion of the work, according to contract, or for any other purpose.

(d) The board of public works shall reserve ten percent (10%) from payments or estimates on work in progress until the contract is completed and the work done is inspected and accepted by the

board. All contracts with contractors, subcontractors, architects, or materialmen must reserve:

(1) to the board of public works, for good cause shown, the right to cancel the contract and to award the work to others; and

(2) at least ten percent (10%) from payments or estimates on work in progress until the contract is completed and the work done is inspected and accepted by the board.

(e) Payment by the board of public works, partial or final, may not be construed as a waiver of defective work or materials or as a release for damages on account of the defective work or materials. A surety may not be released from any obligation on the surety's bond if a contractor should be paid the whole or any part of the percentage required to be reserved from current estimates. A surety may not be released by any final payment made to a contractor.

Sec. 11. (a) If the board of public works of a city has been authorized by an ordinance of the city's legislative body, passed and approved under section 22 of this chapter, appropriating money to be used by the board of public works under this chapter, the board may, with the approval of the mayor of the city, enter into a contract with the county in which the city is located, acting through the board of commissioners of the county, providing for the acquisition jointly by the city and the county by purchase, donation, or condemnation of interests in real property to be added to real property designated for use by the state for World War memorial and other public purposes.

(b) The board of public works, with the approval of the mayor, may join with the county, acting through its board of commissioners, by an appropriate contract, deed, or grant, to convey to the state the real property acquired jointly by the city and the county for World War memorial and other public purposes, under the terms and conditions stated in the contract, deed, or grant.

(c) The board of public works of a city may contract with the county in which the city is located, acting through its board of commissioners, providing for the acquisition by purchase, donation, or condemnation of interests in real property and the construction of a World War memorial suitable for the city and

county and suitable for other public purposes. If the city, through its board of public works and mayor, wants to contract under this chapter with the county in which the city is located for any of the purposes authorized by this chapter, the board of public works must adopt a resolution stating that proposal. A certified copy of the resolution must be delivered to the board of commissioners of the county. The board of commissioners of the county, not later than sixty (60) days after the receipt of the resolution, shall determine by order or resolution whether the county will join with the city in the execution of a contract for a purpose authorized by this chapter.

(d) If the city and county determine to join in the acquisition of interests in real property to be added to any real property designated at any time for use by the state for World War memorial and other public purposes as authorized by law, then the board of public works, acting for the city with the approval of the mayor, shall execute a contract on behalf of the city with the county, acting through its board of commissioners. The contract must describe the real property interests to be acquired jointly by the city and the county and the part of the acquisition cost to be paid by the city and the part of the acquisition cost to be paid by the county. The contract may contain other provisions that the city and the county agree upon and that are not inconsistent with this chapter. The contract must be executed in duplicate and be recorded in the minutes of the proceedings of the board of public works of the city and of the board of county commissioners of the county.

(e) If the county and city determine to establish a joint World War memorial, then the board of public works, acting for the city with the approval of the mayor, shall execute a contract on behalf of the city with the county. The contract must provide as follows:

- (1) For the acquisition of real property interests and the construction on the real property of a joint World War memorial suitable for the county and city.
- (2) For the definite and respective parts of the total cost of the World War memorial that will be paid by the county and by the city and the time and manner of the payments.
- (3) That the acquisition of the real property and the execution of all necessary contracts for the construction of the joint

World War memorial shall be made by a board of trustees, consisting of five (5) members, to be appointed and have the powers and perform the duties as provided in this chapter.

(4) That the total cost of the acquisition of the real property for the joint World War memorial and the construction of the memorial may not exceed the sum of the following:

(A) The amount appropriated for the memorial by the city and by the board of commissioners of the county.

(B) Any amounts donated, contributed, or received by the city and by the county for the purpose of the World War memorial.

(5) That the necessary cost and expenses for the management, maintenance, repairs, and improvement of the World War memorial shall be paid by the county and city in the same proportion that they contribute to the establishment of the memorial.

(6) Any other provisions that may be agreed upon between the county and the city consistent with this chapter.

(f) The city shall pay for its part due under any contract executed with the county under this chapter either from the city's general funds or from the proceeds of bonds sold under this chapter.

(g) The legislative body of the city may authorize by ordinance the sale of bonds of the city for the purpose of raising funds to pay the city's part of the cost under a contract that it executes with the county under this chapter.

(h) The sale of bonds shall comply with a contract executed by a city with the county in which the city is located for any purpose authorized by this chapter, and the levy of taxes to pay the bonds, with interest accruing on the bonds, is governed by this chapter. The legislative body of the city and other proper officers shall sell the necessary bonds and levy and collect the necessary taxes to pay the bonds as they mature and the interest accruing on the bonds as provided in this chapter.

Sec. 12. (a) Except as provided in subsection (f), if a city enters into a contract with the county in which it is located to establish a joint city and county World War memorial, there is established a board of trustees that consists of five (5) members, named "Trustees of the World War Memorial for the County

_____ and the city of _____", giving the name of the county and the name of the city. The mayor of the city shall appoint two (2) trustees, and the board of commissioners of the county shall appoint three (3) trustees. The trustees shall be appointed by the mayor for a term of three (3) years. The trustees shall be appointed by the board of commissioners for a term of three (3) years.

(b) The trustees shall be selected without regard to their political affiliations, but not more than three (3) trustees may be members of the same political party. The mayor may not appoint more than one (1) trustee from any political party, and the board of commissioners may not appoint more than two (2) trustees from any political party. The trustees must be persons of high standing and character. The trustees shall serve without compensation but may be reimbursed for any reasonable expenses necessarily incurred by them in the performance of their duties.

(c) The judge of the circuit court may, for just cause, based upon written charges:

- (1) specifying the alleged misconduct; and
- (2) filed by the mayor of the city or the board of commissioners;

remove any member of the board of trustees, after notice to the member and a public hearing. In case of a vacancy caused by removal or otherwise, the mayor or board of commissioners making the original appointment shall appoint some qualified individual to fill the unexpired term.

(d) Each trustee shall execute a bond to the county and city in the sum of five thousand dollars (\$5,000), conditioned for the faithful performance of the trustee's duties as trustee, with surety approved by the judge of the circuit court. Each of the trustees shall take and subscribe an oath that the trustee will:

- (1) support the Constitution of the United States and the Constitution of the State of Indiana; and
- (2) faithfully discharge all of the duties as trustee.

The oath must be endorsed on the bond, and the bond and oath must be filed with the circuit court clerk.

(e) If a joint county and city World War memorial is established under this chapter, the following apply:

- (1) The board of trustees established by this chapter for that

purpose has all the powers and may perform all the duties in relation to the acquisition of the real property and the construction of the joint county and city World War memorial as is conferred upon a board of commissioners erecting a county World War memorial.

(2) All money appropriated by the city and the county for the World War memorial shall be disbursed upon estimates submitted by the board of trustees and certified to the proper officers of the city and the proper officers of the county for the respective proportions as provided in the contract between the city and county. Upon these certifications, the proper city and county officers shall draw warrants to pay the amounts certified.

(f) A board of trustees may not be established under this section if the city enters into a contract with the county in which it is located to join the county in acquiring interests in real property to be dedicated by the city and the county and added to real property that may be designated by the state for World War memorial and other public purposes.

Sec. 13. (a) The board of public works of a city, acting for the city or acting jointly with the board of commissioners of the county in which the city is located, may proceed under IC 32-24 and has all powers of eminent domain granted in this chapter or any other statute to acquire interests in real property by purchase or condemnation for any of the purposes authorized by this chapter.

(b) Before the board of public works may purchase an interest in real property, either by the city or jointly by the city and the county in which it is located:

(1) the board of public works;

(2) the board of trustees, as provided in section 12 of this chapter; or

(3) the board of public works acting jointly with the board of commissioners of the county in which the city is located;

must have the real property appraised at its true cash value by at least three (3) disinterested freeholders of the city and may not pay more than the appraised value for any interest in real property. If an owner refuses to sell the owner's interest in real property at the appraised value, the interest in real property must be acquired by condemnation. The legal department of the city shall conduct all

necessary proceedings for the purchase or condemnation of an interest in real property by the city and county jointly, for any purpose under this chapter, without additional compensation.

(c) If a city institutes proceedings to condemn an interest in real property under this chapter, the suit must be brought in the name of the city by the legal department of the city, without additional compensation, at the direction of the board of public works. If there is a joint condemnation of an interest in real property by a city and the county in which it is located, the suit must be brought in the name of the city as provided in this section and in the name of the county, by an attorney representing the county, at the direction of the board of county commissioners of the county. The city or the city and county jointly may:

- (1) join in one (1) action as defendants the owners and all persons interested in one (1) or more interests in real property to be condemned; or
- (2) institute proceedings to condemn separate interests in real property.

Sec. 14. If a city decides to acquire or to join with the county in which it is located in the acquisition of interests in real property as provided in this chapter to be added to real property designated by the state for World War memorial and other public purposes, as provided in this chapter, the city, through its board of public works, with the approval of the mayor, may execute proper deeds, grants, or contracts with the state through the state's proper officers having the custody and control of the state World War memorial, by which the real property acquired by the city or by the city and the county jointly is conveyed to the state for World War memorial and other public purposes, as authorized by this chapter. The deed, grant, or contract must provide for the use by the city or by the city and county jointly of the memorial grounds and structures and that the grounds and structures shall be a city World War memorial to the extent of the money appropriated and used by the city in the acquisition of the grounds and structures.

Sec. 15. The board of public works of a city may grant the use of any structure or any part of a structure constructed by the city, with or without rent or charge, to any organization of soldiers, sailors, marines, and others as a place or places of their meetings and headquarters, for the time and upon the conditions as the

board of public works may determine. The board of public works may also grant the use of the structure for any other lawful public purpose not inconsistent with this chapter for which the structure may be suitable, either with or without rent or charge, as the board of public works determines.

Sec. 16. A city may receive donations, gifts, devises, and bequests for use by the board of public works for the purposes of this chapter. Any money received by the city may, without appropriation by the city's legislative body, be used for the purposes for which the money was donated, as provided in this chapter.

Sec. 17. (a) If a city acquires real property for any of the purposes provided for in this chapter or joins with the county in which the city is located in the acquisition of real property for any of the purposes provided for by this chapter:

(1) the city, through its board of public works with the approval of the mayor; or

(2) the city, through its board of public works with the approval of the mayor, acting jointly with the board of commissioners of the county in which the city is located;

may grant the use of any real property or buildings and improvements on the real property to any organization of soldiers, sailors, or marines of the United States and others with or without rent or charge, upon the conditions as may be determined.

(b) The city, or the city and county, acting as provided in this section, may sell the buildings and improvements on any real property acquired under this chapter.

(c) The net rent or proceeds of the sale of the buildings and improvements, after deducting an amount sufficient to pay for the maintenance and repair of the buildings and improvements, must be deposited as follows:

(1) In the city World War memorial fund if the World War memorial was acquired by the city.

(2) In the city World War memorial fund and in the county World War memorial fund if the World War memorial was acquired by the city and county jointly. The money shall be deposited in the respective funds in the same proportion that the city and county contributed to the acquisition of the World War memorial.

(d) The city, or the city and county acting as provided in this chapter, may convey any real property acquired under this chapter to the state and provide in the contract with the state as to the rent of the buildings and improvements on the real property until necessary to remove the buildings and improvements and for the sale of the buildings and improvements if the real estate is needed by a board of trustees established under this chapter for World War memorial and other public purposes. The contract must provide how the net rent or proceeds must be applied.

Sec. 18. (a) The legislative body of a city may, upon the recommendation of the mayor and city controller, if applicable, of the city, instead of selling bonds as provided in section 5 of this chapter, sell bonds:

- (1) with a maturity of not more than ten (10) years;**
- (2) for any of the purposes authorized by this chapter;**
- (3) at a rate of interest not more than six percent (6%) a year, payable semiannually; and**
- (4) payable at their maturity, but not later than ten (10) years after the date of the issuance of the bonds.**

If the bonds are issued for a period longer than five (5) years, at least two percent (2%) of the total issue of the bonds must mature each year after the fifth year, and the balance must mature and be paid or refunded not later than ten (10) years after the date of issuance.

(b) Bonds issued under this section, the taxes to pay the bonds as they mature, and interest accruing on the bonds must be levied in accordance with sections 5 and 6 of this chapter.

(c) The city's legislative body may refund bonds sold under this section with other bond issues in accordance with section 5 and other provisions of this chapter relating to the sale of bonds. The city's legislative body may name the date when the first series of refunding bonds is due. However, the due date of the first series due may not be more than five (5) years from the date of issue.

Sec. 19. In the establishment and maintenance of a World War memorial, a city's board of public works or the board of trustees of a joint county and city World War memorial has all the powers and duties conferred upon the Indiana war memorials commission under IC 10-18-1 to the extent the powers and duties conferred in IC 10-18-1 are not inconsistent with this chapter. However, this

chapter does not authorize a city's board of public works or a board of trustees of a joint county and city World War memorial to employ a secretary.

Sec. 20. A person may not bring suit to enjoin the enforcement of this chapter or to prevent the levy or collection of taxes under this chapter.

Sec. 21. All property:

- (1) constituting a city World War memorial;
- (2) constituting a joint county and city World War memorial;
- or
- (3) used or acquired in connection with a city or a joint county and city World War memorial;

for any purpose authorized by this chapter is exempt from taxation for all purposes.

Sec. 22. (a) If a city legislative body wants to implement this chapter, the legislative body must adopt an ordinance that must be in substance as follows:

"Be it resolved by _____ (name of the city's legislative body) that the city should proceed (or jointly with _____ County, in which it is located) to carry out the purposes of IC 10-18-4.".

The ordinance must be submitted to the mayor of the city for approval. If the ordinance is approved by the mayor, the city clerk shall give notice of the adoption of the ordinance by the publication of the ordinance in full by two (2) insertions published at least one (1) week apart under IC 5-3-1-4.

(b) The city may appropriate money, issue bonds, levy taxes, and do everything necessary to implement this chapter.

(c) If a city issues bonds under this chapter and the bonds must be refunded, the city's legislative body is not required to adopt an ordinance for that purpose.

(d) A city's rights and powers under this chapter are not exhausted by being exercised one (1) or more times, but are continuing rights and powers. A subsequent exercise of power under this chapter by a city does not require the city's legislative body to adopt an ordinance. A city that wants to act a subsequent time to implement this chapter may proceed, acting through its board of public works, with the approval of its mayor, when money has been appropriated for the action by an ordinance passed by the

city's legislative body and approved by the mayor, without complying with any other law relating to appropriations and budgets except for section 3 of this chapter.

(e) A taxpayer aggrieved by an action under this section may appeal the decision to the circuit court of the county within ten (10) days in the same manner as other appeals are taken from an action of the board. The cause of action shall be tried de novo.

Chapter 5. Township Memorials

Sec. 1. A township trustee may receive as public property a monument or memorial built:

- (1) in the township;
- (2) in honor of the township's soldiers or marines; and
- (3) by the people with public donations;

if the people of the township want to give the monument or memorial to the township.

Sec. 2. The township trustee shall care for and repair a monument or memorial described in section 1 of this chapter with township money.

Chapter 6. Veterans Associations

Sec. 1. A veterans association established under this chapter must meet the following requirements:

- (1) The association must be formed by at least three (3) individuals who:

- (A) served in the military or naval forces of the United States during any war or campaign; and
- (B) are residents of Indiana.

- (2) The association must have written articles of association that comply with the requirements under this chapter.

- (3) The association must be formed for any of the following purposes:

- (A) To acquire, own, maintain, and administer homes, assembly halls, or schools.
- (B) To provide care, protection, education, and general welfare for indigent and helpless soldiers, sailors, marines, or nurses who served in the military or naval forces of the United States and their widows, orphans, half-orphans, and other soldiers, sailors, or marines.

- (4) The association must be formed for charitable and educational purposes and operated as a nonprofit association.

Sec. 2. The articles of association must specify the following:

- (1) The corporate name of the veterans association.**
- (2) The object of the association, with the proposed plan of doing business.**
- (3) The city or town and county of the principal place of business of the association.**
- (4) The term of existence of the association.**
- (5) The names of the association's directors or trustees who are to serve for the first year and until the directors' or trustees' successors take office.**

Sec. 3. (a) The articles of association must be filed with the secretary of state, and a copy must be filed with the county recorder of the county where the veterans association's principal place of business is located.

(b) After the articles of association are filed with the secretary of state and county recorder, the veterans association is a body politic and corporate, with the following powers:

- (1) To sue and be sued in the veterans association's corporate name.**
- (2) To acquire property, real and personal, by gift, devise, bequest, and purchase.**
- (3) To use, lease, or dispose of personal or real property that furthers the purposes of the association.**
- (4) To borrow money and to issue notes, bonds, or other usual forms of securities.**
- (5) To secure the payment of the veterans association's obligations by mortgages or deeds of trust upon the veterans association's real or personal property.**

Sec. 4. A veterans association established under this chapter must include the following provisions in the association's bylaws:

- (1) The election or appointment of the veterans association's officers.**
- (2) The admission of veterans association members or other persons to the association's homes, assembly halls, or schools.**
- (3) The expulsion of members and other individuals when it is in the best interest and welfare of the veterans association's homes, assembly halls, and schools.**

Sec. 5. If allowed by the veterans association's bylaws, an association established under this chapter may employ teachers or

attendants.

Chapter 7. Memorial Corporations

Sec. 1. At least six (6) residents of Indiana may voluntarily associate themselves into a memorial corporation for the following purposes:

- (1) To perpetuate the memory of soldiers and sailors.**
- (2) To hold meetings and conduct ceremonies.**
- (3) To decorate, beautify, maintain, protect, improve, enlarge, and enhance the conveniences of graves, cemeteries, and places for keeping the bodies of deceased persons.**

Sec. 2. A memorial corporation established under this chapter has the following powers:

- (1) To hold meetings, conduct ceremonies, and decorate graves and burial places.**
- (2) To erect and pay the expenses for monuments and memorials.**
- (3) To receive and hold donations, gifts, devises and bequests, and funds produced by taxation and real and personal property.**
- (4) To purchase, hold, lease, mortgage, hypothecate, and sell real estate and personal property.**
- (5) To take real or personal property by will.**
- (6) To take or hold real or personal property in trust and manage the property as set forth in the instrument creating the trust, in a manner that is not inconsistent with the uses provided in this chapter.**
- (7) To invest the funds belonging to the corporation and loan and invest the money owned or held by the corporation.**
- (8) To sue and be sued in all matters necessary to carry out the provisions of this chapter.**

Sec. 3. (a) The officers of a memorial corporation must include the following:

- (1) President.**
- (2) Vice president.**
- (3) Secretary.**
- (4) Treasurer.**
- (5) Three (3) trustees.**

(b) All officers serve without pay except the secretary, whose compensation shall be fixed by a majority of the trustees.

(c) The offices of secretary and treasurer may be held by the same person.

(d) The term of each officer is for one (1) year and until the officer's successor is elected and qualified.

(e) The treasurer shall give bond in a sum double the amount of all money and securities that may come into the possession of the treasurer. The amount of the bond must be approved by the trustees.

(f) Each officer must be elected by a majority vote cast by the owners of the stock. A vote may not be cast by proxy or by an agent of the owner. Elections shall be held at 2 p.m. on the first Tuesday of April of each year at the office of the secretary. However, an election may be held at another convenient place if the election is designated in a notice signed by not less than two (2) trustees and published at least one (1) week before the election in the weekly newspaper printed and published nearest to the place of the election.

(g) A special election may be held for all vacant offices if a notice is signed by all the trustees and the notice is published at least one (1) week before the election in a weekly newspaper printed and published nearest to the place of the election. The notice must specify the time and place of the election and all the officer vacancies that can be filled.

(h) The books of the memorial corporation shall be kept at the office of the secretary.

Sec. 4. All property owned or held by the memorial corporation constitutes a permanent fund to be owned, held, used, and operated solely for the purposes set forth in sections 1 and 2 of this chapter and not for the gain or for the personal benefit of any person, corporation, or association.

Sec. 5. (a) A memorial corporation organized under this chapter may hold and manage funds, money, or property in trust for any person or for any purpose expressed in the terms of the trust. However, the trust must be for some of the purposes or objects set forth in sections 1 and 2 of this chapter.

(b) A person competent to make a will may create a trust under this section.

Sec. 6. The money, property, or income owned or held by a memorial corporation organized under this chapter may not be

owned, held, or used to promote the interest or teachings of a specific church, sect, school, or creed. However, the memorial corporation may not discriminate against an individual or organization because of religious beliefs.

Sec. 7. (a) The stock of a memorial corporation consists of one (1) share for each five dollars (\$5) of the permanent fund belonging to the corporation. The secretary of the memorial corporation shall issue to any person paying money into, or in any manner augmenting, the permanent fund of the corporation a certificate of stock for each five dollars (\$5) in money or property in value. Each stock certificate must be signed by the president and attested by the secretary.

(b) Every share of stock that is issued is entitled to one (1) vote in the election of officers. However, the vote must be cast by the owner of the stock in person and not by an agent or a proxy.

(c) Stock in a memorial corporation may be assigned by the owner or transferred by will. If the owner of any share of the stock dies without having disposed of the stock by a will, the stock held by the deceased owner is canceled. Canceled stock is referred to as "dead stock", and all other stock is referred to as "active stock", and only the owners of active stock may participate in election of officers of the memorial corporation.

Sec. 8. The board of trustees of a memorial corporation shall do the following:

(1) Conduct the prudential affairs of the memorial corporation.

(2) Vote on the loans, investments, purchases, sales, and the policy and manner of conducting the affairs of the corporation.

(3) Keep all the money loaned, invested, or in some manner active and bring into the treasury funds to carry out the spirit and letter of this chapter.

Sec. 9. (a) The existence of a memorial corporation organized under this chapter is perpetual.

(b) The permanent fund of a memorial corporation is perpetual and may not be reduced for any purpose. The income from the investment of a memorial corporation's permanent fund may be used only for purposes allowed in this chapter.

(c) The stock and property of a memorial corporation is

nontaxable.

Sec. 10. The officers and trustees of a memorial corporation may adopt bylaws for the guidance and conduct of the memorial corporation's affairs as the officers and trustees consider proper. However, the bylaws may not conflict with this chapter.

Sec. 11. If at least six (6) persons desire to create a memorial corporation under this chapter, each person shall pay to the permanent fund of the corporation at least five dollars (\$5) and sign articles of incorporation that contain the name of the corporation, the place where the corporation's business will be conducted, and the names of the individuals who will be the initial officers until the first regular election after the organization of the memorial corporation. The articles of incorporation may be in substance as follows:

"We, the undersigned, residents of the state of Indiana, hereby associate ourselves together for the purpose of forming a memorial corporation under the provisions of IC 10-18-7. We have each paid in the sum of five dollars (\$5) (or the sum agreed upon). The business of the corporation shall be conducted at the town (or city) of _____ in the county of _____ and state of Indiana, and the officers to hold and to conduct the affairs of the corporation until the next regular election, as provided by IC 10-18-7, shall be: _____, president; _____, vice president; _____, secretary; _____, treasurer; and _____, _____, and _____, trustees (filling all blanks to suit the application). The name of the corporation shall be The _____ Memorial Association of _____, Indiana.

In witness whereof, we hereunto subscribe our names this _____ day of _____ (month) in _____ (year).

Names

Names"

Sec. 12. If:

- (1) section 11 of this chapter is fully complied with;
- (2) the articles provided for in section 11 of this chapter are signed; and
- (3) the money is paid to the treasurer;

the articles of incorporation shall be filed with the secretary of state, along with a fee of one dollar (\$1). The secretary of state shall record the articles in the secretary of state's office and return to

the secretary of the corporation a certified copy of the articles. The certificate must contain the date of the filing. The memorial corporation is considered to be in full force and existence from the time the articles of incorporation are filed.

Chapter 8. Local Appropriations to Veterans Organizations

Sec. 1. (a) The respective authorities of counties, townships, cities, and towns may appropriate annually to one (1) post, garrison, or camp of each of the following organizations in the respective counties, townships, cities, or towns a sum of not more than five hundred dollars (\$500) to any post, garrison, or camp to aid in defraying the expenses of Memorial Day:

- (1) Veterans of Foreign Wars of the United States.**
- (2) United Spanish War Veterans.**
- (3) Disabled American Veterans of the World War.**
- (4) The American Legion.**
- (5) The Army and Navy Union of the United States of America.**
- (6) Marine Corps League.**
- (7) Veterans of World War I, Inc.**
- (8) American Veterans of World War II.**
- (9) Catholic War Veterans.**
- (10) Jewish War Veterans.**
- (11) American Ex-Prisoners of War.**
- (12) American Veterans of World War II, Korea and Vietnam (AMVETS).**
- (13) American War Mothers.**
- (14) Blinded Veterans Association.**
- (15) Congressional Medal of Honor Society of the United States of America.**
- (16) Gold Star Wives of America, Inc.**
- (17) Legion of Valor of the U.S.A., Inc.**
- (18) Military Order of the Purple Heart of the U.S.A., Inc.**
- (19) Non Commissioned Officers Association (NCOA).**
- (20) Paralyzed Veterans of America.**
- (21) Pearl Harbor Survivors Association, Inc.**
- (22) Polish Legion of American Veterans, USA.**
- (23) Regular Veterans Association.**
- (24) The Retired Enlisted Association.**
- (25) U.S. Submarine Veterans of World War II.**

(26) Vietnam Veterans of America, Inc.

(27) Women's Army Corps Veterans Association.

(b) However, in a county in which there is a county memorial day society, county veterans' council, or any other county memorial day association, the county council may annually appropriate to one (1) society, council, or association, instead of the appropriations to the various organizations listed in subsection (a), a sum of not more than the total amounts to which the organizations listed in subsection (a) would be collectively entitled, to aid in defraying the expenses of Memorial Day.

Sec. 2. The counties, townships, cities, and towns may appropriate annually money to be allocated to an appropriate nonprofit veterans organization for the development, establishment, or maintenance of a veterans memorial located within the county of the county, town, city, or township allocating the funds.

SECTION 10. IC 3-10-8-4.5, AS AMENDED BY P.L.204-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. Whenever the election division receives a notice under section 4 of this chapter, the election division shall notify the following offices and agencies that a special election will be conducted within all or part of Indiana:

- (1) Each agency serving persons with disabilities and designated as a voter registration site under IC 3-7-16.
- (2) Armed forces recruitment offices in accordance with procedures established under IC 3-7-17.
- (3) Each agency designated as a voter registration site and subject to IC 3-7-18.
- (4) The alcohol and tobacco commission for purposes of enforcing IC 7.1-5-10-1.
- (5) The bureau of motor vehicles for voter registration purposes under IC 9-24-2.5.
- (6) The adjutant general for purposes of enforcing ~~IC 10-2-4-16.~~
IC 10-16-7-17.
- (7) The division of family and children for voter registration purposes under IC 12-14-1.5, IC 12-14-25, and IC 12-15-1.5.
- (8) The state department of health for voter registration purposes under IC 16-35-1.6.

(9) The Federal Voting Assistance Program of the United States Department of Defense, for notification of absent uniformed services voters and overseas voters.

SECTION 11. IC 4-6-9.1-1, AS ADDED BY P.L.124-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Sections 1 through 7 of this chapter apply to the period during which an emergency is declared and the twenty-four (24) hours before the declaration by the governor under ~~IC 10-4-1-7 or IC 10-4-1-7.1~~; **IC 10-14-3-12 or IC 10-14-3-13**.

(b) The definitions in ~~IC 10-4-1-3~~ **IC 10-14-3** apply to this chapter.

SECTION 12. IC 4-6-9.1-7, AS ADDED BY P.L.124-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. This chapter preempts the power of local governments to regulate pricing of commodities under a declaration of emergency:

- (1) under ~~IC 10-4-1-7~~; **IC 10-14-3-12**;
- (2) under ~~IC 10-4-1-7.1~~; **IC 10-14-3-13**; or
- (3) by a local government.

SECTION 13. IC 4-13-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. ~~The provisions of~~ This chapter ~~shall in no way may not be construed to~~ restrict the powers of the state board of accounts as prescribed by IC 5-11-1 ~~and shall in no way or~~ restrict the powers and functions of the ~~Indiana~~ state police ~~department~~ as prescribed by ~~IC 10-1-1~~; ~~nor shall the provisions of IC 10-11-2~~. This chapter, except IC 4-13-1-4(1) and ~~(3)~~; **IC 4-13-1-4(3)**, **does not** apply to the state universities and Ivy Tech State College.

SECTION 14. IC 4-13-1.4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "state agency" means any of the following:

- (1) A state agency (as defined in IC 4-13-1-1).
- (2) Any other authority, board, branch, commission, committee, department, division, or other instrumentality of the executive branch of state government, including the following:
 - (A) A state educational institution (as defined in IC 20-12-0.5-1).
 - (B) A license branch operated or administered under IC 9-16.
 - (C) The state police department created by ~~IC 10-1-1-1~~.

IC 10-11-2-4.

SECTION 15. IC 4-15-2-3.8, AS AMENDED BY P.L.215-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.8. "State service" means public service by:

- (1) employees and officers, including the incumbent directors, of the county offices of family and children; and
- (2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability, aging, and rehabilitative services, Fort Wayne State Developmental Center, Muscatatuck State Developmental Center, division of mental health and addiction, Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Central State Hospital, Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of correction, Westville Correctional Facility, Plainfield Juvenile Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of fire and building services, state emergency management agency (excluding a county emergency management organization and any other local emergency management organization created under ~~IC 10-4-1~~; **IC 10-14-3**), civil rights commission, criminal justice planning agency, department of workforce development, Indiana historical bureau, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, department of labor, Indiana protection and advocacy services commission, commission on public records, Indiana horse racing commission,

and state personnel department.

SECTION 16. IC 4-20.5-6-2, AS AMENDED BY P.L.123-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section does not apply to enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29~~; **IC 10-11-2-28**.

(b) The department shall maintain, equip, and operate the following:

(1) The state capitol building.

(2) The office buildings and other property owned or leased by the state for the use of an agency.

SECTION 17. IC 4-20.5-6-5, AS AMENDED BY P.L.123-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Except for enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29~~; **IC 10-11-2-28**, the commissioner is the custodian of state buildings and grounds.

SECTION 18. IC 4-20.5-6-7, AS AMENDED BY P.L.123-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The department may adopt rules under IC 4-22-2 to govern the protection and custody of state property, except for enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29~~; **IC 10-11-2-28**.

SECTION 19. IC 4-20.5-6-8, AS AMENDED BY P.L.123-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section does not apply to enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29~~; **IC 10-11-2-28**.

(b) The commissioner may regulate:

(1) the traffic and parking of motor vehicles, bicycles, or other vehicles; and

(2) the traffic of pedestrians;

on the streets, roads, paths, and grounds of real property controlled by the state through the department in and around the state capitol, office buildings, parking garages, and adjoining state controlled property.

(c) Rules adopted under subsection (b) may include the following:

(1) Provisions governing the registration, speed, weight, operation, parking, times, places, and use of motor vehicles, bicycles, and other vehicles.

- (2) Provisions governing the traffic of pedestrians.
- (3) Provisions prescribing the assessment and collection of civil penalties for the violation of rules adopted by the commissioner. Penalties may include the following:

- (A) The imposition of reasonable charges.
- (B) The removal and impounding (at the expense of the violator) of vehicles that are operated or parked in violation of rules adopted by the commissioner.
- (C) The denial of permission to operate a vehicle on the property in and around the state capitol building, office buildings, parking garages, and adjoining state controlled property.

(d) Rules adopted under this section must include provisions for an administrative appeal when a civil penalty is imposed under the rules. A person aggrieved by a final disposition of an appeal by the department may appeal the disposition to a court of jurisdiction. The attorney general may enforce a civil penalty imposed under this section by filing an appropriate action in a court of jurisdiction.

(e) This section does not limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys, or ways.

SECTION 20. IC 5-2-12-7, AS AMENDED BY P.L.116-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Not more than fourteen (14) days before an Indiana offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a community transition or community corrections program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

- (1) Orally inform the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender was orally informed or, if the offender refuses to sign the statement, certify that the offender was orally informed of the duty to register.

(2) Deliver a registration form advising the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender received the written notice or, if the offender refuses to sign the statement, certify that the offender was given the written notice of the duty to register.

(3) Obtain the address where the offender expects to reside after the offender's release.

(4) Inform in writing on a form or in the form prescribed or approved by the institute the sheriff having jurisdiction in the county or the police chief having jurisdiction in the consolidated city where the offender expects to reside of the offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the offender.

(b) Not more than three (3) days after an offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The offender's fingerprints, photograph, and identification factors.

(2) The address where the offender expects to reside after the offender's release.

(3) The complete criminal history data (as defined in ~~IC 5-2-5-1~~) **IC 10-13-3-5** or, if the offender committed a delinquent act, juvenile history data (as defined in ~~IC 5-2-5.1-5~~) **IC 10-13-4-4** of the offender.

(4) Information regarding the offender's past treatment for mental disorders.

(5) Information as to whether the offender has been determined to be a sexually violent predator.

(c) This subsection applies if an offender is placed on probation or in a community corrections program without confining the offender in a penal facility. The probation office serving the court in which the sex and violent offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 21. IC 5-10-0.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The prohibitions of Article 11, Section 12 of the Constitution of the State of Indiana do

not apply to:

- (1) the public employees' retirement fund (IC 5-10.3);
- (2) the Indiana state teachers' retirement fund (IC 21-6.1);
- (3) the Indiana state police pre-1987 benefit system (~~IC 10-1-2.2~~); **(IC 10-12-3)**;
- (4) the Indiana state police 1987 benefit system (~~IC 10-1-2.3~~); **(IC 10-12-4)**; or
- (5) any other public employee retirement fund administered by the board of trustees of the Indiana public employees' retirement fund.

(b) Investments of the funds listed in subsection (a) are subject to the following limitations and regulations:

- (1) Investments of the public employees' retirement fund and any other public employee retirement fund administered by the board of trustees of the Indiana public employees' retirement fund are subject to IC 5-10.3-5-3, including P.L.37-1996.
- (2) Investments of the Indiana state teachers' retirement fund are subject to IC 21-6.1-3-9, including P.L.37-1996.
- (3) Investments of the Indiana state police benefit system are subject to ~~IC 10-1-2-2~~; **IC 10-12-2-2**.

SECTION 22. IC 5-10-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

- (1) The state excise police and conservation enforcement officers' retirement plan established under IC 5-10-5.5.
- (2) The "trust fund" and "pension trust" of the state police department established under ~~IC 10-1-2~~; **IC 10-12-2**.
- (3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.
- (4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.

- (5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.
- (6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.
- (7) The Indiana judges' retirement fund established under IC 33-13-8.
- (8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.
- (9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).
- (10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
- (11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.
- (12) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.
- (13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.
- (14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.
- (15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.
- (16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.
- (17) The pension benefit paid for the national guard by the state as established under ~~IC 10-2-4~~ **IC 10-16-7**.
- (18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.
- (19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 23. IC 5-10-1.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The retirement plans covered by this chapter are:

- (1) The state excise police and conservation officers' retirement

plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under ~~IC 10-1-2~~. **IC 10-12-2.**

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under IC 33-13-8.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 24. IC 5-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including ~~his~~ **the person's** name, age, and address.

(2) Information concerning any charges on which the arrest or summons is based.

(3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the:

(A) time and location of the arrest or the issuance of the summons;

(B) investigating or arresting officer (other than an undercover officer or agent); and

(C) investigating or arresting law enforcement agency.

(b) If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including ~~his~~ **the person's** name, age, and address.

(2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose order the person is being held.

(3) The time and date that the person was received and the time and date of ~~his~~ **the person's** discharge or transfer.

(4) The amount of the person's bail or bond, if it has been fixed.

(c) An agency shall maintain a daily log or record that lists suspected crimes, accidents, or complaints, and the following information shall be made available for inspection and copying:

(1) The time, substance, and location of all complaints or requests for assistance received by the agency.

(2) The time and nature of the agency's response to all complaints or requests for assistance.

(3) If the incident involves an alleged crime or infraction:

(A) the time, date, and location of occurrence;

(B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4;

(C) the factual circumstances surrounding the incident; and

(D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency.

(d) This chapter does not affect IC 5-2-4, ~~IC 5-2-5~~, **IC 10-13-3**, or IC 5-11-1-9.

SECTION 25. IC 5-26-1-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. As used in IC 5-26-6, "committee" refers to the state agency public safety committee established by IC 5-26-6-1.**

SECTION 26. IC 5-26-1-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.4. As used in IC 5-26-6, "communications division" refers to the communications division of the state police department.**

SECTION 27. IC 5-26-1-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.6. As used in IC 5-26-6, "department" refers to the state police department established by IC 10-11-2-4.**

SECTION 28. IC 5-26-1-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.8. As used in IC 5-26-6, "FCC" refers to the**

Federal Communications Commission.

SECTION 29. IC 5-26-1-3, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in ~~this article~~, **IC 5-26-2**, "member" refers to a member of the integrated public safety commission.

SECTION 30. IC 5-26-1-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.3. As used in IC 5-26-6, "state public safety agency" means a state entity eligible to hold an authorization in a public safety radio service as set forth in 47 CFR 90 et seq.**

SECTION 31. IC 5-26-1-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.6. As used in IC 5-26-6, "superintendent" refers to the superintendent of the state police department appointed under IC 10-11-2-6.**

SECTION 32. IC 5-26-1-6, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a) Except as provided in subsection (b)**, as used in this article, "user agency" means a public safety agency or other entity that enters into an agreement with the commission to use the system.

(b) As used in IC 5-26-6, "user agency" means a state public safety agency that uses the system.

SECTION 33. IC 5-26-3-5, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), a public safety agency or other entity may join the system with the approval of the commission.

(b) A state public safety agency may join the system if the agency is approved by the state agency public safety committee under ~~IC 10-1-10~~ **IC 5-26-6** and the commission.

SECTION 34. IC 5-26-6 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6. State Agency Public Safety Committee

Sec. 1. The state agency public safety committee is established.

Sec. 2. A state public safety agency that has or wants to have a voice or data wireless communications network must join the

system when technically and economically feasible.

Sec. 3. The communications division is responsible for the following with regard to state public safety agencies and state owned assets unless otherwise directed by the superintendent:

- (1) Maintenance of the main wide area transmitter sites and interconnecting links.
- (2) Management of FCC licensing.
- (3) Frequency planning.
- (4) Appropriate radio program software.
- (5) Code plugs.
- (6) System keys.
- (7) Assignment and control of individual identification numbers and talkgroup numbers.

Sec. 4. The committee shall publish its policies within a standardized operations procedures manual approved by the superintendent.

Sec. 5. The committee shall develop criteria for determining whether a state public safety agency may use the system.

Sec. 6. (a) The committee consists of ten (10) members appointed by the superintendent. Each of the following user agencies shall be represented by one (1) committee member:

- (1) State police department.
- (2) Indiana department of transportation.
- (3) State emergency management agency.
- (4) Department of natural resources.
- (5) Alcohol and tobacco commission.
- (6) Department of state revenue.
- (7) Department of environmental management.
- (8) Military department of the state of Indiana.
- (9) Department of correction.
- (10) Indiana department of administration.

(b) A director of an agency described in subsection (a)(2) through (a)(10) shall recommend a person to the superintendent to serve as a committee member.

(c) The superintendent shall fill any vacancies on the committee.

(d) A committee member serves until the earlier of the following:

- (1) The member is removed by the superintendent.
- (2) The date the member ceases to be employed by the agency

the member represents on the committee.

Sec. 7. (a) Six (6) members of the committee constitute a quorum.

(b) An affirmative vote of at least six (6) members of the committee is required for the committee to take action.

Sec. 8. The department may enter into and administer contracts for the committee.

Sec. 9. The committee's powers include the following:

(1) Ensuring that federal and state communications requirements are followed.

(2) Providing system planning, including mutual aid planning and compatibility planning in coordination with the integrated public safety commission established under IC 5-26-2-1.

(3) Subject to IC 5-26-3-5, determining whether a state public safety agency may become a system user.

(4) Providing assistance to local public safety agencies in making equipment purchases.

(5) Exercising any power necessary to carry out this chapter.

Sec. 10. A chairperson and vice chairperson of the committee shall be selected by the superintendent.

Sec. 11. A member of the committee who is not a state employee is not entitled to:

(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); and

(2) reimbursement for:

(A) traveling expenses as provided under IC 4-13-1-4; and

(B) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 12. A member of the committee who is a state employee is entitled to:

(1) reimbursement for traveling expenses as provided under IC 4-13-1-4; and

(2) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 35. IC 6-1.1-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. Tangible property is exempt from property taxation if it is owned by a corporation which is organized and operated under ~~IC 10-7-12~~ **IC 10-18-7** for the purpose of perpetuating the memory of soldiers and sailors.

SECTION 36. IC 6-1.1-10-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. This chapter does not contain all of the property tax exemption provisions. The property taxation exemption provisions include but are not limited to the following sections:

IC 4-20.5-14-3	IC 20-14-7-3
IC 4-20.5-19	IC 20-14-9-15
IC 5-1-4-26	IC 20-14-10-14
IC 6-1.1-10-5	IC 21-5-11-14
IC 8-10-1-27	IC 21-5-12-10
IC 8-23-7-31	IC 23-7-7-3
IC 8-15-2-12	IC 23-14-70-23
IC 8-21-9-31	IC 36-1-10-18
IC 10-7-1-20	
IC 10-18-2-22	IC 36-7-14-37
IC 10-7-2-32	
IC 10-18-1-36	IC 36-7-15.1-25
IC 10-7-5-12	
IC 10-18-3-12	IC 36-7-18-25
IC 10-7-6-21	
IC 10-18-4-21	IC 36-9-4-52
IC 10-7-12-9	
IC 10-18-7-9	IC 36-9-11-10
IC 14-33-20-27	IC 36-9-11.1-11
IC 15-1.5-6-4	IC 36-9-13-36
IC 16-22-6-34	IC 36-9-13-37
IC 20-12-6-11	IC 36-9-30-31
IC 20-12-7-5	IC 36-10-8-18
IC 20-12-8-5	IC 36-10-9-18

SECTION 37. IC 6-6-2.5-70 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 70. (a) The department may conduct inspections for and enforce the laws concerning coloration of diesel fuel violations, sulfur content violations, marker

violations, and shipping paper violations at any place where taxable fuel is or may be loaded in transport vehicles, produced, or stored. These places may include, but are not limited to:

- (1) a terminal;
- (2) a fuel storage facility that is not a terminal;
- (3) a retail fuel facility; or
- (4) a designated inspection site (defined as any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the commissioner).

(b) Inspections to determine violations under this chapter and enforcement of this chapter may be conducted by the state police department, agents of the department, Indiana state police motor carrier inspectors (in addition to their duties defined under ~~IC 10-1-1-25~~; **IC 10-11-2-26**), and any other law enforcement officer through procedures established by the department. Agents of the department have the same power and authority provided to authorized personnel under IC 16-44-2-11 and IC 16-44-2-12.

(c) The department may determine and approve all equipment used to test dyes, markers, and the chemical composition of fuel inspected under this chapter.

SECTION 38. IC 9-18-45-3, AS ADDED BY P.L.178-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The fees for a safety first license plate are as follows:

- (1) The appropriate fee under IC 9-29-5-38(a).
- (2) An annual fee of twenty-five dollars (\$25).

(b) The annual fee referred to in subsection (a)(2) shall be collected by the bureau.

(c) The annual fee described in subsection (a)(2) shall be deposited in the funds established under ~~IC 10-9-3-1~~. **IC 10-15-3-1**.

SECTION 39. IC 9-20-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The Indiana department of transportation or an agency or a political subdivision authorized by this article to grant permits to operate tractor-mobile home rigs or permits for transporting heavy or oversize vehicles, loads, or other objects not conforming to this article may issue emergency permits to operate in or through Indiana without regard to IC 9-20-14-2 to a person during the period that the following conditions exist:

(1) A state of disaster emergency has been declared by the governor under ~~IC 10-4-1-7~~: **IC 10-14-3-12**.

(2) A state of emergency has been declared by the federal government for an area outside Indiana.

(3) The granting of emergency permits reasonably can be expected to provide relief of the conditions causing the declaration of the state of emergency.

(b) The Indiana department of transportation, an agency, or a political subdivision shall regulate movements by emergency permits to avoid undue hazards.

SECTION 40. IC 12-10-17-12, AS AMENDED BY P.L.134-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The division shall register an individual who provides the following:

(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c).

The division may charge a fee for shipping, handling, and copying expenses.

SECTION 41. IC 12-17.2-2-1.5, AS AMENDED BY P.L.278-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) The division shall require all child care centers or child care homes to submit a report containing the names and birth dates of all children who are enrolled in the child care center or child care home within three (3) months from the date the child care center or child care home accepts its first child, upon receiving the consent of the child's parent, guardian, or custodian as required under subsection (b). The division shall require all child care centers and child care homes that receive written consent as described under subsection (b) to submit a monthly report of the name and birth date of each additional child who has been enrolled in or withdrawn from the child care center or child care home during the preceding thirty (30) days.

(b) The division shall require all child care centers or child care homes to request whether the child's parent, guardian, or custodian desires the center or home to include the child's name and birth date in the reports described under subsection (a) before enrolling the child in the center or home. No child's name or birth date may be included on the report required under subsection (a) without the signed consent of the child's parent, guardian, or custodian. The consent form must be in the following form:

"I give my permission for _____ (name of day care center or home) to report the name and birth date of my child or children to the division of family and children pursuant to

IC 12-17.2-2-1.5.

Name of child _____

Birth date _____

Signature of parent, guardian, or custodian _____

Date _____ "

(c) The division shall submit a monthly report of the information provided under subsection (a) to the Indiana clearinghouse on missing children established under ~~IC 10-1-7~~. **IC 10-13-5.**

(d) The division shall require that a person who transports children who are in the care of the child care center on a public highway (as defined in IC 9-25-2-4) within or outside Indiana in a vehicle designed and constructed for the accommodation of more than ten (10) passengers must comply with the same requirements set forth in IC 20-9.1-5-6.6 for a public elementary or secondary school or a preschool operated by a school corporation.

SECTION 42. IC 14-9-8-28, AS AMENDED BY P.L.206-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The natural resources commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in the department through the tenth year. The salary ranges that the commission assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:

- (1) the base salary in the rank paid to a person with less than one (1) year of service in the department; and
- (2) the highest salary in the rank paid to a person with at least ten (10) years of service in the department.

(b) For purposes of creating the salary matrix prescribed by this section, the natural resources commission may not approve salary ranges for any rank that are less than the salary ranges effective for that rank on January 1, 1995.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the state budget agency before implementation.

(d) The salaries for law enforcement officers of the law enforcement division of the department must be equal to the salaries of police employees of the state police department under ~~IC 10-1-1-4.5~~, **IC 10-11-2-13**, based upon years of service in the department and rank

held.

(e) The money needed to fund the salaries resulting from the matrix prescribed by this section shall come from the appropriation from the professional and technical equity fund.

(f) The requirement of subsection (d) does not affect:

- (1) any rights or liabilities accrued; or
- (2) any proceedings begun;

on or before June 30, 1999. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior civil law and procedure as if the requirement of subsection (d) had not been enacted.

SECTION 43. IC 16-18-2-7, AS AMENDED BY P.L.17-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) "Advanced life support", for purposes of IC 16-31, means care that is given:

- (1) at the scene of:
 - (A) an accident;
 - (B) an act of terrorism (as defined in IC 35-41-1-26.5), if the governor has declared a disaster emergency under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to the act of terrorism; or
 - (C) an illness;
- (2) during transport; or
- (3) at a hospital;

by a paramedic or an advanced emergency medical technician and that is more advanced than the care usually provided by an emergency medical technician.

(b) The term may include any of the following:

- (1) Defibrillation.
- (2) Endotracheal intubation.
- (3) Parenteral injections of appropriate medications, including administration of epinephrine through an auto-injector.
- (4) Electrocardiogram interpretation.
- (5) Emergency management of trauma and illness.

SECTION 44. IC 16-18-2-96, AS AMENDED BY P.L.52-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by IC 16-19-13.

(b) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30,

means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

(c) "Director", for purposes of IC 16-31, refers to the director of the state emergency management agency established under ~~IC 10-8-2-1~~. **IC 10-14-2-1.**

(d) "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

SECTION 45. IC 16-25-6-2, AS ADDED BY P.L.256-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person who owns or operates a hospice program shall apply, not more than three (3) business days after the date that an employee or a volunteer begins to provide hospice services, for a copy of the employee's or volunteer's limited criminal history from the Indiana central repository for criminal history information under ~~IC 5-2-5~~. **IC 10-13-3.**

(b) A hospice program may not employ an individual or allow a volunteer to provide hospice services for more than three (3) business days without applying for that individual's or volunteer's limited criminal history as required by subsection (a).

SECTION 46. IC 16-25-6-3, AS ADDED BY P.L.256-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b), a person who owns or operates a hospice program may not employ an individual or allow a volunteer to provide hospice services if that individual's or volunteer's limited criminal history indicates that the individual or volunteer has:

- (1) been convicted of rape (IC 35-42-4-1);
- (2) been convicted of criminal deviate conduct (IC 35-42-4-2);
- (3) been convicted of exploitation of an endangered adult (IC 35-46-1-12);
- (4) had a judgment entered against the individual for failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or
- (5) been convicted of theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the individual's employment application date.

(b) A hospice program may not employ an individual or allow a

volunteer to provide hospice services for more than twenty-one (21) calendar days without receipt of that individual's or volunteer's limited criminal history required by section 2 of this chapter, unless the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** is solely responsible for failing to provide the individual's or volunteer's limited criminal history to the hospice program within the time required under this subsection.

SECTION 47. IC 16-25-6-4, AS ADDED BY P.L.256-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A person who owns or operates a hospice program is responsible for the payment of fees under ~~IC 5-2-5-7~~ **IC 10-13-3-30** and other fees required under section 2 of this chapter.

(b) This subsection does not apply to a hospice program volunteer. A hospice program may require an individual who applies to the hospice program for employment to provide hospice services:

- (1) to pay the fees described in subsection (a) to the hospice program at the time the individual submits an application for employment; or
- (2) to reimburse the hospice program for the payment of the fees described in subsection (a).

SECTION 48. IC 16-27-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A person who operates a home health agency shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's limited criminal history from the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3**.

(b) A home health agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than three (3) business days without applying for that person's limited criminal history as required by subsection (a).

SECTION 49. IC 16-27-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's limited criminal history indicates that the person has been convicted of any of the following:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Exploitation of an endangered adult (IC 35-46-1-12).
- (4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).
- (5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(b) A home health agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of that person's limited criminal history required by section 4 of this chapter, unless the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** is solely responsible for failing to provide the person's limited criminal history to the home health agency within the time required under this subsection.

SECTION 50. IC 16-27-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A person who operates a home health agency is responsible for the payment of fees under ~~IC 5-2-5-7~~ **IC 10-13-3-30** and other fees required under section 4 of this chapter.

(b) A home health agency may require a person who applies to the home health agency for employment to provide services in a patient's or client's temporary or permanent residence:

- (1) to pay the cost of fees described in subsection (a) to the home health agency at the time the person submits an application for employment; or
- (2) to reimburse the home health agency for the cost of fees described in subsection (a).

SECTION 51. IC 16-28-13-4, AS AMENDED BY P.L.108-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Except as provided in subsection (b), a person who:

- (1) operates or administers a health care facility; or
- (2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

shall apply within three (3) business days from the date a person is

employed as a nurse aide or other unlicensed employee for a copy of the person's state nurse aide registry report from the state department and a limited criminal history from the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** or another source allowed by law.

(b) A health care facility is not required to apply for the state nurse aide registry report and limited criminal history required by subsection (a) if the health care facility contracts to use the services of a nurse aide or other unlicensed employee who is employed by an entity in the business of contracting to provide nurse aides or other unlicensed employees to health care facilities.

SECTION 52. IC 16-28-13-6, AS AMENDED BY P.L.108-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A person who:

- (1) operates or administers a health care facility; or
- (2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

is responsible for the payment of fees under ~~IC 5-2-5-7~~ **IC 10-13-3-30** and other fees required to process a state nurse aide registry report and a limited criminal history under section 4 of this chapter.

(b) A health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility may require a person who applies to the health care facility or entity for employment as a nurse aide or other unlicensed employee:

- (1) to pay the cost of fees described in subsection (a) to the health care facility or entity at the time the person submits an application for employment; or
- (2) to reimburse the health care facility or entity for the cost of fees described in subsection (a).

SECTION 53. IC 16-31-6-4, AS ADDED BY P.L.156-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section does not apply to an act or omission that was a result of gross negligence or willful or intentional misconduct.

(b) An act or omission of a paramedic, an advanced emergency medical technician, an emergency medical technician, or a person with equivalent certification from another state that is performed or made

while providing advanced life support or basic life support to a patient or trauma victim does not impose liability upon the paramedic, the advanced emergency medical technician, the emergency medical technician, the person with equivalent certification from another state, a hospital, a provider organization, a governmental entity, or an employee or other staff of a hospital, provider organization, or governmental entity if the advanced life support or basic life support is provided in good faith:

- (1) in connection with a disaster emergency declared by the governor under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and
- (2) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

SECTION 54. IC 16-37-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The employee in charge of the division of the state department administering the system of vital statistics shall be known as the state registrar and shall do the following:

- (1) Keep the files and records pertaining to vital statistics.
- (2) Perform the duties prescribed by the state department.
- (3) Perform the duties required under ~~IC 10-1-7-8~~ **IC 10-13-5-11**.
- (4) Administer the putative father registry established by IC 31-19-5-2.
- (5) Maintain records of paternity determinations as provided by IC 31-14-9.

SECTION 55. IC 16-37-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as provided in subsection (c), a local health officer shall provide a certification of birth, death, or stillbirth registration upon request by any person only if:

- (1) the health officer is satisfied that the applicant has a direct interest in the matter;
- (2) the health officer determines that the certificate is necessary for the determination of personal or property rights or for compliance with state or federal law; and
- (3) the applicant for a birth certificate presents at least one (1)

form of identification.

However, the local health officer must issue a certificate of an applicant's own birth registration.

(b) A local health officer's decision whether or not to issue a certified copy of a birth certificate is subject to review by a court.

(c) A local health officer may not issue a copy of a birth certificate of a missing child to which a notice has been attached under ~~IC 10-1-7-8~~ **IC 10-13-5-11** without the authorization of the Indiana clearinghouse for information on missing children.

SECTION 56. IC 20-5-2-7, AS AMENDED BY P.L.272-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A school corporation, including a school township, shall adopt a policy concerning criminal history information for individuals who:

- (1) apply for:
 - (A) employment with the school corporation; or
 - (B) employment with an entity with which the school corporation contracts for services;
- (2) seek to enter into a contract to provide services to the school corporation; or
- (3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;

if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a school township, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section may require any of the following:

- (1) The school corporation, including a school township, may request limited criminal history information concerning each applicant for noncertificated employment or certificated employment from a local or state law enforcement agency before or not later than three (3) months after the applicant's employment by the school corporation.
- (2) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation to request under ~~IC 5-2-5~~ **IC 10-13-3** limited criminal history information or a national

criminal history background check concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation may require the individual to provide a set of fingerprints and pay any fees required for a national criminal history background check.

(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in ~~IC 5-2-5-1(1)~~ **IC 10-13-3-11**) to the school corporation.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under ~~IC 5-2-5-~~ **IC 10-13-3;**

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in ~~IC 5-2-5-1(6)~~ **IC 10-13-3-7**) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in subdivision (4)(A) and (4)(B). The school corporation either may require that the individual or the contractor comply with the procedures described in subdivision (4)(C) or (5). Failure to comply with subdivisions (4) and (5), as required by the school corporation, is grounds for termination of

the contract.

(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(d) Information obtained under this section must be used in accordance with ~~IC 5-2-5-6~~. **IC 10-13-3-29.**

SECTION 57. IC 20-6.1-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7.1. (a) As used in this section, "applicant" refers to an applicant for:

- (1) a new license;
- (2) a renewal license; or
- (3) a substitute teacher certificate;

issued by the board.

(b) As used in this section, "limited criminal history" has the meaning set forth in ~~IC 5-2-5-1(1)~~. **IC 10-13-3-11.**

(c) As used in this section, "disposition" has the meaning set forth in ~~IC 5-2-5-1(6)~~. **IC 10-13-3-7.**

(d) An applicant must do the following:

- (1) Submit a request to the Indiana central repository for limited criminal history information under ~~IC 5-2-5~~. **IC 10-13-3.**
- (2) Obtain a copy of the limited criminal history for the applicant from the repository's records.
- (3) Submit to the board the limited criminal history for the applicant.
- (4) Submit to the board a document verifying a disposition that does not appear on the limited criminal history for the applicant.

(e) The board may deny the issuance of a license or certificate to an applicant who is convicted of an offense for which the individual's license may be revoked or suspended under this chapter.

(f) The board must use the information obtained under this section in accordance with ~~IC 5-2-5-6~~. **IC 10-13-3-29.**

(g) An applicant is responsible for all costs associated with meeting the requirements of this section.

SECTION 58. IC 20-8.1-3-17.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.1. (a) Each public school shall and each private school may require a student who initially enrolls in the school after July 1, 1988, to provide:

- (1) the name and address of the school the student last attended,

if any; and

(2) a certified copy of the student's birth certificate or other reliable proof of the student's date of birth.

(b) If the document described in subsection (a)(2):

(1) is not provided to the school within thirty (30) days of the student's enrollment; or

(2) appears to be inaccurate or fraudulent;

the school shall notify the Indiana clearinghouse for information on missing children under ~~IC 10-1-7~~ **IC 10-13-5** and determine if the child has been reported missing.

(c) If a student initially enrolls in a school after July 1, 1988, the school shall, within fourteen (14) days of enrollment, request the student's records from the last school the student attended, if any.

(d) A school in Indiana receiving a request for records shall promptly send the records to the requesting school. However, if a request is received for records to which a notice has been attached under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal), the school:

(1) shall immediately notify the Indiana clearinghouse for information on missing children;

(2) may not send the school records without the authorization of the clearinghouse; and

(3) may not inform the requesting school that a notice under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal) has been attached to the records.

SECTION 59. IC 20-10.1-22.4-3, AS ADDED BY P.L.254-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) As used in this section, "juvenile justice agency" has the meaning set forth in ~~IC 5-2-5.1-6~~ **IC 10-13-4-5**.

(b) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent, guardian, or custodian, under the following conditions:

(1) The disclosure or reporting of education records is to a state or local juvenile justice agency.

(2) The disclosure or reporting relates to the ability of the juvenile

justice system to serve, before adjudication, the student whose records are being released.

(3) The juvenile justice agency receiving the information certifies, in writing, to the entity providing the information that the agency or individual receiving the information has agreed not to disclose it to a third party, other than another juvenile justice agency, without the consent of the child's parent, guardian, or custodian.

(c) For purposes of subsection (b)(2), a disclosure or reporting of education records concerning a child who has been adjudicated as a delinquent child shall be treated as related to the ability of the juvenile justice system to serve the child before adjudication if the juvenile justice agency seeking the information provides sufficient information to enable the keeper of the education records to determine that the juvenile justice agency seeks the information in order to identify and intervene with the child as a juvenile at risk of delinquency rather than to obtain information solely related to supervision of the child as an adjudicated delinquent child.

SECTION 60. IC 20-10.1-30-1, AS ADDED BY P.L.127-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "department of veterans' affairs" refers to the Indiana department of veterans' affairs established by ~~IC 10-5-1-3~~ **IC 10-17-1-2**.

SECTION 61. IC 22-15-5-13, AS ADDED BY P.L.119-2002, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A temporary elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator construction, maintenance, or service and repair.

(4) A temporary mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) An affirmation under penalty of perjury made by both the individual who would receive the temporary license and the licensed elevator contractor that all information provided to the department is true to the best of their knowledge and belief.

(b) A temporary elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (a).

(c) A temporary elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit **the following**:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A temporary mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

(d) An emergency elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators due to a disaster (as defined in ~~IC 10-4-1-3~~; **IC 10-14-3-1**).

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator construction, maintenance, or service and repair.

(4) An emergency mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

(e) An emergency elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (d).

(f) An emergency elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) An emergency mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual who would receive the emergency license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

SECTION 62. IC 23-2-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) This chapter shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this chapter under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this chapter. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

(1) shall employ a chief deputy, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this chapter; and

(2) shall fix their compensation with the approval of the budget agency.

The chief deputy, other deputies, the senior investigator, and the senior accountant, once employed under this chapter, may be dismissed only for cause by the secretary of state upon ten (10) days notice in writing stating the reasons for dismissal. Within fifteen (15) days after dismissal, the chief deputy, other deputies, the senior investigator, and the senior accountant may appeal to the state personnel board. The state personnel board shall hold a hearing, and if it finds that the appealing party was dismissed for a political, social, religious, or racial reason, the appealing party shall be reinstated to the appealing party's position without loss of pay. In all other cases, if the decision is favorable to the appealing party, the secretary of state shall follow the findings and recommendations of the board, which may include reinstatement and payment of salary or wages lost. The hearing and any subsequent proceedings or appeals shall be governed by the provisions of IC 4-15-2 and IC 4-21.5.

(c) Fees and funds of whatever character accruing from the administration of this chapter shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of state in the general fund of the state. Expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, costs of investigations recovered under sections 16(d) and 17.1(c) of this chapter shall be deposited with the treasurer of state to be deposited by the treasurer of state in a separate account to be known as the securities division enforcement account. The funds in the account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter. The funds in the account do not revert to the general fund at the end of any fiscal year.

(d) In connection with the administration and enforcement of the provisions of this chapter, the attorney general shall render all necessary assistance to the securities commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the

securities commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office.

(e) Neither the secretary of state, the securities commissioner, nor an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.

(f) The commissioner, subject to the approval of the secretary of state, may adopt rules, orders, and forms necessary to carry out this chapter, including rules and forms concerning registration statements, applications, reports, and the definitions of any terms if the definitions are consistent with this chapter. The commissioner may by rule or order allow for exemptions from registration requirements under sections 3 and 8 of this chapter if the exemptions are consistent with the public interest and this chapter.

(g) The provisions of this chapter delegating and granting power to the secretary of state, the securities division, and the securities commissioner shall be liberally construed to the end that:

- (1) the practice or commission of fraud may be prohibited and prevented;
- (2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and
- (3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

It is the intent and purpose of this chapter to delegate and grant to and vest in the secretary of state, the securities division, and the securities commissioner full and complete power to carry into effect and accomplish the purpose of this chapter and to charge them with full and complete responsibility for its effective administration.

(h) It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the securities commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this chapter and in a civil proceeding or action arising

under this chapter. If evidence concerning violations of this chapter or a rule or order under this chapter is referred to a prosecuting attorney, the prosecuting attorney shall within ninety (90) days file with the securities commissioner a written statement concerning an action taken or, if no action has been taken, the reasons no action has been taken.

(i) The securities commissioner shall take, prescribe, and file the oath of office prescribed by law. The securities commissioner, senior investigator, and each deputy are police officers of the state and shall have all the powers and duties of police officers in making arrests for violations of this chapter, or in serving any process, notice, or order connected with the enforcement of this chapter by whatever officer or authority or court issued. The securities commissioner, the deputy commissioners for enforcement, and the investigators comprise the enforcement department of the division and are considered a criminal justice agency for purposes of IC 5-2-4 and ~~IC 5-2-5~~: **IC 10-13-3**.

(j) The securities commissioner and each employee of the securities division shall be reimbursed for necessary hotel and travel expenses when required to travel on official duty. Hotel and travel reimbursements shall be paid in accordance with the travel regulations prescribed by the budget agency.

(k) It is unlawful for the secretary of state, the securities commissioner, or the securities division's employees to use for personal benefit information that is filed with or obtained by the securities division and that is not made public. No provision of this chapter authorizes the secretary of state, the securities commissioner, or the employees of the securities division to disclose information except among themselves, or when necessary or appropriate, in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from a privilege that exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the secretary of state, the securities commissioner, or the securities division or its employees.

(l) The commissioner may honor requests from interested persons for interpretative opinions and from interested persons for determinations that the commissioner will not institute enforcement proceedings against specified persons for specified activities. A determination not to institute enforcement proceedings must be consistent with this chapter. The commissioner shall charge a fee of

one hundred dollars (\$100) for an interpretative opinion or determination.

SECTION 63. IC 24-5-14-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. A caller may not use an automatic dialing-announcing device to make a telephone call to the following:

- (1) A hospital (as defined in IC 16-18-2-179(b)).
- (2) An ambulatory outpatient surgical center (as defined in IC 16-18-2-14).
- (3) A health facility (as defined in IC 16-18-2-167).
- (4) An emergency medical services facility (as defined in IC 16-18-2-111).
- (5) A business providing emergency ambulance services (as defined in IC 16-18-2-107).
- (6) A state institution (as defined in IC 12-7-2-184).
- (7) A private mental health institution licensed under IC 12-25.
- (8) A residential facility (as defined in IC 12-7-2-165).
- (9) A law enforcement agency (as defined in ~~IC 5-2-5-1~~;
IC 10-13-3-10).
- (10) A fire department (as defined in IC 36-8-17-2).

SECTION 64. IC 25-1-8-1, AS AMENDED BY P.L.162-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).

- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Mining board (IC 22-10-1.5-2).
- (14) Indiana state board of nursing (IC 25-23-1).
- (15) Indiana optometry board (IC 25-24).
- (16) Indiana board of pharmacy (IC 25-26).
- (17) Indiana plumbing commission (IC 25-28.5-1-3).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2-1).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
- (23) Department of insurance (IC 27-1).
- (24) State police department (~~IC 10-1-1-1~~); **(IC 10-11-2-4)** for purposes of certifying polygraph examiners under IC 25-30-2.
- (25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (26) Private detectives licensing board (IC 25-30-1-5.1).
- (27) Occupational therapy committee (IC 25-23.5-2-1).
- (28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
- (29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (30) State board of registration for land surveyors (IC 25-21.5-2-1).
- (31) Physician assistant committee (IC 25-27.5).
- (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- (33) Board of podiatric medicine (IC 25-29-2-1).
- (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- (35) Indiana physical therapy committee (IC 25-27).
- (36) Manufactured home installer licensing board (IC 25-23.7).
- (37) Any other occupational or professional agency created after June 30, 1981.

SECTION 65. IC 25-22.5-1-2, AS AMENDED BY P.L.255-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not

apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an advanced emergency medical technician (as defined in IC 16-18-2-6), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under

IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee

may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

- (A) a physician;
- (B) a psychiatric hospital;
- (C) a hospital;
- (D) a health maintenance organization or limited service health maintenance organization;
- (E) a health facility;
- (F) a dentist;
- (G) a registered or licensed practical nurse;
- (H) a midwife;
- (I) an optometrist;
- (J) a podiatrist;
- (K) a chiropractor;
- (L) a physical therapist; or
- (M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides care services as defined in IC 16-27-1-0.5.

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

- (1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 66. IC 25-25-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section applies to:

(1) any veteran described in ~~IC 10-5-12-1~~ **IC 10-17-5-2** or ~~IC 10-5-13-1~~; **IC 10-17-5-1**; or

(2) any other veteran to whom this chapter applies because of the provisions of any other statute;

who holds an honorable discharge from such service issued by the proper authorities. Such a person shall be entitled to a license to vend, hawk, and peddle goods, wares, fruits, and merchandise in any county, city, or town ~~within this state~~ **in Indiana** without the payment of any fee ~~therefor~~. **for the license**. Upon the presentation of ~~his~~ **the person's** certificate and papers of discharge, properly executed, to the auditor of any county ~~in this state~~, and proving ~~his~~ **the person's** identity as the person named in ~~his~~ **the person's** certificate of honorable discharge, the auditor shall issue to ~~such ex-soldier~~ **the former soldier** or sailor a **free** license to vend, hawk, and peddle goods, wares, fruits, and

merchandise ~~within in~~ the county and in all cities and towns ~~therein~~ ~~situate, which license shall be free, and no in the county.~~ A fee shall **may not** be charged to the holder of ~~such the~~ license by ~~such the~~ auditor, ~~nor~~ by the authorities of any city or town in ~~such the~~ county, ~~nor or~~ by any other officer. ~~but such~~ **The** license shall be full and complete authority to vend, hawk, and peddle ~~as aforesaid~~; without the payment of any sum of money.

(b) A person who acquires a license under this section is subject to all county, city, or town regulations and ordinances concerning vendors, hawkers, or peddlers, except for those provisions requiring payment of money for obtaining a license.

SECTION 67. IC 25-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" means the state police department established under ~~IC 10-1-1-1.~~ **IC 10-11-2-4.**

"Polygraph examiner" means a person who is solely or partly engaged in the business of establishing the truth or falsity of any statement or representation, by means of a polygraph instrument.

"Polygraph instrument" means a device that permanently and simultaneously records, at a minimum, an individual's cardiovascular and respiratory patterns and galvanic skin responses in order to determine truthfulness.

SECTION 68. IC 25-36.5-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) The definitions set forth in ~~IC 5-2-5-1~~ **IC 10-13-3** apply throughout this section.

(b) The department shall under ~~IC 5-2-5-5(b)~~ **IC 10-13-3-27(b)** request and obtain the release of a limited criminal history from the state police department on each person who applies to the department under this chapter for the issuance of either of the following:

- (1) A timber buyer registration certificate.
- (2) A timber buyer agent's license.

SECTION 69. IC 27-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Any incorporation, association or society organized to insure lives, which provides for the payment of policy claims, or the accumulation of reserve or emergency funds, and the expenses of the management and prosecution of the business by payments to be made either at periods named in the

contract or upon assessments as required, by persons holding similar contracts, and wherein the insured's liability to contribute to the payment of policy claims accrued or to accrue is not limited to a fixed sum, shall be deemed to be engaged in the business of life insurance upon the assessment plan, and shall be subject only to the provisions of this chapter. However, nothing contained in this chapter shall be construed as applicable to any association of religious or secret societies, or to any class of mechanics, express, telegraph or railroad employees, or veterans described in ~~IC 10-5-12-1 or IC 10-5-13-1~~, **IC 10-17-5-2 or IC 10-17-5-1** formed for the mutual benefit of the members thereof and their families exclusively, or to any secret or fraternal societies, lodges or councils that may be organized, or that are now organized and doing business in this state, which conduct their business and secure members on the lodge system exclusively, having ritualistic work and ceremonies in their societies, lodges or councils, and which are under the supervision of the grand or supreme body, nor to any association organized solely for benevolent purposes and not for profit.

SECTION 70. IC 27-8-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. Nothing contained in sections one through twenty-five of this chapter shall be construed to apply to secret or fraternal societies, lodges or councils that are now organized, or that may hereafter be organized, which conduct their business and secure members on the lodge system, exclusively, having ritualistic work and ceremonies in their societies, lodges or councils, and which are under the supervision of a grand or supreme body, nor to any association organized solely for benevolent purposes and not for profit; nor to any association of religious or secret societies, nor to any class of mechanics, express, telegraph or railroad employees or veterans described in ~~IC 10-5-12-1 or IC 10-5-13-1~~ **IC 10-17-5-2 or IC 10-17-5-1** or any existing societies now doing business and formed for the mutual benefit of the members thereof and their families exclusively.

SECTION 71. IC 31-14-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A noncustodial parent who misses visitation as the result of participation in an activity of:

- (1) the Indiana National Guard; or

(2) a reserve component of the armed forces of the United States; may make up the lost visitation as provided in ~~IC 10-2-4-23~~. **IC 10-16-7-22.**

SECTION 72. IC 31-17-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. A noncustodial parent who misses visitation as the result of participation in an activity of:

- (1) the Indiana National Guard; or
- (2) a reserve component of the armed forces of the United States; may make up the lost visitation as provided in ~~IC 10-2-4-23~~. **IC 10-16-7-22.**

SECTION 73. IC 31-34-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. A child is a child in need of services if before the child becomes eighteen (18) years of age:

- (1) the child is a missing child (as defined in ~~IC 10-1-7-2~~); **IC 10-13-5-4**); and
- (2) the child needs care, treatment, or rehabilitation that:
 - (A) the child is not receiving; and
 - (B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 74. IC 31-34-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A child may be taken into custody by:

- (1) a law enforcement officer;
- (2) a probation officer; or
- (3) a caseworker;

acting with probable cause to believe the child is a child in need of services because the child is a missing child (as defined in ~~IC 10-1-7-2~~). **IC 10-13-5-4.**

SECTION 75. IC 31-34-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If a child in need of services is a missing child and is taken into custody under a court order, the person taking the child into custody shall do the following:

- (1) Take the child to a place designated in the order.
- (2) Give notice to the following that the child has been taken into custody:
 - (A) The child's legal custodian.
 - (B) The clearinghouse for information on missing children

established by ~~IC 10-1-7~~; **IC 10-13-5**.

SECTION 76. IC 31-34-2.5-2, AS AMENDED BY P.L.217-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the local child protection service that the provider has taken custody of the child.

(b) The local child protection service shall:

- (1) assume the care, control, and custody of the child immediately after receiving notice under subsection (a); and
- (2) not later than forty-eight (48) hours after the local child protection service has taken custody of the child, contact the Indiana clearinghouse for information on missing children established by ~~IC 10-1-7-3~~ **IC 10-13-5-5** to determine if the child has been reported missing.

SECTION 77. IC 31-36-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Upon completion of the report required by section 1 of this chapter, the law enforcement agency shall immediately forward the contents of the report to:

- (1) all law enforcement agencies that have jurisdiction of the location in which the missing child lives and all law enforcement agencies that have jurisdiction of the location in which the missing child was last seen;
- (2) all law enforcement agencies to which the person who provided notification requests the report be sent, if the law enforcement agency determines that the request is reasonable in light of the information contained in the report;
- (3) all law enforcement agencies that request a copy of the report;
- (4) the Indiana clearinghouse for information on missing children established by ~~IC 10-1-7~~; **IC 10-13-5**;
- (5) the Indiana data and communication system (IDACS); and
- (6) the National Crime Information Center's Missing Person File.

SECTION 78. IC 31-36-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A state or local governmental agency or a public or private organization maintaining a record of the fingerprints of a child shall release a copy of that record to a law enforcement agency if:

- (1) the child is a missing child (as defined in ~~IC 10-1-7-2~~);

IC 10-13-5-4);

(2) a parent or guardian of the child provides written consent for the release of the record; and

(3) the law enforcement agency requests a copy of the record.

(b) Except as provided in IC 31-39-5, a record of the fingerprints of a child taken and retained by a state or local governmental agency shall be destroyed when the child becomes eighteen (18) years of age.

SECTION 79. IC 33-4-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person shall be excused from acting as a juror if the person:

(1) is over sixty-five (65) years of age;

(2) is a member in active service of the armed forces of the United States;

(3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under ~~IC 10-2-1-5~~; **IC 10-16-2-5**;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under ~~IC 10-2-8~~; **IC 10-16-8**;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

SECTION 80. IC 33-19-9-4, AS AMENDED BY P.L.183-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The treasurer of state shall semiannually distribute one million two hundred eighty-eight thousand dollars (\$1,288,000) of the amounts transferred to the state fund under section 3 of this chapter as follows:

(1) Fourteen and ninety-eight hundredths percent (14.98%) shall

be deposited into the alcohol and drug countermeasures fund established under IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established under ~~IC 10-1-8-2~~; **IC 10-11-7**.

(3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the drug prosecution fund established under IC 33-14-8-5.

(4) Five and sixty-two hundredths percent (5.62%) shall be deposited into the corrections drug abuse fund established under IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) shall be deposited into the state drug free communities fund established by IC 5-2-10-2.

(6) Seven and ninety-eight hundredths percent (7.98%) shall be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) shall be deposited in the family violence and victim assistance fund established by IC 12-18-5-2.

(8) Fifteen and fifty-three hundredths percent (15.53%) shall be deposited in the Indiana safe schools fund established by IC 5-2-10.1.

(b) The treasurer of state shall semiannually distribute the amount remaining after the distributions in subsection (a) to the judicial technology and automation project fund established by IC 33-2.1-7-10.

SECTION 81. IC 34-6-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. "Armory", for purposes of IC 34-30-8, means an armory constructed and operated under ~~IC 10-2-2~~; **IC 10-16-3 or IC 10-16-4**.

SECTION 82. IC 34-29-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Statutes outside IC 34 providing immunity from civil arrest include the following:

(1) ~~IC 10-2-4-5~~ **IC 10-16-7-8** (Members of the national guard not subject to arrest on civil process while on duty).

(2) IC 35-37-5 (Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings).

SECTION 83. IC 34-30-2-35 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. ~~IC 10-1-2.5-4~~
IC 10-13-2-6 (Concerning officials who furnish reports, information,
 or statistics to the criminal justice data division).

SECTION 84. IC 34-30-2-36 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. ~~IC 10-2-4-4~~
IC 10-16-7-7 (Concerning members of the national guard).

SECTION 85. IC 34-30-2-37 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37. ~~IC 10-4-1-8~~
IC 10-14-3-15 (Concerning the state, political subdivisions, and
 emergency management workers for injury, death, or property damage).

SECTION 86. IC 34-30-2-37.2 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.2. ~~IC 10-4-1-11~~
IC 10-14-3-18 (Concerning employees of a political subdivision
 rendering aid in another political subdivision or out of state).

SECTION 87. IC 34-30-2-38 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. ~~IC 10-4-1-18(c)~~
IC 10-14-3-25(e) (Concerning persons owning or controlling real
 estate or other premises used to shelter persons during an attack,
 emergency, disaster, or drill).

SECTION 88. IC 34-30-2-38.3 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38.3. ~~IC 10-4-3-1~~
IC 10-14-7-1 (Concerning officers and employees of a state that is a
 party to the interstate earthquake emergency compact, and persons
 rendering aid under the compact).

SECTION 89. IC 34-30-2-39 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. ~~IC 10-7-2-1~~
IC 10-18-1-1 (Concerning members of the Indiana war memorials
 commission).

SECTION 90. IC 34-30-8-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If a person or entity,
 other than a person or entity listed in subdivisions (1) through (10),
 enters into a written agreement to use space in an armory for a function,
 the following persons and entities are not liable for civil damages for
 any property damage or bodily injury resulting from the serving of food
 or beverages at the function held at the armory:

- (1) The state.
- (2) The Indiana army national guard.
- (3) The Indiana air national guard.

- (4) The army national guard of the United States.
- (5) The air national guard of the United States.
- (6) The adjutant general appointed under ~~IC 10-2-2-4~~
IC 10-16-2-6.
- (7) The assistant adjutants general appointed under ~~IC 10-2-2-5~~
IC 10-16-2-7.
- (8) The officers and enlisted members of the Indiana army national guard and the Indiana air national guard.
- (9) The state armory board appointed under ~~IC 10-2-2-9~~
IC 10-10-16-3-1 and the members of that board.
- (10) The local armory board appointed under ~~IC 10-2-2-24~~
IC 10-16-4-1 for the armory and the members of that board.

SECTION 91. IC 35-38-2-2.3, AS AMENDED BY P.L.76-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
- (4) Support the person's dependents and meet other family responsibilities.
- (5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
- (6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
- (7) Pay a fine authorized by IC 35-50.
- (8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

- (9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
- (10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
- (11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
- (12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
- (13) Perform uncompensated work that benefits the community.
- (14) Satisfy other conditions reasonably related to the person's rehabilitation.
- (15) Undergo home detention under IC 35-38-2.5.
- (16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
 - (A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b)(8); or
 - (B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b)(9)(A).
- (17) Refrain from any direct or indirect contact with an individual.
- (18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in ~~IC 10-1-7-2~~; **IC 10-13-5-4**).
- (19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the

person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 92. IC 35-38-5-5, AS AMENDED BY P.L.10-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section does not apply to a request to a law enforcement agency for the release or inspection of a limited criminal history to a noncriminal justice organization or individual whenever the subject of the request is described in ~~IC 5-2-5-5(a)(8) or IC 5-2-5-5(a)(12)~~; **IC 10-13-3-27(a)(8) or IC 10-13-3-27(a)(12)**.

(b) A person may petition the state police department to limit access to ~~his~~ **the person's** limited criminal history to criminal justice agencies if more than fifteen (15) years have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last conviction for a crime.

(c) When a petition is filed under subsection (b), the state police department shall not release limited criminal history to noncriminal justice agencies under ~~IC 5-2-5-5~~; **IC 10-13-5-27**.

SECTION 93. IC 35-38-7-5, AS ADDED BY P.L.49-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A person who was convicted of and sentenced for an offense may file a written petition with the court that sentenced the petitioner for the offense to require the forensic DNA testing and analysis of any evidence that:

(1) is:

(A) in the possession or control of a court or the state; or

(B) otherwise contained in the Indiana DNA data base established under ~~IC 10-1-9~~; **IC 10-13-6**;

(2) is related to the investigation or prosecution that resulted in

the person's conviction; and

(3) may contain biological evidence.

SECTION 94. IC 35-38-7-12, AS ADDED BY P.L.49-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. If the court orders DNA testing and analysis under this chapter, the court shall select a laboratory that meets the quality assurance and proficiency testing standards applicable to laboratories conducting forensic DNA analysis under ~~IC 10-1-9~~: **IC 10-13-6.**

SECTION 95. IC 35-38-7-18, AS ADDED BY P.L.49-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. If the results of the postconviction DNA testing and analysis are not favorable to the person who was convicted of the offense, the court:

(1) shall dismiss the person's petition; and

(2) may make any further orders that the court determines to be appropriate, including any of the following:

(A) An order providing for notification of the parole board or a probation department.

(B) An order requesting that the petitioner's sample be added to the Indiana data base established under ~~IC 10-1-9~~:

IC 10-13-6.

SECTION 96. IC 35-44-2-2, AS AMENDED BY P.L.123-2002, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

(c) A person who:

- (1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;
- (2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;
- (3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false; or
- (4) gives a false report concerning a missing child (as defined in ~~IC 10-1-7-2~~) **IC 10-13-5-4**) or gives false information in the official investigation of a missing child knowing the report or information to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.

SECTION 97. IC 35-47-2.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. If a buyer or transferee is denied the right to purchase a handgun under this chapter because of erroneous criminal history information, the buyer or transferee may exercise the right of access to and review and correction of criminal history information under ~~IC 5-2-5-8~~: **IC 10-13-3-31**.

SECTION 98. IC 35-47-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body of a unit may adopt an emergency ordinance under this chapter if:

- (1) a disaster (as defined in ~~IC 10-4-1-3~~) **IC 10-14-3-1**) has occurred or is likely to occur in the unit; and
- (2) a local disaster emergency has been declared in the unit under ~~IC 10-4-1-23~~: **IC 10-14-3-29**.

SECTION 99. IC 36-1-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An agreement under this section must provide for the following:

- (1) Its duration.
- (2) Its purpose.
- (3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.
- (4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.

(5) Administration through:

(A) a separate legal entity, the nature, organization, composition, and powers of which must be provided; or

(B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to the agreement must be represented.

(6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

In addition, such an agreement may provide for any other appropriate matters.

(b) A separate legal entity or joint board established by an agreement under this section has only the powers delegated to it by the agreement. The agreement may not provide for members, directors, or trustees of the separate legal entity or joint board to make appointments (either individually or jointly) to fill vacancies on the separate legal entity or joint board.

(c) Subsection (a)(6) does not apply to an emergency management assistance compact under ~~IC 10-4-2.5~~. **IC 10-14-5.**

SECTION 100. IC 36-1-7-7, AS AMENDED BY P.L.1-1999, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as provided in subsection (c), if an agreement under section 3 of this chapter concerns the provision of law enforcement or firefighting services, the following provisions apply:

(1) Visiting law enforcement officers or firefighters have the same powers and duties as corresponding personnel of the entities they visit, but only for the period they are engaged in activities authorized by the entity they are visiting, and are subject to all provisions of law as if they were providing services within their own jurisdiction.

(2) An entity providing visiting personnel remains responsible for the conduct of its personnel, for their medical expenses, for worker's compensation, and if the entity is a volunteer fire department, for all benefits provided by IC 36-8-12.

(b) A law enforcement or fire service agency of a unit or of the state may request the assistance of a law enforcement or fire service agency of another unit, even if no agreement for such assistance is in effect. In such a case, subsection (a)(1) and (a)(2) apply, the agency requesting

assistance shall pay all travel expenses, and all visiting personnel shall be supervised by the agency requesting assistance.

(c) This subsection applies to a law enforcement officer that visits another state after a request for assistance from another state under the emergency management compact is made under ~~IC 10-4-2.5~~. **IC 10-14-5**. A law enforcement officer that visits another state does not have the power of arrest unless the law enforcement officer is specifically authorized to exercise the power by the receiving state.

SECTION 101. IC 36-2-7-10, AS AMENDED BY P.L.2-2002, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars (\$6) for the first page and two dollars (\$2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar (\$1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar (\$1) for each cross-reference of a recorded document.

(5) One dollar (\$1) per page not larger than eight and one-half (8 ½) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars (\$2) per page that is larger than eight and one-half (8 ½) inches by

fourteen (14) inches.

(6) Five dollars (\$5) for acknowledging or certifying to a document.

(7) Five dollars (\$5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars (\$3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10) shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) ~~IC 10-5-4-3~~. **IC 10-17-2-3.**

(E) ~~IC 10-5-7-1(a)~~. **IC 10-17-3-2.**

(F) IC 12-14-13.

(G) IC 12-14-16.

(g) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 102. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 5-2-5; IC 5-2-5.1; IC 10-1; IC 10-2; IC 10-3; IC 10-4; IC 10-5; IC 10-6; IC 10-7; IC 10-8; IC 10-9.

P.L.3-2003

[H.1115. Approved April 2, 2003.]

AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

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

SECTION 1. IC 30-2-8.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 8.6. Uniform Custodial Trust Act

Sec. 1. (a) This chapter applies to a transfer or declaration creating a custodial trust that refers to this chapter if, at the time of the transfer or declaration:

(1) the transferor, beneficiary, or custodial trustee:

(A) is a resident of; or

(B) has its principal place of business in Indiana; or

(2) custodial trust property is located in Indiana.

(b) The custodial trust remains subject to this chapter even if the transferor, beneficiary, or custodial trustee:

(1) changes its residence or principal place of business; or

(2) removes custodial trust property;

to a location outside Indiana.

Sec. 2. A transfer made pursuant to an act of another state substantially similar to this chapter is governed by the law of that state and may be enforced in Indiana.

Sec. 3. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Sec. 4. This chapter may be cited as the "Indiana Uniform Custodial Trust Act".

Sec. 5. As used in this chapter, "adult" means an individual who is at least eighteen (18) years of age.

Sec. 6. As used in this chapter, "beneficiary" means an individual for whom property:

- (1) has been transferred to; or
- (2) is held under a declaration of trust by;

a custodial trustee for the individual's use and benefit under this chapter.

Sec. 7. As used in this chapter, "custodial trust property" means the following:

- (1) An interest in property:
 - (A) transferred to; or
 - (B) held under a declaration of trust by;a custodial trustee under this chapter.
- (2) The income from and proceeds of the property interest described in subdivision (1).

Sec. 8. As used in this chapter, "custodial trustee" means a person designated as:

- (1) trustee; or
- (2) substitute or successor to the person designated as trustee;

of a custodial trust under this chapter.

Sec. 9. As used in this chapter, "guardian" has the meaning set forth in IC 29-3-1-6.

Sec. 10. As used in this chapter, "incapacitated" has the meaning set forth in IC 29-3-1-7.5.

Sec. 11. As used in this chapter, "legal representative" means a personal representative or guardian.

Sec. 12. As used in this chapter, "member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of whole or half blood or by adoption.

Sec. 13. As used in this chapter, "person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

Sec. 14. As used in this chapter, "personal representative" has the meaning set forth in IC 29-1-1-3.

Sec. 15. As used in this chapter, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Sec. 16. As used in this chapter, "transferor" means a person who creates a custodial trust by transfer or declaration.

Sec. 17. As used in this chapter, "trust company" means a financial institution, corporation, or other legal entity authorized to exercise general trust powers.

Sec. 18. (a) A person may create a custodial trust of property by a written transfer of the property to another person, evidenced by registration of the property or by an instrument of transfer that:

- (1) is executed in any lawful manner;
- (2) names an individual as beneficiary who may be the transferor; and
- (3) in substance, designates the transferee to be the custodial trustee of the property under this chapter.

(b) A person may create a custodial trust of property by a written declaration evidenced by registration of the property or by another instrument of declaration that:

- (1) is executed in any lawful manner;
- (2) describes the property;
- (3) names as beneficiary an individual other than the declarant; and
- (4) in substance, designates the declarant, who is also the titleholder of the property, to be the custodial trustee of the property under this chapter.

(c) A registration or other declaration of trust for the sole benefit of the declarant is not a custodial trust under this chapter.

(d) Title to custodial trust property is in the custodial trustee and the beneficial interest is in the beneficiary.

Sec. 19. (a) Except as provided in subsection (b), a transferor may not terminate a custodial trust.

(b) A custodial trust may be terminated by the beneficiary if the beneficiary is not incapacitated. In order to terminate the trust, the beneficiary must deliver to the custodial trustee a writing that:

- (1) is signed by the beneficiary; and
- (2) declares the termination of the custodial trust.

(c) If not previously terminated, a custodial trust terminates on the death of the beneficiary.

Sec. 20. A person may augment existing custodial trust property by the addition of other property under this chapter.

Sec. 21. The transferor may:

- (1) designate; or**
- (2) authorize the designation of;**

a successor custodial trustee in the trust instrument.

Sec. 22. (a) This chapter does not supersede or restrict other means of creating trusts.

(b) A trust whose terms do not conform to this chapter may be enforceable according to the terms of the trust under another law.

Sec. 23. (a) A person having the right to designate the recipient of property payable or transferable upon a future event may create a custodial trust upon the occurrence of the future event by designating in writing the recipient, followed in substance by: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(b) Persons may be designated as substitute or successor custodial trustees to whom the property must be paid or transferred in the order named if the first designated custodial trustee is unable or unwilling to serve.

(c) A designation under this section may be made by:

(1) making the designation in:

- (A) a will;**
- (B) a trust;**
- (C) a deed;**
- (D) a multiple party account;**
- (E) an insurance policy;**
- (F) an instrument exercising a power of appointment; or**
- (G) a writing designating a beneficiary of contractual rights; or**

(2) registering the designation with or delivering the designation to the fiduciary, payor, issuer, or obligor of the future right.

Sec. 24. (a) Obligations of a custodial trustee, including the obligation to follow directions of the beneficiary, arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

(b) The custodial trustee's acceptance may be evidenced by a writing stating in substance:

CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, _____ (name of custodial trustee) acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act. I undertake to administer and distribute the custodial trust property under the Indiana uniform custodial trust act. My obligations as custodial trustee are subject to the directions of the beneficiary unless the beneficiary is designated as, is, or becomes incapacitated. The custodial trust property consists of _____.

Dated: _____

(Signature of Custodial Trustee)

(c) Upon accepting custodial trust property, a person designated as custodial trustee under this chapter is subject to personal jurisdiction of the court with respect to any matter relating to the custodial trust.

Sec. 25. (a) Unless otherwise directed by an instrument designating a custodial trustee under section 23 of this chapter, a person, including a fiduciary other than a custodial trustee, who:

- (1) holds property of; or
- (2) owes a debt to;

an incapacitated individual may make a transfer to an adult member of the beneficiary's family or to a trust company as custodial trustee for the use and benefit of the incapacitated individual. If the value of the property or the debt exceeds twenty thousand dollars (\$20,000), the transfer is not effective unless authorized by the court.

(b) A written acknowledgment of delivery, signed by a custodial trustee, is a sufficient receipt and discharge for property transferred to the custodial trustee under this section.

Sec. 26. (a) Beneficial interests in a custodial trust created for multiple beneficiaries are considered to be separate custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of husband and wife, for whom survivorship is presumed, a right of survivorship does not

exist unless the instrument creating the custodial trust specifically provides for survivorship.

(b) Custodial trust property held under this chapter by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial trust.

(c) A custodial trustee of custodial trust property held for at least two (2) beneficiaries shall separately account to each beneficiary under sections 27 and 35 of this chapter for the administration of the custodial trust.

(d) The custodial trust property or the income from the custodial trust property may not be subject to:

- (1) anticipation;
- (2) alienation;
- (3) assignment;
- (4) pledge;
- (5) appointment; or
- (6) any other voluntary or involuntary transfer;

before distribution by the custodial trustee. The custodial trustee may disregard and defeat an attempt to violate the requirements of this subsection.

Sec. 27. (a) If appropriate, a custodial trustee shall register or record the instrument vesting title to custodial trust property.

(b) If the beneficiary is not incapacitated, a custodial trustee shall follow the directions of the beneficiary in the management, control, investment, or retention of the custodial trust property. In the absence of effective contrary direction by the beneficiary while not incapacitated, the custodial trustee shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other law restricting investments by fiduciaries. However, a custodial trustee, in the custodial trustee's discretion, may retain any custodial trust property received from the transferor. If a custodial trustee has a special skill or expertise or is named custodial trustee on the basis of representation of a special skill or expertise, the custodial trustee shall use that skill or expertise.

(c) Subject to subsection (b), a custodial trustee shall take control of and collect, hold, manage, invest, and reinvest custodial trust property.

(d) A custodial trustee at all times shall keep custodial trust

property of which the custodial trustee has control separate from all other property in a manner sufficient to identify it clearly as custodial trust property of the beneficiary. Custodial trust property, the title to which is subject to recordation, is so identified if an appropriate instrument identifying the property is recorded, and custodial trust property subject to registration is identified if it is registered, or held in an account in the name of the custodial trustee, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(e) A custodial trustee shall keep records of all transactions with respect to custodial trust property, including information necessary for the preparation of tax returns, and shall make the records and information available at reasonable times to the beneficiary or legal representative of the beneficiary.

(f) The exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the administration or distribution of a custodial trust.

Sec. 28. (a) A custodial trustee acting in a fiduciary capacity has all the rights and powers over custodial trust property which an unmarried adult owner has over individually owned property, but a custodial trustee may exercise those rights and powers in a fiduciary capacity only.

(b) This section does not relieve a custodial trustee from liability for a violation of section 27 of this chapter.

Sec. 29. (a) If a beneficiary is not incapacitated, the custodial trustee shall:

- (1) pay to the beneficiary; or
- (2) expend for the beneficiary's use and benefit;

so much or all of the custodial trust property as the beneficiary may direct from time to time.

(b) If the beneficiary is incapacitated, the custodial trustee, in the custodial trustee's sole discretion, may expend so much or all of the custodial trust property as the custodial trustee considers advisable for the use and benefit of:

- (1) the beneficiary; and
- (2) individuals who:

(A) were supported by the beneficiary when the beneficiary became incapacitated; or

(B) are legally entitled to support by the beneficiary.

(c) The custodial trustee may make expenditures:

- (1)** in the manner;
- (2)** when; and
- (3)** to the extent;

that the custodial trustee determines suitable and proper. The custodial trustee may make expenditures without court order and without regard to other support, income, or property of the beneficiary.

(d) A custodial trustee may establish checking, savings, or other similar accounts of reasonable amounts under which:

- (1)** the custodial trustee; or
- (2)** the beneficiary;

may withdraw funds from, or draw checks against, the accounts. Funds withdrawn from, or checks written against, the account by the beneficiary are distributions of custodial trust property by the custodial trustee to the beneficiary.

Sec. 30. (a) The custodial trustee shall administer the custodial trust as for an incapacitated beneficiary if:

- (1)** the custodial trust was created under section 25 of this chapter;
- (2)** the transferor has so directed in the instrument creating the custodial trust; or
- (3)** the custodial trustee has determined that the beneficiary is incapacitated.

(b) A custodial trustee may determine that the beneficiary is incapacitated in reliance upon:

- (1)** previous direction or authority given by the beneficiary while not incapacitated, including direction or authority under a durable power of attorney;
- (2)** the certificate of the beneficiary's physician; or
- (3)** other persuasive evidence.

(c) If a custodial trustee for an incapacitated beneficiary reasonably concludes that:

- (1)** the beneficiary's incapacity has ceased; or
- (2)** circumstances concerning the beneficiary's ability to manage property and business affairs have changed since the creation of a custodial trust directing administration as for an incapacitated beneficiary;

the custodial trustee may administer the trust as for a beneficiary who is not incapacitated.

(d) Upon the petition of:

- (1) the beneficiary;
- (2) the custodial trustee; or
- (3) another person interested in:
 - (A) the custodial trust property; or
 - (B) the welfare of the beneficiary;

the court shall determine whether the beneficiary is incapacitated.

(e) If:

- (1) the custodial trustee or a court has not determined that a beneficiary is incapacitated under subsection (b) or (d); and
- (2) the custodial trustee has reason to believe that the beneficiary is incapacitated;

the custodial trustee shall administer the custodial trust in accordance with the provisions of this chapter applicable to an incapacitated beneficiary.

(f) Incapacity of a beneficiary does not terminate:

- (1) the custodial trust;
- (2) any designation of a successor custodial trustee;
- (3) rights or powers of the custodial trustee; or
- (4) any immunities of third persons acting on the instructions of the custodial trustee.

Sec. 31. (a) A third person in good faith and without a court order may act on instructions of, or otherwise deal with, a person purporting to:

- (1) make a transfer as; or
- (2) act in the capacity of;

a custodial trustee.

(b) In the absence of knowledge to the contrary, a third person described in subsection (a) is not responsible for determining:

- (1) the validity of the purported custodial trustee's designation;
- (2) the propriety of, or the authority under this chapter for, any action of the purported custodial trustee;
- (3) the validity or propriety of an instrument executed or instruction given under this chapter by:
 - (A) the person purporting to make a transfer or declaration; or

- (B) the purported custodial trustee; or**
- (4) the propriety of the application of property vested in the purported custodial trustee.**

Sec. 32. (a) A claim based on:

- (1) a contract entered into by a custodial trustee acting in a fiduciary capacity;**
- (2) an obligation arising from the ownership or control of custodial trust property; or**
- (3) a tort committed in the course of administering the custodial trust;**

may be asserted by a third person against the custodial trust property by proceeding against the custodial trustee in a fiduciary capacity, whether or not the custodial trustee or the beneficiary is personally liable.

(b) A custodial trustee is not personally liable to a third person on a contract properly entered into in a fiduciary capacity unless the custodial trustee fails to:

- (1) reveal that capacity; or**
- (2) identify the custodial trust in the contract.**

(c) Unless a custodial trustee is personally at fault, a custodial trustee is not liable to a third person for:

- (1) an obligation arising from control of custodial trust property; or**
- (2) a tort committed in the course of the administration of the custodial trust.**

(d) A beneficiary is not personally liable to a third person for:

- (1) an obligation arising from beneficial ownership of custodial trust property; or**
- (2) a tort committed in the course of administration of the custodial trust;**

unless the beneficiary is personally in possession of the custodial trust property giving rise to the liability or is personally at fault.

(e) Subsections (b) and (c) do not preclude actions or proceedings to establish liability of the custodial trustee or beneficiary to the extent the person sued is protected as the insured by liability insurance.

Sec. 33. (a) Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve as custodial trustee by notifying:

- (1) the person who made the designation;
- (2) the transferor; or
- (3) the transferor's legal representative.

(b) If the person designated to serve as custodial trustee declines to serve under subsection (a), and an event giving rise to a transfer has not occurred:

- (1) the substitute custodial trustee designated under section 23 of this chapter becomes the custodial trustee; or
- (2) if a substitute custodial trustee has not been designated:
 - (A) the person who made the designation may designate a substitute custodial trustee under section 23 of this chapter; or
 - (B) the transferor or the transferor's legal representative may designate a substitute custodial trustee.

(c) A custodial trustee who has accepted the custodial trust property may resign by:

- (1) delivering written notice of resignation to:
 - (A) a successor custodial trustee, if any;
 - (B) the beneficiary; and
 - (C) if the beneficiary is incapacitated, the beneficiary's guardian, if any;
- (2) transferring, registering, or recording an appropriate instrument relating to the custodial trust property in the name of the successor custodial trustee identified under subsection (d); and
- (3) delivering the records to the successor trustee identified under subsection (d).

(d) If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under section 21 or 23 of this chapter becomes custodial trustee. If there is no effective provision for a successor:

- (1) the beneficiary, if not incapacitated, may designate a successor custodial trustee; or
- (2) if the beneficiary is incapacitated, or fails to act within ninety (90) days after the ineligibility, resignation, death, or incapacity of the custodial trustee:
 - (A) the beneficiary's guardian becomes successor custodial trustee; or
 - (B) if the beneficiary does not have a guardian or the

guardian fails to act, the resigning custodial trustee may designate a successor custodial trustee.

(e) If a successor custodial trustee is not designated under subsection (d), any of the following may petition the court to designate a successor custodial trustee:

- (1) The transferor.
- (2) The legal representative of the transferor.
- (3) The legal representative of the custodial trustee.
- (4) An adult member of the beneficiary's family.
- (5) The guardian of the beneficiary.
- (6) A person interested in the custodial trust property.
- (7) A person interested in the welfare of the beneficiary.

(f) A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

(g) A beneficiary, an adult member of the beneficiary's family, a guardian of the person of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court:

- (1) to remove the custodial trustee for cause and designate a successor custodial trustee;
- (2) to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties; or
- (3) for other appropriate relief.

Sec. 34. Except as otherwise provided in the instrument creating the custodial trust, in an agreement with the beneficiary, or by court order, a custodial trustee:

- (1) is entitled to reimbursement from custodial trust property for reasonable expenses incurred in the performance of fiduciary services;
- (2) has a noncumulative election, to be made not later than six (6) months after the end of each calendar year, to charge a reasonable compensation for fiduciary services performed during that year; and
- (3) need not furnish a bond or other security for the faithful

performance of fiduciary duties.

Sec. 35. (a) Upon the acceptance of custodial trust property, the custodial trustee shall provide a written statement describing the custodial trust property. The custodial trustee shall provide a written statement of the administration of the custodial trust property:

- (1) once each year;
- (2) upon request at reasonable times by the beneficiary or the beneficiary's legal representative;
- (3) upon resignation or removal of the custodial trustee; and
- (4) upon termination of the custodial trust.

The statements described by this section must be provided to the beneficiary or to the beneficiary's legal representative, if any. Upon termination of the beneficiary's interest, the custodial trustee shall furnish a current statement to the person to whom the custodial trust property is to be delivered.

(b) The following may petition the court for an accounting by the custodial trustee or the custodial trustee's legal representative:

- (1) A beneficiary.
- (2) The beneficiary's legal representative.
- (3) An adult member of the beneficiary's family.
- (4) A person interested in the custodial trust property.
- (5) A person interested in the welfare of the beneficiary.

(c) A successor custodial trustee may petition the court for an accounting by a predecessor custodial trustee.

(d) In an action or proceeding under this chapter or in any other proceeding, the court may require or permit the custodial trustee or the custodial trustee's legal representative to account. The custodial trustee or the custodial trustee's legal representative may petition the court for approval of final accounts.

(e) If a custodial trustee is removed, the court shall:

- (1) require an accounting;
- (2) order delivery of the custodial trust property and records to the successor custodial trustee; and
- (3) order the execution of all instruments required for transfer of the custodial trust property.

(f) On petition of the custodial trustee or any person who could petition for an accounting, the court, after notice to interested persons, may:

- (1) issue instructions to the custodial trustee;**
- (2) review the propriety of the acts of a custodial trustee; or**
- (3) review the reasonableness of compensation determined by the custodial trustee for the services of the custodial trustee or others.**

Sec. 36. (a) Except as provided in subsection (c), and unless previously barred by adjudication, consent, or limitation, a claim for relief against a custodial trustee for accounting or breach of duty is barred as to a beneficiary, a person to whom custodial trust property is to be paid or delivered, or the legal representative of an incapacitated or deceased beneficiary or payee:

- (1) who has received a final account or statement fully disclosing the matter, unless an action or proceeding to assert the claim is commenced not later than two (2) years after receipt of the final account or statement; or**
- (2) who has not received a final account or statement fully disclosing the matter, unless an action or proceeding to assert the claim is commenced not later than three (3) years after the termination of the custodial trust.**

(b) Except as provided in subsection (c), a claim for relief to recover from a custodial trustee for fraud, misrepresentation, or concealment related to the final settlement of the custodial trust or concealment of the existence of the custodial trust is barred unless an action or proceeding to assert the claim is commenced not later than five (5) years after the termination of the custodial trust.

(c) The limitations on a claim for relief are as follows:

(1) If the claimant is a minor, the claim is barred unless an action or proceeding to assert the claim is commenced before the earlier of the following:

- (A) Two (2) years after the claimant becomes an adult.**
- (B) Two (2) years after the claimant dies.**

(2) If the claimant is an incapacitated adult, the claim is barred unless an action or proceeding to assert the claim is commenced before the earliest of the following:

- (A) Two (2) years after the appointment of a guardian for claimant.**
- (B) Two (2) years after the removal of the incapacity.**
- (C) Two (2) years after the death of the claimant.**

(3) If the claimant:

- (A) was an adult;
- (B) is deceased; and
- (C) was not incapacitated;

the claim is barred unless an action or proceeding to assert the claim is commenced not later than two (2) years after the claimant's death.

Sec. 37. (a) Upon termination of a custodial trust, the custodial trustee shall transfer the unexpended custodial trust property:

- (1) to the beneficiary, if not incapacitated or deceased;
- (2) to the guardian or other recipient designated by the court for an incapacitated beneficiary; or
- (3) upon the beneficiary's death, in the following order:
 - (A) as last directed in a writing:
 - (i) signed by the deceased beneficiary while not incapacitated; and
 - (ii) received by the custodial trustee during the life of the deceased beneficiary;
 - (B) to the survivor of multiple beneficiaries if survivorship is provided for under section 26 of this chapter;
 - (C) as designated in the instrument creating the custodial trust; or
 - (D) to the estate of the deceased beneficiary.

(b) If, when the custodial trust would otherwise terminate, the distributee is incapacitated, the custodial trust continues for the use and benefit of the distributee as beneficiary until the incapacity is removed or the custodial trust is otherwise terminated.

(c) Death of a beneficiary does not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.

Sec. 38. (a) If a transaction, including a declaration with respect to or a transfer of specific property, otherwise satisfies applicable law, the criteria of section 18 of this chapter are satisfied by either of the following:

- (1) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

**TRANSFER UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT**

I, _____ (name of transferor or name and

representative capacity if a fiduciary), transfer to _____ (name of trustee other than transferor), as custodial trustee for _____ (name of beneficiary) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

(Signature)

(2) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

**DECLARATION OF TRUST UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT**

I, _____ (name of owner of property), declare that henceforth I hold as custodial trustee for _____ (name of beneficiary other than transferor) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

(Signature)

(b) Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

(1) Registration of a security in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor;

designated in substance "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(2) Delivery of:

(A) a certificated security, or a document necessary for the transfer of an uncertificated security; and

(B) any necessary endorsement;

to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in subsection (a)(1).

(3) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(4) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(5) Delivery of a written assignment to:

(A) an adult other than the transferor; or

(B) a trust company;

whose name in the assignment is designated in substance by the words: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(6) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of:

(A) a trust company;

(B) an adult other than the donee of the power; or

(C) the donee who holds the power if the beneficiary is

other than the donee;

whose name in the appointment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(7) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor that transfers the right under the contract to:

- (A) a trust company;
- (B) an adult other than the transferor; or
- (C) the transferor if the beneficiary is other than the transferor;

whose name in the notification or assignment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(8) Execution, delivery, and recordation of a conveyance of an interest in real property in the name of:

- (A) a trust company;
- (B) an adult other than the transferor; or
- (C) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(9) Issuance of a certificate of title by an agency of a state or of the United States that evidences title to tangible personal property:

- (A) issued in the name of:
 - (i) a trust company;
 - (ii) an adult other than the transferor; or
 - (iii) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act"; or

- (B) delivered to:
 - (i) a trust company; or
 - (ii) an adult other than the transferor or endorsed by the transferor to that person;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(10) Execution and delivery of an instrument of gift to:

(A) a trust company; or

(B) an adult other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the uniform custodial trust act".

Sec. 39. The provisions of this chapter are severable in the manner provided by IC 1-1-1-8(b).

SECTION 2. IC 30-2-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 15. Total Return Unitrusts

Sec. 1. As used in this chapter, "current valuation year" means the year of the trust for which the unitrust amount is being determined.

Sec. 2. As used in this chapter, "income trust" means a trust created by an inter vivos or a testamentary instrument that has terms that describe the amount that may or must be distributed to a beneficiary by referring to the trust's income.

Sec. 3. As used in this chapter, "net fair market value" means the fair market value of each asset comprising the trust reduced by the liens, debts, and encumbrances of the trust, regardless of whether the liens, debts, and encumbrances are allocable to a specific asset.

Sec. 4. As used in this chapter, "total return unitrust" means an income trust that has been converted to a total return unitrust in accordance with this chapter.

Sec. 5. As used in this chapter, "trustee" refers to the:

(1) trustee of a trust; or

(2) if at least two (2) persons are acting as trustee, a majority of the trustees.

Sec. 6. As used in this chapter, "unitrust amount" means an amount computed as a percentage of the fair market value of the trust as set forth in this chapter.

Sec. 7. As used in this chapter, "unitrust rate" means the percentage of the fair market value of the trust that is determined

under section 15 of this chapter and used to calculate the unitrust amount.

Sec. 8. As used in this chapter, "year" means a calendar year.

Sec. 9. A trustee may:

- (1) release the trustee's power to adjust between trust principal and income under IC 30-2-14-15 and convert an income trust to a total return unitrust;
- (2) reconvert a total return unitrust to an income trust; or
- (3) change the unitrust rate;

if the requirements of this chapter are met.

Sec. 10. (a) Unless expressly prohibited in the governing trust instrument, and if the trustee would not be prohibited from exercising the power to adjust under IC 30-2-14-15(a) because at least one (1) of the provisions of IC 30-2-14-15(c)(3) through IC 30-2-14-15(c)(7) would be applicable, a trustee may, without the approval of the court having jurisdiction of the trust, take an action set forth in section 9 of this chapter if:

(1) the trustee sends written notice of the trustee's proposed action to:

- (A) the settlor of the trust, if the settlor is living; and
 - (B) the trust beneficiaries described in IC 30-2-14-16(b);
- and

(2) no person who receives a written notice under subdivision (1) objects to the proposed action.

(b) To the extent applicable, the notice must:

- (1) state the trustee's intent to release the power to adjust under IC 30-2-14-15 and to convert the trust to a total return unitrust; and
- (2) describe how the unitrust will operate and any decisions made by the trustee under this chapter.

In the notice, the trustee shall also specify an effective date of the conversion, reconversion, or change in the unitrust rate.

(c) A person who receives notice under subsection (a) of a trustee's proposed action may object to the proposed action by delivering a written objection to the trustee not later than sixty (60) days after receiving the notice.

Sec. 11. If a trustee:

- (1) receives an objection under section 10 of this chapter;
- (2) elects not to proceed under section 10 of this chapter; or

(3) is not able to proceed under section 10 of this chapter because the trustee does not have the power to adjust under IC 30-2-14-15(c)(5), IC 30-2-14-15(c)(6), or IC 30-2-14-15(c)(7);

the trustee may petition the court having jurisdiction of the trust for an order that allows the trustee to take an action described in section 9 of this chapter.

Sec. 12. A trust beneficiary described in IC 30-2-14-16(b) may petition the court having jurisdiction of the trust to order the trustee to take an action described in section 9 of this chapter, if the action would not alter any amount in the trust that is permanently set aside for charitable purposes unless both income and principal are set aside.

Sec. 13. If the court finds that the conversion, reconversion, or change in the unitrust rate under this chapter will enable the trustee to better carry out the intent of the settlor or testator and the purposes of the trust, the court shall approve the conversion, reconversion, or change in the unitrust rate under this chapter.

Sec. 14. This section applies if a total return unitrust is reconverted to an income trust. The trustee's release of the trustee's power under IC 30-2-14-15, if it was given at the time the trust was converted to a total return unitrust, is void when the trust is reconverted.

Sec. 15. (a) When a trustee gives notice of a proposed action under section 10 of this chapter to convert a trust to a unitrust, the trustee must include the unitrust rate in the notice of proposed action.

(b) If:

(1) the trustee proposes a unitrust rate of four percent (4%) in the notice of proposed action; and

(2) no beneficiary entitled to notice of the proposed action makes a written objection to the unitrust rate under section 10 of this chapter;

the unitrust rate must be four percent (4%).

(c) A trust may have a unitrust rate that represents a reasonable current return from the trust and best reflects the goals of the trust and the intent of the settlor or testator, but that is not less than three percent (3%) or more than five percent (5%), if the rate is:

(1) agreed upon in writing by the trustee and the beneficiaries

entitled to notice under section 11 of this chapter; or

(2) ordered by the court having jurisdiction of the trust.

Sec. 16. For the first two (2) years of the trust or the first two (2) years after the conversion to a total return unitrust under this chapter, the unitrust amount for a current valuation year of the trust must be the product of the unitrust rate multiplied by the net fair market values of the assets held in the trust on the first business day of the current valuation year.

Sec. 17. Beginning with the third year of the trust, and each year after that year, the unitrust amount for a current valuation year of the trust is the product of the unitrust rate multiplied by the average of the net fair market values of the assets held in the trust on the first business day of:

(1) the current valuation year; and

(2) each of the two (2) years of the trust immediately preceding the current valuation year.

Sec. 18. In determining the net fair market value of each asset held in the trust under sections 16 and 17 of this chapter, the value of the following may not be included:

(1) Any residential property or tangible personal property that, as of the first business day of the current valuation year, at least one (1) income beneficiary of the trust has or had the right to:

(A) occupy; or

(B) possess or control;

other than in a capacity as trustee. However, the right of occupancy or the right to possession or control shall be considered to be the unitrust amount with respect to the residential property or the tangible personal property.

(2) Any asset specifically given to a beneficiary under the terms of the trust and the return on that investment. The return on the investment shall be distributable to the beneficiary.

(3) Any assets that are held in a testator's estate.

Sec. 19. (a) The trustee may exclude any assets for which the fair market value is not readily determinable from the determination of net fair market value of trust assets. However, the terms of the trust continue to apply to these assets.

(b) The trustee may determine any other matter necessary for

the proper functioning of the total return unitrust.

Sec. 20. The unitrust amount may not be reduced for expenses that would be deducted from income if the trust were not a total return unitrust.

Sec. 21. For purposes of section 16 of this chapter, the net fair market values of the assets held in trust on the first business day of a proper valuation year shall be adjusted to reflect any:

- (1) reduction, in the case of a distribution or payment; or
- (2) increase, in the case of a receipt;

for the prior valuation year as if the distribution, payment, or receipt had occurred on the first day of the prior valuation year.

Sec. 22. (a) As used in this section, "short year" refers to a part of a calendar year that:

- (1) begins when the interest of the current beneficiary or class of current beneficiaries begins; or
- (2) ends when the interest of the current beneficiary or class of beneficiaries ends.

(b) The trustee shall prorate the unitrust amount on a daily basis in a short year.

Sec. 23. (a) This section applies to the following trusts:

(1) A trust for which a marital deduction has been taken for federal tax purposes during the lifetime of the spouse for whom the trust was created under Section 2056 or 2523 of the Internal Revenue Code.

(2) A trust to which the generation-skipping transfer tax due under Section 2601 of the Internal Revenue Code does not apply by reason of any effective date or transition rule.

(b) To the extent necessary to satisfy a tax law requirement or to preserve a tax benefit, the unitrust amount may not be less than the net income of the trust. Net income of the trust shall be determined as if the trust were not a unitrust.

Sec. 24. After the income trust is converted to a total return unitrust under this chapter, both of the following apply:

(1) The term "income" in the governing instrument means the unitrust amount plus any income from the trust assets excluded from the determination of net fair market value under sections 18 and 19 of this chapter.

(2) The trustee shall make regular distributions in accordance with the governing instrument construed in accordance with

this chapter.

Sec. 25. (a) Except as provided in subsection (b), and unless otherwise provided by the governing instrument, the unitrust amount shall be considered to have been paid from net income. The net income of the trust shall be determined as if the trust were not a unitrust.

(b) To the extent that:

(1) net income is insufficient to pay the unitrust amount, the unitrust amount shall be considered to have been paid from net realized short term capital gains;

(2) net income and net realized short term capital gains are insufficient to pay the unitrust amount, the unitrust amount shall be considered to have been paid from net realized long term capital gains; and

(3) net income and net realized short term and net long term capital gains are insufficient to pay the unitrust amount, the unitrust amount shall be considered to have been paid from the principal of the trust.

Sec. 26. (a) A trustee who in good faith acts or fails to act under section 9 of this chapter is not liable to any person affected by the action or inaction, regardless of whether the person:

(1) received written notice as provided in section 10 of this chapter; and

(2) was under legal disability at the time of the delivery of the notice.

(b) The exclusive remedy of a person affected by the action or inaction of a trustee is to obtain an order of the court having jurisdiction of the trust that directs the trustee to take an action described in section 9 of this chapter.

SECTION 3. IC 34-30-2-129.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 129.8. IC 30-2-15-26 (Concerning actions of a trustee of a total return unitrust).

P.L.4-2003

[H.1116. Approved April 2, 2003.]

AN ACT to amend the Indiana Code concerning probate.

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

SECTION 1. IC 29-1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) ~~The execution of This section applies to a will executed before, on, or after July 1, 2003.~~ A will, other than a nuncupative will, ~~must~~ **may** be **attested** by the signature of the testator and of at least two (2) witnesses ~~as follows: on one (1) of the following:~~

(1) A will under subsection (b).

(2) A self-proving clause under section 3.1(c) of this chapter.

(3) A self-proving clause under section 3.1(d) of this chapter.

(b) A will may be attested as follows:

(1) The testator, in the presence of two (2) or more attesting witnesses, shall signify to ~~them~~ **the witnesses** that the instrument is the testator's will and either:

(A) sign the will;

(B) acknowledge the testator's signature already made; or

(C) at the testator's direction and in the testator's presence have someone else sign the testator's name.

(2) The attesting witnesses must sign in the presence of the testator and each other.

An attestation or self-proving clause is not required under this subsection for a valid will.

(b) ~~An attested will may at the time of its execution or at any subsequent date be made self-proved by the acknowledgment of the will by the testator and the verifications of the witnesses; each made under the laws of Indiana and evidenced by the signatures of the testator and witnesses attached or annexed to the will in form and content substantially as follows:~~

~~UNDER PENALTIES FOR PERJURY, we, the undersigned testator and the undersigned witnesses, respectively, whose names are signed~~

to the attached or foregoing instrument declare:

- (1) that the testator executed the instrument as the testator's will;
- (2) that, in the presence of both witnesses, the testator signed or acknowledged the signature already made or directed another to sign for the testator in the testator's presence;
- (3) that the testator executed the will as a free and voluntary act for the purposes expressed in it;
- (4) that each of the witnesses, in the presence of the testator and of each other, signed the will as a witness;
- (5) that the testator was of sound mind when the will was executed; and
- (6) that to the best knowledge of each of the witnesses the testator was, at the time the will was executed, eighteen (18) or more years of age or was a member of the armed forces or of the merchant marine of the United States or its allies:

_____	_____
Date	Testator

	Witness

	Witness

(c) Subject to the applicable Indiana Rules of Trial Procedure, a videotape may be admissible as evidence of the following:

- (1) The proper execution of a will.
- (2) The intentions of a testator.
- (3) The mental state or capacity of a testator.
- (4) The authenticity of a will.
- (5) Matters that are determined by a court to be relevant to the probate of a will.

(d) This subsection applies to all wills, regardless of the date a will is executed. A will is presumed to be self-proved if the will includes an attestation clause signed by the witnesses that indicates that:

- (1) The testator signified that the instrument is the testator's will;
- (2) in the presence of at least two (2) witnesses, the testator signed the instrument or acknowledged the testator's signature already made or directed another to sign for the testator in the testator's presence;
- (3) the testator executed the instrument freely and voluntarily for

the purposes expressed in it;

(4) each of the witnesses, in the testator's presence and in the presence of all other witnesses, is executing the instrument as a witness;

(5) the testator was of sound mind when the will was executed; and

(6) the testator is, to the best of the knowledge of each of the witnesses, either:

(A) at least eighteen (18) years of age; or

(B) a member of the armed forces or the merchant marine of the United States or its allies.

(c) A will that is executed substantially in compliance with subsection (b) will not be rendered invalid by the existence of:

(1) an attestation or self-proving clause or other language; or

(2) additional signatures;

not required by subsection (b).

(d) A will executed in accordance with subsection (b) is self-proved if the witness signatures follow an attestation or self-proving clause or other declaration indicating in substance the facts set forth in section 3.1(c) or 3.1(d) of this chapter.

(e) This section shall be construed in favor of effectuating the testator's intent to make a valid will.

SECTION 2. IC 29-1-5-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.1. (a) This section applies to a will executed before, on, or after July 1, 2003. When a will is executed, the will may be:**

(1) attested; and

(2) made self-proving;

by incorporating into or attaching to the will a self-proving clause that meets the requirements of subsection (c) or (d). If the testator and witnesses sign a self-proving clause that meets the requirements of subsection (c) or (d) at the time the will is executed, no other signatures of the testator and witnesses are required for the will to be validly executed and self-proved.

(b) If a will is executed by the signatures of the testator and witnesses on an attestation clause under section 3(b) of this chapter, the will may be made self-proving at a later date by attaching to the will a self-proving clause signed by the testator and

witnesses that meets the requirements of subsection (c) or (d).

(c) A self-proving clause must contain the acknowledgment of the will by the testator and the statements of the witnesses, each made under the laws of Indiana and evidenced by the signatures of the testator and witnesses (which may be made under the penalties for perjury) attached or annexed to the will in form and content substantially as follows:

We, the undersigned testator and the undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument declare:

- (1) that the testator executed the instrument as the testator's will;
- (2) that, in the presence of both witnesses, the testator signed or acknowledged the signature already made or directed another to sign for the testator in the testator's presence;
- (3) that the testator executed the will as a free and voluntary act for the purposes expressed in it;
- (4) that each of the witnesses, in the presence of the testator and of each other, signed the will as a witness;
- (5) that the testator was of sound mind when the will was executed; and
- (6) that to the best knowledge of each of the witnesses the testator was, at the time the will was executed, at least eighteen (18) years of age or was a member of the armed forces or of the merchant marine of the United States or its allies.

Testator

Date

Witness

Witness

(d) A will is attested and self-proved if the will includes or has attached a clause signed by the testator and the witnesses that indicates in substance that:

- (1) the testator signified that the instrument is the testator's will;
- (2) in the presence of at least two (2) witnesses, the testator signed the instrument or acknowledged the testator's

signature already made or directed another to sign for the testator in the testator's presence;

(3) the testator executed the instrument freely and voluntarily for the purposes expressed in it;

(4) each of the witnesses, in the testator's presence and in the presence of all other witnesses, is executing the instrument as a witness;

(5) the testator was of sound mind when the will was executed; and

(6) the testator is, to the best of the knowledge of each of the witnesses, either:

(A) at least eighteen (18) years of age; or

(B) a member of the armed forces or the merchant marine of the United States or its allies.

(e) This section shall be construed in favor of effectuating the testator's intent to make a valid will.

SECTION 3. IC 29-1-5-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.2. Subject to the applicable Indiana Rules of Trial Procedure, a videotape may be admissible as evidence of the following:**

(1) The proper execution of a will.

(2) The intentions of a testator.

(3) The mental state or capacity of a testator.

(4) The authenticity of a will.

(5) Matters that are determined by a court to be relevant to the probate of a will.

SECTION 4. IC 29-1-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. No will in writing, nor any part thereof, except as in this article provided, shall be revoked, unless the testator, or some other person in his presence and by his direction, with intent to revoke, shall destroy or mutilate the same; or such testator shall execute other writing for that purpose, signed, subscribed and attested as required in section 3 or 3.1 of this chapter. A will can be revoked in part only by the execution of a writing as herein provided. And if, after the making of any will, the testator shall execute a second, a revocation of the second shall not revive the first will, unless it shall appear by the terms of such revocation to have been his intent to revive**

it, or, unless, after such revocation, he shall duly republish the previous will.

SECTION 5. IC 29-1-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. An instrument creating an inter vivos trust in order to be valid need not be executed as a testamentary instrument pursuant to section 3 **or 3.1** of this chapter, even though such trust instrument reserves to the maker or settlor the power to revoke, or the power to alter or amend, or the power to control investments, or the power to consume the principal, or because it reserves to the maker or settlor any one or more of said powers.

SECTION 6. IC 29-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) When any resident of Indiana is absent from the individual's usual place of residence and gone to parts unknown for a period of five (5) years, without having made any sufficient provision for the care and management of the individual's property, real or personal, and the court having probate jurisdiction in the county where the individual last resided or where the property is situated determines that:

- (1) the individual's property is suffering waste for want of proper care; or
- (2) the family of the individual is in need of the use and proceeds of the property for support or education (or that the sale of the property, or part thereof, is necessary for the payment of the individual's debts);

it shall be presumed and taken by the court that the individual is dead. The court has jurisdiction over the estate of the individual in the same manner and to the same extent as if the individual were dead. The court shall appoint an administrator of the individual's estate, who shall have all of the powers and rights over the estate and be subject to all of the liabilities and duties that appertain to administrators of decedents' estates.

(b) Before the court may determine that an individual should be presumed dead, notice to the individual must be published ~~for thirty (30) days~~ **once each week for three (3) consecutive weeks, with the first notice published more than thirty (30) days before the hearing** in a newspaper of general circulation in ~~(+) the county where the individual last resided or where the individual's property is located. and~~ ~~(2) the state capital.~~

(c) The will of an individual who is presumed dead under this section is admissible to probate under IC 29-1 and shall be probated as the will of a deceased individual.

SECTION 7. IC 30-4-2.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 2.1. Rules for Interpretation of Trusts

Sec. 1. In the absence of a contrary intent appearing in the trust, a trust shall be construed in accordance with the rules in this chapter.

Sec. 2. (a) Except as provided in subsection (b), in construing a trust naming as beneficiary a person described by relationship to the settlor or to another, a person adopted before:

- (1) the person is twenty-one (21) years of age; and**
- (2) the death of the settlor;**

shall be considered the child of the adopting parent or parents and not the child of the natural or previous adopting parents.

(b) If a natural parent or previous adopting parent marries the adopting parent before the settlor's death, the adopted person shall also be considered the child of the natural or previous adopting parent.

(c) A person adopted by the settlor after the person becomes twenty-one (21) years of age shall be considered the child of the settlor. However, no other person is entitled to establish the relationship to the settlor through the child.

Sec. 3. A provision in a trust that provides, or has the effect of providing, that a beneficiary forfeits a benefit from the trust if the beneficiary contests the trust is void.

Sec. 4. (a) Except as provided in subsection (b) and section 5 of this chapter, when a settlor fails to provide in the settlor's trust for a child who is:

- (1) born or adopted after the making of the settlor's trust; and**
- (2) born before or after the settlor's death;**

the child is entitled to receive a share in the trust assets. The child's share of the trust assets shall be determined by ascertaining what the child's intestate share would have been under IC 29-1-2-1 if the settlor had died intestate. The child is entitled to receive a share of the trust assets equivalent in value to the intestacy share determined under IC 29-1-2-1.

- (b) Subsection (a) does not apply to a child of the settlor if:**
- (1) it appears from the trust that the settlor intentionally failed to provide in the settlor's trust for the child; or**
 - (2) when the trust was executed:**
 - (A) the settlor had at least one (1) child known to the settlor to be living; and**
 - (B) the settlor devised substantially all of the settlor's estate to the settlor's surviving spouse.**

Sec. 5. (a) Except as provided in subsection (b), if, at the time of the making of the trust, the settlor:

- (1) believes a child of the settlor to be dead; and**
- (2) fails to provide for the child in the settlor's trust;**

the child is entitled to receive a share in the trust assets. The child's share of the trust assets shall be determined by ascertaining what the child's intestate share would have been under IC 29-1-2-1 if the settlor had died intestate. The child is entitled to receive a share of the trust assets equivalent in value to the intestacy share determined under IC 29-1-2-1.

(b) Subsection (a) does not apply to a child of the settlor if it appears from the trust or from other evidence that the settlor would not have devised anything to the child had the settlor known that the child was alive.

Sec. 6. If a devise of real or personal property, not included in the residuary clause of the trust:

- (1) is void;**
- (2) is revoked; or**
- (3) lapses;**

the devise becomes a part of the residue and passes to the residuary beneficiary.

Sec. 7. (a) As used in this section, "descendant" includes the following:

- (1) A child adopted before the child is twenty-one (21) years of age by:**
 - (A) the settlor; or**
 - (B) the settlor's descendants.**
- (2) A descendant of a child adopted as set forth in subdivision (1).**
- (3) A child who is born of the mother out of wedlock in either of the following circumstances:**

(A) The mother is a descendant of the settlor.

(B) The mother is the settlor.

(4) If the right of a child born out of wedlock to inherit from the father is or has been established in the manner provided under IC 29-1-2-7, the child, in either of the following circumstances:

(A) The father is a descendant of the settlor.

(B) The father is the settlor.

(5) A descendant of a child born out of wedlock as set forth in subdivisions (3) and (4).

(b) If:

(1) an estate, real or personal, is devised to a descendant of the settlor; and

(2) the beneficiary:

(A) dies during the lifetime of the settlor before or after the execution of the trust; and

(B) leaves a descendant who survives the settlor;

the devise does not lapse, but the property devised vests in the surviving descendant of the beneficiary as if the beneficiary had survived the settlor and died intestate.

Sec. 8. Kindred of the half blood are entitled to receive the same trust interest that they would have received if they had been of the whole blood.

P.L.5-2003

[H.1117. Approved April 2, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-17.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 17.5. UNIFORM DISCLAIMER OF PROPERTY

INTERESTS ACT**Chapter 1. General Provisions**

Sec. 1. This article applies to a disclaimer of an interest in or power over property regardless of when the interest or power was created.

Sec. 2. This chapter does not limit the right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than this article.

Sec. 3. Except as otherwise provided in IC 32-17.5-8, an interest in or power over property existing on July 1, 2003, may be disclaimed after June 30, 2003, if the time for delivering or filing a disclaimer under IC 32-17-7 (before its repeal) has not expired.

Sec. 4. In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 5. This article may be cited as the "Uniform Disclaimer of Property Interests Act (1999)".

Chapter 2. Definitions

Sec. 1. "Beneficiary designation" means an instrument, other than an instrument creating a trust, naming the beneficiary of:

- (1) an annuity or insurance policy;
- (2) an account with a designation for payment on death;
- (3) a security registered in beneficiary form;
- (4) a pension, profit sharing, retirement, or other employment related benefit plan; or
- (5) any other nonprobate transfer at death, except for property held as joint tenants with rights of survivorship or as tenants by the entireties.

Sec. 2. "Disclaimant" means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

Sec. 3. "Disclaimed interest" means the interest that would have passed to the disclaimant had the disclaimer not been made.

Sec. 4. "Disclaimer" means a refusal to accept an interest in or power over property.

Sec. 5. "Fiduciary" means:

- (1) a personal representative, a trustee, or an agent acting under a power of attorney; or
- (2) a person authorized to act as a fiduciary with respect to

the property of another person.

Sec. 6. "Future interest" means an interest that, if it takes effect in possession or enjoyment, takes effect later than the time of its creation.

Sec. 7. "Jointly held property" means property held in the name of at least two (2) persons under an arrangement in which:

- (1) all holders have concurrent interests; and
- (2) the last surviving holder is entitled to the whole of the property.

Sec. 8. "Person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a government, a governmental subdivision, an agency, or instrumentality, a public corporation, or any other legal or commercial entity.

Sec. 9. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band or Alaskan native village recognized by federal law or formally acknowledged by a state.

Sec. 10. "Time of distribution" means the time when a disclaimed interest would otherwise have taken effect in possession or enjoyment.

Sec. 11. "Trust" means:

- (1) a charitable or noncharitable express trust and any additions to the trust, regardless of when or how the trust is created; and
- (2) a trust created under a statute, judgment, or decree which requires the trust to be administered in the manner of an express trust.

Chapter 3. Power to Disclaim; Irrevocability of Disclaimer

Sec. 1. A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if the creator of the interest or power imposed:

- (1) a spendthrift provision or similar restriction on transfer; or
- (2) a restriction or limitation on the right to disclaim.

Sec. 2. Except to the extent a fiduciary's right to disclaim is

expressly restricted or limited by another statute or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if:

- (1) the creator of the power or interest imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim; or
- (2) an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

Sec. 3. (a) As used in this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(b) A disclaimer must:

- (1) be in a writing or other record;
- (2) state that it is a disclaimer;
- (3) describe the interest or power disclaimed;
- (4) be signed by the person making the disclaimer; and
- (5) be delivered or filed in the manner provided in IC 32-17.5-7.

Sec. 4. A partial disclaimer may be expressed as:

- (1) a fraction;
- (2) a percentage;
- (3) a monetary amount;
- (4) a term of years;
- (5) a limitation of a power; or
- (6) any other interest or estate in the property.

Sec. 5. A disclaimer becomes irrevocable upon the occurrence of the later of the following to occur:

- (1) The disclaimer is delivered or filed as set forth in IC 32-17.5-7.
- (2) The disclaimer becomes effective as set forth in IC 32-17.5-4 through IC 32-17.5-6.

Sec. 6. A disclaimer made under this article is not a transfer, an assignment, or a release.

Chapter 4. Disclaimer of Interest in Property

Sec. 1. Except for a disclaimer under IC 32-17.5-5 or

IC 32-17.5-6-1, the following rules apply to a disclaimer of an interest in property:

- (1) A disclaimer takes effect:**
 - (A) when the instrument creating the interest becomes irrevocable; or**
 - (B) upon the intestate's death if the interest arose under the law of intestate succession.**
- (2) A disclaimed interest passes according to any provision in the instrument creating the interest:**
 - (A) that provides for the disposition of the interest should the interest be disclaimed; or**
 - (B) that concerns disclaimed interests in general.**
- (3) If an instrument does not contain a provision described in subdivision (2), the following rules apply:**
 - (A) If the disclaimant is an individual, the following rules apply:**
 - (i) Except as provided in item (ii), the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.**
 - (ii) If, by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive at the time of distribution.**
 - (B) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.**
- (4) Upon the disclaimer of a preceding interest:**
 - (A) a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution; and**
 - (B) a future interest held by the disclaimant is not accelerated in possession or enjoyment.**

Chapter 5. Disclaimer of Rights of Survivorship in Jointly Held Property

Sec. 1. (a) Upon the death of a holder of jointly held property, a surviving holder may disclaim, in whole or part, the greater of the following:

(1) A fractional share of the property determined by dividing one (1) by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates.

(2) All of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

(b) A disclaimer under subsection (a) takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

Chapter 6. Disclaimer of Certain Powers or Interests

Sec. 1. If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

Sec. 2. If the holder of a power of appointment or other power not held in a fiduciary capacity disclaims the power, the following rules apply:

(1) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(2) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.

(3) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

Sec. 3. (a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

(b) A disclaimer of an interest in property by:

(1) persons eligible to receive property upon exercise of the power of appointment; or

(2) a taker in default of an exercise of a power of appointment;

takes effect as of the time the instrument creating the power

becomes irrevocable.

Sec. 4. (a) If a fiduciary disclaims a power held in a fiduciary capacity that has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

(b) If a fiduciary disclaims a power held in a fiduciary capacity that has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

(c) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

Chapter 7. Delivery or Filing of Disclaimer

Sec. 1. Subject to sections 2 through 11 of this chapter, a disclaimer may be delivered by:

- (1)** personal delivery;
- (2)** first class mail; or
- (3)** any other method likely to result in receipt of the disclaimer.

Sec. 2. A disclaimer of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust, must be:

- (1)** delivered to the personal representative of the decedent's estate; or
- (2)** filed with a court having jurisdiction to appoint the personal representative if no personal representative is then serving.

Sec. 3. A disclaimer of an interest in a testamentary trust must be:

- (1)** delivered to the trustee then serving;
- (2)** delivered to the personal representative of the decedent's estate if no trustee is then serving; or
- (3)** filed with a court having jurisdiction to enforce the trust if no personal representative is then serving.

Sec. 4. A disclaimer of an interest in an inter vivos trust must be:

- (1)** delivered to the trustee then serving;
- (2)** filed with a court having jurisdiction to enforce the trust if no trustee is then serving; or
- (3)** delivered to the settlor of a revocable trust or the

transferor of the interest if the disclaimer is made before the time the instrument creating the trust becomes irrevocable.

Sec. 5. A disclaimer of an interest created by a beneficiary designation made before the time the designation becomes irrevocable must be delivered to the person making the beneficiary designation.

Sec. 6. A disclaimer of an interest created by a beneficiary designation made after the time the designation becomes irrevocable must be delivered to the person obligated to distribute the interest.

Sec. 7. A disclaimer by a surviving holder of jointly held property must be delivered to the person to whom the disclaimed interest passes.

Sec. 8. (a) This section applies to a disclaimer of an interest in property by:

- (1) an object; or
- (2) a taker in default;

of exercise of a power of appointment.

(b) At any time after the power was created, the disclaimer must be:

- (1) delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or
- (2) filed with a court having authority to appoint a fiduciary if no fiduciary is then serving.

Sec. 9. A disclaimer by an appointee of a nonfiduciary power of appointment must be:

- (1) delivered to:
 - (A) the holder;
 - (B) the personal representative of the holder's estate; or
 - (C) the fiduciary under the instrument that created the power; or
- (2) filed with a court having authority to appoint the fiduciary if no fiduciary is then serving.

Sec. 10. A disclaimer by a fiduciary of a power over a trust or estate must be delivered as provided in section 2, 3, or 4 of this chapter as if the power disclaimed were an interest in property.

Sec. 11. In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

Chapter 8. Limitation or Bar of Disclaimer

Sec. 1. A disclaimer is barred by a written waiver of the right to disclaim if the waiver is:

- (1) executed before the date of the disclaimer;**
- (2) executed by the person having the right to disclaim; and**
- (3) delivered or filed in the same manner that a disclaimer would be delivered or filed under IC 32-17.5-7.**

Sec. 2. A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

- (1) The disclaimant accepts the interest sought to be disclaimed.**
- (2) The disclaimant voluntarily:**
 - (A) assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed; or**
 - (B) contracts to take an action described in clause (A).**
- (3) A judicial sale of the interest sought to be disclaimed occurs.**

Sec. 3. A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by the previous exercise of the power.

Sec. 4. A disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by the previous exercise of the power unless the power is exercisable in favor of the disclaimant.

Sec. 5. A disclaimer is barred or limited if the disclaimer is barred or limited by Indiana law other than this article.

Sec. 6. (a) A disclaimer of a power over property that is barred by this article is ineffective.

(b) A disclaimer of an interest in property that is barred by this article takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this article had the disclaimer not been barred.

Chapter 9. Tax Qualified Disclaimer

Sec. 1. Notwithstanding any other provision of this article, if, as a result of a disclaimer or transfer, the disclaimed or transferred interest is treated under:

- (1) Title 26 of the United States Code, in effect on July 1, 2003, or later amended or a successor statute; and**
- (2) the regulations promulgated under the statute referred to**

**in subdivision (1);
as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under this article.**

Chapter 10. Recording of Disclaimer

Sec. 1. If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be so filed, recorded, or registered. However, the failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

SECTION 2. IC 32-17-7 IS REPEALED [EFFECTIVE JULY 1, 2003].

P.L.6-2003

[H.1183. Approved April 2, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-2.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. ~~The applicant must meet one (1) of the following education requirements:~~

~~(1) Before January 1, 2000; graduation with a baccalaureate degree from a college or university recognized by the board; and the satisfactory completion of the number of semester hours in accounting, business administration, economics, and other related subjects that the board determines appropriate.~~

~~(2) After December 31, 1999; A first time examination candidate must have at least one hundred fifty (150) semester hours (or the equivalent if a different grading period is used) of college education, including a baccalaureate or higher degree conferred by a college or university acceptable to the board, the total~~

educational program to include an accounting concentration or equivalent as determined by the board to be appropriate.

SECTION 2. IC 25-2.1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. The examination under ~~section 6~~ **section 5** of this chapter must ~~be in writing and~~ test the ~~applicant's~~ **candidate's** knowledge of the subjects of accounting and auditing, and other related subjects that the board specifies, **including business law and taxation.**

SECTION 3. IC 25-2.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 7. ~~An applicant~~ **A candidate** shall ~~be given~~ **retain** credit for each ~~test~~ section of an examination passed in another state if the credit would have been given under the requirements applicable in Indiana at the time the ~~applicant~~ **candidate** took the examination.

SECTION 4. IC 25-2.1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. If the ~~applicant~~ **candidate** can show that ~~the applicant was unable to meet the requirements of section 6 or 7 of this chapter~~ **credit was lost** because of circumstances beyond the ~~applicant's~~ **candidate's** control, the board may waive ~~or defer any of the requirements of sections 6 and 7 of this chapter.~~ **extend the term of conditional credit validity.**

SECTION 5. IC 25-2.1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 9. The board may charge, or provide for a third party administering the examination to charge, each ~~applicant~~ **candidate** a fee prescribed by the board, for each section of the examination or reexamination taken by the ~~applicant.~~ **candidate.**

SECTION 6. IC 25-2.1-3-10, AS AMENDED BY P.L.128-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. An applicant for the initial issuance of a certificate under this chapter shall show that the applicant has had two (2) years of experience. To qualify as experience under this section, an applicant may provide any type of service or advice that:

- (1) constitutes the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills as determined under the rules adopted by the board; and
- (2) is verified by a ~~licensee.~~ **the holder of an active certificate issued under this article or the corresponding provisions of**

another state, as determined by the board.

Experience of the type described in this section applies equally toward meeting the experience requirement of this section regardless of whether it is gained through employment in government, industry, academia, or public practice.

SECTION 7. IC 25-2.1-3-6 IS REPEALED [EFFECTIVE JANUARY 1, 2004].

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "board" refers to the board of accountancy established by IC 25-2.1-2-1.**

(b) If a candidate has earned conditional credits on the written examination administered under IC 25-2.1-3-6:

- (1) before the repeal of IC 25-2.1-3-6 by this act; and**
- (2) as of the launch date of the computer based Uniform CPA Examination;**

the candidate shall retain conditional credits for the corresponding test sections of the computer based Uniform CPA Examination, as defined by rules adopted by the board.

(c) The board may adopt emergency rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to implement subsection (b) and to allow candidates who do not pass all sections of the computer based Uniform CPA Examination to receive conditional credit for those sections passed in a manner consistent with the provisions of the Uniform Accountancy Act and Uniform Accountancy Act Rules published jointly by the National Association of State Boards of Accountancy and the American Institute of Certified Public Accountants. An emergency rule adopted under this subsection expires on the earlier of the following:

- (1) The date that a permanent rule adopted under IC 4-22-2 supersedes an emergency rule adopted under this subsection.**
- (2) December 31, 2004.**

SECTION 9. **An emergency is declared for this act.**

P.L.7-2003
[S.515. Approved April 9, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-6.1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. (a) The division shall reduce an award made under this chapter by the amount of benefits received or to be received from the following sources if those benefits result from or are in any manner attributable to the bodily injury or death upon which the award is based:

- ~~(1)~~ Restitution from the offender.
- ~~(2)~~ Benefits from a third party on behalf of the offender.
- ~~(3)~~ **(1)** Benefits from public or private pension programs, including Social Security benefits.
- ~~(4)~~ **(2)** Benefits from proceeds of insurance policies.
- ~~(5)~~ **(3)** Benefits under IC 22-3-2 through IC 22-3-6.
- ~~(6)~~ **(4)** Unemployment compensation benefits.
- ~~(7)~~ **(5)** Benefits from other public funds.

Compensation must be further reduced or denied to the extent that the claimant's loss is recouped from other collateral sources.

(b) The division shall further reduce an award under this chapter by the following:

- (1) The amount of court ordered restitution actually received by the victim from the offender.**
- (2) Benefits actually received by the victim from a third party on behalf of the offender.**

(c) The division shall determine whether the victim vigorously pursued recovery against available collateral sources described in this section.

~~(e)~~ **(d)** If the division finds that a victim has failed to pursue an applicable collateral source of recovery, the division shall reduce or deny an award under this section by the amount that is available to the victim through the collateral source.

P.L.8-2003

[H.1059. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-62.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 62.5. (a) "Fire lane", for purposes of IC 9-21-16-5.5, means an area that is:**

(1) located within twelve (12) feet of:

(A) a building that:

(i) is occupied for commercial, professional, religious, or any other purpose; and

(ii) is not a building that is intended for use as a dwelling for one (1) or two (2) families; or

(B) a sidewalk immediately adjacent to or attached to a building; and

(2) designated as a fire lane under IC 9-21-16-5.5(c).

(b) The term includes an alley.

SECTION 2. IC 9-21-16-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. (a)** This section applies to a fire lane that is located on property that is privately or publicly owned.

(b) A person may not stop, stand, or park a vehicle in a fire lane.

(c) This section may be enforced by any of the following law enforcement officers:

(1) A state police officer.

(2) A city, town, or county police officer.

(3) A sheriff.

(c) A fire lane must be marked with the words "No Parking Fire Lane" in white letters and a stripe of at least four (4) inches in width, in conformance with the Indiana Manual on Uniform Traffic Control Devices. The words and stripe must be placed twelve (12) feet from the sidewalk, curb, or building. The words

"No Parking Fire Lane" must be positioned between the stripe and the sidewalk, curb, or building.

(d) This section does not prohibit a county, city, or town from adopting and enforcing an ordinance that regulates stopping, standing, and parking motor vehicles in a fire lane.

(e) An ordinance adopted under subsection (d) may not conflict with this section.

(f) A law enforcement agency authorized to enforce:

(1) subsection (b); or

(2) an ordinance adopted under subsection (d);

may appoint volunteers to issue complaints and summonses for violations of subsection (b) or an ordinance adopted under subsection (d).

(g) To issue complaints and summonses, a volunteer appointed under subsection (f) must:

(1) be at least twenty-one (21) years of age;

(2) complete a course of instruction concerning the enforcement of this chapter that is conducted by the appointing law enforcement agency;

(3) after successfully completing the course of instruction, obtain a certificate from the executive authority of the appointing law enforcement agency; and

(4) satisfy any other qualifications established by the law enforcement agency.

(h) The executive authority of a law enforcement agency that appoints volunteers under subsection (f) shall file a copy of each certificate issued under subsection (g)(3) with the prosecuting attorney having jurisdiction over the area served by the law enforcement agency.

(i) A complaint and summons issued by a volunteer appointed under subsection (f) has the same force and effect as a complaint and summons issued by a law enforcement officer for the same violation.

(j) A volunteer appointed under subsection (f) does not have powers of a law enforcement officer, except those powers granted under this section.

(k) The executive authority of a law enforcement authority that appoints a volunteer under subsection (f) may, at any time, revoke the certificate issued to the volunteer under subsection (g)(3). If a

certificate is revoked under this subsection:

- (1) the executive authority shall notify the prosecuting attorney with whom the certificate was filed under subsection (h) of the revocation; and**
- (2) the volunteer's powers under this section terminate immediately upon the revocation.**

(l) A volunteer appointed under subsection (f) may not issue a complaint and summons upon private property unless the law enforcement agency that appointed the volunteer first receives permission from the property owner or the property manager.

(m) A property owner is not liable for property damage or personal injury resulting from the actions of a volunteer appointed under subsection (f) issuing a complaint and summons.

SECTION 3. IC 9-21-16-5.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.7. A person enforcing this chapter may issue a complaint and summons for a violation of section 5.5(b) of this chapter or an ordinance adopted under section 5.5(d) of this chapter on a form other than the forms described in IC 9-30-3-6. However, the complaint must comply with the Indiana Rules of Trial Procedure.**

P.L.9-2003

[H.1077. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-46-3-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) As used in this chapter, "law enforcement animal" means an animal that is owned or used by a law enforcement agency for the principal purposes of:

- (1) aiding in:

- (A) the detection of criminal activity;
- (B) the enforcement of laws; and
- (C) the apprehension of offenders; and
- (2) ensuring the public welfare.
- (b) The term includes, but is not limited to, the following:
 - (1) A horse.
 - (2) An arson investigation dog.
 - (3) A bomb detection dog.
 - (4) A narcotic detection dog.
 - (5) A patrol dog.
 - ~~(6) A search and rescue dog.~~
 - ~~(7) A tracking dog.~~

SECTION 2. IC 35-46-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) A person who knowingly or intentionally:

- (1) strikes, torments, injures, or otherwise mistreats a law enforcement animal; or
- (2) interferes with the actions of a law enforcement animal while the animal is engaged in assisting a law enforcement officer in the performance of the officer's duties;

commits a Class A misdemeanor.

(b) An offense under subsection (a)(1) is a Class D felony if the act results in:

- (1) serious permanent disfigurement;**
- (2) unconsciousness;**
- (3) permanent or protracted loss or impairment of the function of a bodily member or organ; or**
- (4) death;**

of the law enforcement animal.

(c) It is a defense that the accused person:

- (1) engaged in a reasonable act of training, handling, or discipline; and
- (2) acted as an employee or agent of a law enforcement agency.

~~(c)~~ **(d)** In addition to any sentence or fine imposed for a conviction of an offense under this section, the court may order the person convicted to make restitution to the person or law enforcement agency owning the animal for reimbursement of:

- (1) veterinary bills; and

(2) replacement costs of the animal if the animal is disabled or killed.

SECTION 3. IC 35-46-3-11.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11.3. (a) As used in this section, "search and rescue dog" means a dog that receives special training to locate or attempt to locate by air scent or ground or water tracking a person who is an offender or is lost, trapped, injured, or incapacitated.**

(b) A person who knowingly or intentionally:

(1) interferes with the actions of a search and rescue dog while the dog is performing or is attempting to perform a search and rescue task; or

(2) strikes, torments, injures, or otherwise mistreats a search and rescue dog;

commits a Class A misdemeanor.

(c) An offense under subsection (b)(2) is a Class D felony if the act results in:

(1) serious permanent disfigurement;

(2) unconsciousness;

(3) permanent or protracted loss or impairment of the function of a bodily member or organ; or

(4) death;

of the search and rescue dog.

(d) It is a defense that the accused person:

(1) engaged in a reasonable act of training, handling, or disciplining the search and rescue dog; or

(2) reasonably believed the conduct was necessary to prevent injury to the accused person or another person.

(e) In addition to any sentence or fine imposed for a conviction of an offense under this section, the court may order the person to make restitution to the person who owns the search and rescue dog for reimbursement of:

(1) veterinary bills; and

(2) replacement costs of the dog if the dog is disabled or killed.

SECTION 4. IC 35-46-3-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11.5. (a) As used in this section, "service animal" means an animal that a person who is impaired by:**

- (1) blindness or any other visual impairment;
- (2) deafness or any other aural impairment;
- (3) a physical disability; or
- (4) a medical condition;

relies on for navigation, assistance in performing daily activities, or alert signals regarding the onset of the person's medical condition.

(b) A person who knowingly or intentionally:

- (1) interferes with the actions of a service animal; or
- (2) strikes, torments, injures, or otherwise mistreats a service animal;

while the service animal is engaged in assisting an impaired person described in subsection (a) commits a Class A ~~infraction~~: **misdemeanor.**

(c) **An offense under subsection (b)(2) is a Class D felony if the act results in the:**

- (1) serious permanent disfigurement;**
- (2) unconsciousness;**
- (3) permanent or protracted loss or impairment of the function of a bodily member or organ; or**
- (4) death;**

of the service animal.

(d) It is a defense that the accused person:

- (1) engaged in a reasonable act of training, handling, or disciplining the service animal; or
- (2) reasonably believed the conduct was necessary to prevent injury to the accused person or another person.

SECTION 5. [EFFECTIVE JULY 1, 2003] IC 35-46-3-11 and IC 35-46-3-11.5, both as amended by this act, and IC 35-46-3-11.3, as added by this act, apply only to offenses committed after June 30, 2003.

P.L.10-2003

[H.1088. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 20-5-4-1.7, AS ADDED BY P.L.253-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.7. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after the termination of their employment by the school corporation under an existing or previous employment agreement.

(b) In addition to the purposes set forth in section 1 of this chapter, a school corporation may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following limitations:

(1) A school corporation may issue bonds for the purpose described in this section only one (1) time.

(2) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's existing unfunded contractual liability for retirement or severance payments, as of June 30, 2001.

(3) The amount of the bonds that may be issued for the purpose described in this section may not exceed two percent (2%) of the ~~total assessed valuation~~ **true tax value** of property in the school corporation.

(4) Each year that a debt service levy is needed under this section, the school corporation shall reduce its total property tax levy for the school corporation's transportation, **school bus replacement**, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(5) A school corporation that issues bonds under this section

shall establish a separate debt service fund for repayment of the bonds.

(c) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(d) Bonds issued under this section must be issued before December 31, ~~2003~~: **2004**.

(e) Bonds issued under this section are not subject to the petition and remonstrance process under IC 6-1.1-20.

(f) Bonds issued under this section are not subject to the limitations contained in IC 36-1-15.

SECTION 2. P.L.253-2001, SECTION 3, IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 3. IC 20-5-4-1.7 IS REPEALED [EFFECTIVE DECEMBER 31, 2004].

SECTION 4. P.L.253-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 4. Notwithstanding the repeal of IC 20-5-4-1.7, as added by ~~this act~~, **P.L.253-2001, SECTION 1**, the following provisions apply to bonds issued under IC 20-5-4-1.7, as added by ~~this act~~, **P.L.253-2001, SECTION 1**, before December 31, ~~2003~~: **2004**:

(1) The bonds remain valid and binding obligations of the school corporation that issued them, as if IC 20-5-4-1.7 had not been repealed.

(2) Each year that a debt service levy is needed for the bonds, the school corporation that issued the bonds shall reduce its total property tax levy for the school corporation's other funds in an amount equal to the property tax levy needed for the debt service on the bonds.

SECTION 5. An emergency is declared for this act.

P.L.11-2003

[H.1141. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-91, AS AMENDED BY P.L.14-2000, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 91. "Fund" means the following:

- (1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.
- (2) For purposes of IC 12-13-8, the meaning set forth in IC 12-13-8-1.
- (3) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.
- (4) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.
- (5) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.
- (6) For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.
- (7) For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.
- (8) For purposes of IC 12-19-7, the meaning set forth in IC 12-19-7-2.
- (9) For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.
- (10) For purposes of IC 12-23-18, the meaning set forth in IC 12-23-18-4.**
- (11) For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.
- ~~(11)~~ **(12)** For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.
- ~~(12)~~ **(13)** For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

SECTION 2. IC 12-23-18 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 18. Methadone Diversion Control and Oversight Program

Sec. 1. (a) Subject to federal law and consistent with standard medical practice in methadone treatment of drug abuse, the division shall adopt rules under IC 4-22-2 to establish and administer a methadone diversion control and oversight program to identify individuals who divert controlled substances from legitimate treatment use and to terminate the methadone treatment of those individuals.

(b) Rules adopted under subsection (a) must include provisions relating to the following matters concerning methadone providers and individuals who receive treatment:

- (1)** Regular clinic attendance by the patient.
- (2)** Specific counseling requirements for the methadone provider.
- (3)** Serious behavior problems of the patient.
- (4)** Stable home environment of the patient.
- (5)** Safe storage capacity of treatment medications within the patient's home.
- (6)** Medically recognized testing protocols to determine legitimate treatment use.
- (7)** The methadone provider's medical director and administrative staff responsibilities for preparing and implementing a diversion control plan.

Sec. 2. (a) Not later than February 28 of each year, each methadone provider must submit to the division a diversion control plan required under section 1(b)(7) of this chapter.

(b) Not later than May 1 of each year, the division shall review and approve plans submitted under subsection (a).

(c) If the division denies a plan submitted under subsection (a), the methadone provider must submit another plan not later than sixty (60) days after the denial of the plan.

Sec. 3. (a) By May 15 of each year, each methadone provider shall submit to the division a fee of twenty dollars (\$20) for each nonresident patient treated by the methadone provider during the preceding calendar year.

(b) The fee collected under subsection (a) shall be deposited in the methadone diversion control and oversight program fund established under section 4 of this chapter.

Sec. 4. (a) As used in this section, "fund" means the methadone diversion control and oversight program fund established under subsection (b).

(b) The methadone diversion control and oversight program fund is established to administer and carry out the purposes of this chapter. The fund shall be administered by the division.

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

(d) The treasurer of state shall invest money in the fund in the same manner as other public money may be invested.

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

Sec. 5. The division shall conduct an annual onsite visit of each methadone provider to assess compliance with the plan approved under this chapter.

Sec. 6. This chapter expires June 30, 2008.

SECTION 3. P.L.39-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 1. (a) As used in this SECTION, "division" refers to the division of mental health **and addiction.**

(b) Except as provided in subsection (c), notwithstanding IC 12-23-1-6(4), IC 12-23-14-7, and 440 IAC 4.4-2-1(e), the division may not grant specific approval to be a new provider of any of the following:

- (1) Methadone.
- (2) Levo-alpha-cetylmethadol.
- (3) Levo-alpha-acetylmethadol.
- (4) Levomethadyl acetate.
- (5) LAAM.

(6) Buprenorphine.

(c) The division may not grant specific approval to be a new provider of one (1) or more of the drugs listed under subsection (b) unless:

- (1) the drugs will be provided in a county with a population of more than forty thousand (40,000);

(2) there are no other providers located in the county or in a county contiguous to the county where the provider will provide the drugs; and

(3) the provider supplies, in writing:

(A) a needs assessment for Indiana citizens under guidelines established by the division; and

(B) any other information required by the division.

(d) Except as provided in subsection (k), the division shall prepare a report by June 30 of each year concerning treatment offered by methadone providers that contains the following information:

(1) The number of methadone providers in the state.

(2) The number of patients on methadone during the previous year.

(3) The length of time each patient received methadone and the average length of time all patients received methadone.

(4) The cost of each patient's methadone treatment and the average cost of methadone treatment.

(5) The rehabilitation rate of patients who have undergone methadone treatment.

(6) The number of patients who have become addicted to methadone.

(7) The number of patients who have been rehabilitated and are no longer on methadone.

(8) The number of individuals, by geographic area, who are on a waiting list to receive methadone.

(9) Patient information as reported to a central registry created by the division.

(e) Each methadone provider in the state shall provide information requested by the division for the report under subsection (d). The information provided to the division may not reveal the specific identity of a patient.

(f) The information provided to the division under subsection (e) must be based on a calendar year.

(g) The information required under subsection (e) for calendar year 1998 must be submitted to the division not later than June 30, 1999. Subsequent information must be submitted to the division not later than:

(1) February ~~28, 2002~~; **29, 2004**, for calendar year ~~2001~~; and

2003;

(2) February 28, ~~2003~~; **2005**, for calendar year ~~2002~~; **2004**;

(3) February 28, 2006, for calendar year 2005;

(4) February 28, 2007, for calendar year 2006; and

(5) February 29, 2008, for calendar year 2007.

(h) Failure of a certified provider to submit the information required under subsection (e) may result in suspension or termination of the provider's certification.

(i) The division shall report to the governor and the legislative council the failure of a certified provider to provide information required by subsection (e).

(j) The division shall distribute the report prepared under subsection (d) to the governor and legislative council.

(k) The first report the division is required to prepare under subsection (d) is due not later than September 30, 1999.

(l) The division shall establish a central registry to receive the information required by subsection (d)(9).

(m) This SECTION expires July 1, ~~2003~~; **2008**.

SECTION 4. P.L.39-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 2. (a) Notwithstanding IC 35-48-3 and 856 IAC 2-3, the Indiana board of pharmacy may not register a new applicant who plans to distribute any of the following unless the applicant has been approved by the division of mental health under SECTION 1 of this act:

(1) Methadone.

(2) Levo-alpha-cetylmethadol.

(3) Levo-alpha-acetylmethadol.

(4) Levomethadyl acetate.

(5) LAAM.

(6) Buprenorphine.

(b) This SECTION expires July 1, ~~2003~~; **2008**.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 12-23-18-2, as added by this act, a methadone provider is not required to submit a diversion control plan until February 28, 2004.**

(b) This SECTION expires July 1, 2004.

SECTION 6. **An emergency is declared for this act.**

P.L.12-2003

[H.1282. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-19-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section does not apply to a manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by FMVSS205 as promulgated in 49 CFR 571.205. Proof from the manufacturer, supplier, or installer that the tinting or glazing is in compliance with or permitted by FMVSS205 must be carried in the vehicle.

(b) This section does not apply to the driver of a vehicle:

(1) that is owned by an individual required for medical reasons to be shielded from the direct rays of the sun; or

(2) in which an individual required for medical reasons to be shielded from the direct rays of the sun is a habitual passenger.

The medical reasons must be attested to by a physician **or optometrist** licensed to practice in Indiana, and the physician's **or optometrist's** certification of that condition must be carried in the vehicle. The physician's **or optometrist's** certificate must be renewed annually.

(c) A person may not drive a motor vehicle that has a:

(1) windshield;

(2) side wing;

(3) side window that is part of a front door; or

(4) rear back window;

that is covered by or treated with suncreening material or is tinted to the extent or manufactured in a way that the occupants of the vehicle cannot be easily identified or recognized through that window from outside the vehicle. However, it is a defense if the sunscreening material applied to those windows has a total solar reflectance of visible light of not more than twenty-five percent (25%) as measured on the nonfilm side and light transmittance of at least thirty percent

(30%) in the visible light range.

(d) A person may not tint or otherwise cover or treat with suncreening the parts of a vehicle described in subsection (c) so that operation of the vehicle after the tinting or suncreening is performed is a violation of subsection (c). However, it is not a violation of this chapter if this work is performed for a person who submits a physician's or optometrist's statement as described in subsection (b) to the person who is to perform the work.

SECTION 2. IC 9-19-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) This section does not apply to a person who owns or operates a vehicle or combination of vehicles that:

- (1) contains parts and accessories; and
- (2) is equipped;

as required under regulations of the United States Department of Transportation.

(b) Except as provided in section 8 of this chapter, a person who violates this chapter commits a Class C infraction.

SECTION 3. IC 9-19-19-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. A person who violates section 4(d) of this chapter commits a Class A infraction.**

P.L.13-2003

[H.1286. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 4-4-3.7-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. As used in this chapter, "trade mission" means a planned tour of business locations, all of which are:

- (1) located **inside or** outside the United States; and
- (2) recommended by:
 - (A) the United States Department of Commerce Foreign Commercial Service;
 - (B) the United States Department of Agriculture Foreign Agriculture Service; or
 - (C) the department of commerce.

SECTION 2. IC 4-4-3.7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "trade show" means an exhibition, **an** exposition, or **a** fair:

- (1) located **inside or** outside the United States; and
- (2) recommended by:
 - (A) the United States Department of Commerce Foreign Commercial Service; or
 - (B) the United States Department of Agriculture Foreign Agriculture Service.

P.L.14-2003

[H.1380. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-23-2-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.1. The department is responsible for the following activities:

- (1) The identification, development, coordination, and implementation of the state's transportation policies.
- (2) The approval of applications for federal transportation grants from funds allocated to the state:
 - (A) from the Highway Trust Fund (23 U.S.C.);
 - (B) from the Aviation Trust Fund (49 U.S.C.);
 - (C) through the ~~Urban Mass Transportation Administration~~ (49 U.S.C. 1601 et seq.); **Federal Transit Administration**

- (49 U.S.C. 5301 et seq.); or
 (D) from any other federal grant that has a transportation component.
- (3) The review, revision, adoption, and submission of budget proposals.
- (4) The construction, reconstruction, improvement, maintenance, and repair of:
- (A) state highways; and
 - (B) a toll road project or toll bridge in accordance with a contract or lease entered into with the Indiana transportation finance authority under IC 8-9.5-8-7 or IC 8-9.5-8-8.
- (5) The administration of programs as required by law, including the following:
- (A) IC 8-3-1 (railroads).
 - (B) IC 8-3-1.5 (rail preservation).
 - (C) IC 8-21-1 (aeronautics).
 - (D) IC 8-21-9 (airports).
 - (E) IC 8-21-11 (aviation development program).

P.L.15-2003

[H.1408. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 33-17-1-4.1 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.1. (a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, a telephone, or a computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit**

an account.

(b) The clerk may provide for the:

(1) payment; and

(2) disbursement;

of child support payments by electronic funds transfer.

(c) A person may request the clerk in writing to allow the person to:

(1) pay child support to the clerk; or

(2) receive child support payment distributions from the clerk;

by means of an electronic funds transfer.

(d) A person's written request shall authorize in advance the electronic transfer of funds. The person's written authorization must designate a financial institution and an account number. The person's authorization remains in effect until the person revokes it in writing.

(e) The clerk may not make an electronic funds transfer under this section except in accordance with procedures adopted by the state board of accounts.

P.L.16-2003

[H.1729. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-22-2-5, AS ADDED BY P.L.2-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Natural persons who are aliens, whether they reside in the United States or any foreign country, subject to ~~sections 6 and~~ **section 7** of this chapter, may:

(1) acquire real estate by purchase, devise, or descent;

(2) hold and enjoy real estate; and

(3) convey, devise, transmit, mortgage, or otherwise encumber

real estate;
in the same manner and with the same effect as citizens of Indiana or the United States.

(b) The title of any real estate inherited, mortgaged, conveyed, or devised is not affected by the alienage of any person from or through whom the title is claimed or derived.

SECTION 2. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 32-22-2-2; IC 32-22-2-3; IC 32-22-2-4; IC 32-22-2-6.

P.L.17-2003

[S.27. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-1-15-8, AS AMENDED BY P.L.196-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 15, 2003]: Sec. 8. This chapter expires June 30, ~~2003~~: **2007**.

P.L.18-2003

[S.63. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-24.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24.6. "Caregiver", for purposes of IC 12-17.2, means**

an individual who is assigned by a provider the responsibility for supervising a specific child in the care of the provider.

SECTION 2. IC 12-7-2-28.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 28.9. "Child care program", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.2.**

SECTION 3. IC 12-7-2-76.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 76.8. "Employed", "employee", "employment", or "employs", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.3.**

SECTION 4. IC 12-7-2-149, AS AMENDED BY P.L.283-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 149. "Provider" means the following:

- (1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.
- (2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:
 - (A) IC 12-14-1 through IC 12-14-9.5.
 - (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.
 - (C) IC 12-17-10.
 - (D) IC 12-17-11.
 - (E) IC 12-17.6.
 - (F) IC 12-17.7.
- (3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.
- (4) **Except as provided in subdivision (5)**, for the purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.
- (5) **For purposes of IC 12-17.2-3.5, a person that:**
 - (A) **provides child care; and**
 - (B) **is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.**

The term does not include an individual who provides services

to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

(6) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 5. IC 12-7-2-199.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 199.2. "Volunteer" or "volunteers", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.7.**

SECTION 6. IC 12-17.2-3.1-2, AS AMENDED BY P.L.96-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.** The terms of the members expire November 1, ~~2004~~ **2005.**

SECTION 7. IC 12-17.2-3.1-12, AS AMENDED BY P.L.96-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.** This chapter expires November 1, ~~2004~~ **2005.**

SECTION 8. IC 12-17.2-3.5-1, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a)** This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article.

(b) If a school age child care program that is:

- (1) described in IC 12-17.2-2-8(10); and**
- (2) located in a school building;**

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

SECTION 9. IC 12-17.2-3.5-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2.** **As used in this chapter, "child care program" refers to the activities provided for children during the time that children are in the care of a provider.**

SECTION 10. IC 12-17.2-3.5-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.3.** **As used in this chapter, "employed", "employee", "employment", or "employs" refers to**

services performed by an individual for compensation. The terms do not refer to services performed by an individual who volunteers, including an individual who provides assistance and receives an allowance, a stipend, or other support under the federal Foster Grandparent Program (42 U.S.C. 66(II)(B)).

SECTION 11. IC 12-17.2-3.5-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.7. As used in this chapter, "volunteer" or "volunteers" refers to an individual who, without compensation, provides services to a provider.**

SECTION 12. IC 12-17.2-3.5-4, AS AMENDED BY P.L.109-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. A provider who:**

- (1) has been convicted of a:
 - (A) felony;
 - (B) misdemeanor related to the health or safety of a child;
 - (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
 - (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; ~~or~~
- (2) **employs or otherwise allows an individual who has been convicted of a crime specified under subdivision (1) to:**
 - (A) **serve as a caregiver to a child in the provider's care; or**
 - (B) **reside with the provider, if the provider operates a child care program in the provider's home; or**
- (3) fails to meet the requirements set forth in sections 5 through 12.1 of this chapter;

is ineligible to receive a voucher payment.

SECTION 13. IC 12-17.2-3.5-4.1, AS ADDED BY P.L.109-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.1. (a) ~~As used in~~ This section "individual" means: **applies to the following:****

- (1) A provider, **if the provider is an individual.**
- (2) If a provider ~~provides~~ **operates a child care program** in the provider's home, an individual who resides with the provider and who is at least eighteen (18) years of age. ~~or~~
- (3) An individual who:
 - (A) is employed; ~~or~~

(B) volunteers;

as a caregiver at the facility where a provider **provides operates a child care program.**

(b) If information **obtained used** by a **voucher agent the division** under IC 31-33-17-6(7) indicates that an individual **described in subsection (a)** has been named as an alleged perpetrator, the following are ineligible to receive a voucher payment:

- (1) The individual.
- (2) A provider in whose home the individual resides if the provider **provides operates a child care program** in the provider's home.
- (3) A provider that:
 - (A) employs the individual; or**
 - (B) allows the individual to volunteer;**

as a caregiver at the facility where the provider **provides operates a child care program.**

SECTION 14. IC 12-17.2-3.5-5, AS AMENDED BY P.L.131-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A provider shall have:

- (1) working smoke detectors that meet the standards adopted by rule for smoke detectors in licensed child care homes; and
- (2) **hot and cold** running water;

in the area of the facility where the provider **provides operates a child care program.**

SECTION 15. IC 12-17.2-3.5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.**

SECTION 16. IC 12-17.2-3.5-6, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A provider who is an individual shall have an ~~annual~~ intradermal tuberculosis test **before the provider is eligible for a voucher payment.**

(b) A provider shall assure that ~~all individuals~~ **an individual** who ~~are is~~ at least eighteen (18) years of age and: ~~who:~~

- (1) **who**, if the provider **provides operates a child care program** in the provider's home, ~~reside resides~~ **reside** with the provider; ~~and or~~

(2) ~~are~~ **who:**

(A) **is employed; or**

(B) **volunteers;**

as a caregiver at the facility where the provider provides operates a child care program; have an annual intradermal tuberculosis test before the individual resides with the provider or is employed or allowed to volunteer as a caregiver.

(c) **A provider shall maintain documentation of an annual health assessment by a physician reflecting the results of symptom screening for tuberculosis for:**

(1) **the provider, if the provider is an individual; and**

(2) **an individual described in subsection (b);**

who has a history of latent or active tuberculosis.

(d) **A provider shall provide the results of the tests and screening required under subsections (a) and (b) this section to the voucher agent: division upon request.**

SECTION 17. IC 12-17.2-3.5-7, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. A provider shall have written plans for notifying parents regarding the following:

(1) **Illness, serious injury, or death of the provider.**

(2) **Care in an emergency.**

(3) **Emergency evacuation.**

The plan required under subdivision (3) must be posted in a conspicuous location in the ~~provider's~~ **facility where the provider operates a child care program.**

SECTION 18. IC 12-17.2-3.5-8, AS AMENDED BY P.L.47-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~A provider who is an individual shall maintain annual certification in:~~

~~(1) infant and child CPR; and~~

~~(2) first aid.~~ **(a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by a provider shall be present at all times when a child is in the care of the provider.**

(b) An individual who:

**(1) is employed; or
 (2) volunteers;
 as a caregiver at a facility where a provider operates a child care program shall maintain current certification in first aid applicable to all age groups of children cared for by the provider.**

SECTION 19. IC 12-17.2-3.5-9, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. A provider shall have at least one (1) working telephone in each facility where the provider ~~provides~~ **operates a child care program.**

SECTION 20. IC 12-17.2-3.5-10, AS AMENDED BY P.L.131-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A facility where a provider ~~provides~~ **operates a child care program** must have two (2) exits that:

- (1) do not require passage through a:
 - (A) garage; or
 - (B) storage area;
 where hazardous materials are stored;
 - (2) are not windows;
 - (3) are on different sides of the facility;
 - (4) are not blocked; and
 - (5) are operable from the inside without the use of a key or any special knowledge.
- (b) A provider shall:
- (1) conduct monthly documented fire drills:
 - (A) in accordance with the rules of the fire prevention and building safety commission; and
 - (B) that include complete evacuation of all:
 - (i) children; and
 - (ii) adults who provide child care;
 in the facility;
 - (2) maintain documentation of all fire drills conducted during the immediately preceding twelve (12) month period, including:
 - (A) the date and time of the fire drill;
 - (B) the name of the individual who conducted the fire drill;
 - (C) the weather conditions at the time of the fire drill; and
 - (D) the amount of time required to fully evacuate the facility;
 and

(3) maintain a two and one-half (2 1/2) pound or greater ABC multiple purpose fire extinguisher:

(A) on each floor of the facility; and

(B) in the kitchen area of the facility;

in each facility where the provider **provides operates** a child care **program**.

SECTION 21. IC 12-17.2-3.5-11.1, AS ADDED BY P.L.121-2002, SECTION 1 AND P.L.131-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.1. (a) After December 31, 2002, a provider shall maintain and annually update documentation provided by the physician of each child who is cared for in a facility where the provider **provides operates** a child care **program** that the child has received complete age appropriate immunizations, including:

(1) conjugated pneumococcal vaccine; and

(2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A provider meets the requirement of subsection (a) if:

(1) a child's parent:

(A) objects to immunizations for religious reasons; and

(B) provides documentation of the parent's objection; **or**

(2) the child's physician provides documentation of a medical reason the child should not be immunized; **or**

(3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;

and the provider maintains and annually updates the documentation provided by the parent or physician under this subsection.

SECTION 22. IC 12-17.2-3.5-12, AS AMENDED BY P.L.109-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A provider shall, at the provider's **or individual's** expense, ~~provide to the voucher agent~~ **maintain and make available to the division upon request** a copy of a limited criminal history for:

(1) the provider, **if the provider is an individual;**

(2) if the provider **provides operates** a child care **program** in the provider's home, any individual who resides with the provider and

who is:

- (A) at least eighteen (18) years of age; or
- (B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and

(3) any individual who:

- (A) is employed; or
- (B) volunteers;

as a caregiver at the facility where the provider provides operates a child care program.

A provider shall apply for a limited criminal history for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the ~~voucher agent~~ **division** any:

- (1) police investigations;
- (2) arrests; and
- (3) criminal convictions;

not listed on a limited criminal history ~~provided~~ **obtained** under subsection (a) regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:

- (1) the provider:
 - (A) has applied for the limited criminal history required under subsection (a); and
 - (B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency **before the individual is employed or allowed to volunteer as a caregiver;** and
- (2) the local criminal history does not reveal that an individual has been convicted of a:
 - (A) felony;
 - (B) misdemeanor related to the health or safety of a child;
 - (C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
 - (D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a limited criminal history is required under this section has been convicted of a:

- (1) felony;
- (2) misdemeanor related to the health or safety of a child;
- (3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

until the individual is dismissed from employment **or volunteer service** at the facility **where the provider operates a child care program** or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a limited criminal history is required under this section to report any criminal convictions of the individual to the provider.

SECTION 23. IC 12-17.2-3.5-12.1, AS ADDED BY P.L.109-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.1. (a) A provider shall at the provider's **or individual's** expense, **provide to the voucher agent maintain and make available to the division upon request** a copy of drug testing results for:

- (1) the provider, **if the provider is an individual;**
- (2) if the provider ~~provides~~ **operates a child care program** in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
- (3) an individual who:
 - (A) is employed; **or**
 - (B) **volunteers;**

as a caregiver at the facility where the provider ~~provides~~ **operates a child care program.**

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
 - (A) use of:

- (i) tobacco;
 - (ii) alcohol; or
 - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
 - (B) use or possession of an illegal substance;
- is prohibited in the facility where the provider operates a child care program when child care is being provided.
- (2) That drug testing of individuals who serve as caregivers will be:
- (A) performed on a random basis, based on a protocol established or approved by the division; and
 - (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).
- (c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:
- (1) That the:
- (A) use of:
 - (i) tobacco; or
 - (ii) a potentially toxic substance in a manner other than the substance's intended purpose; and
 - (B) use or possession of alcohol or an illegal substance;
 is prohibited in the facility where the provider operates a child care program when child care is being provided.
 - (2) That drug testing of individuals who serve as caregivers will be:
 - (A) performed on a random basis, based on a protocol established or approved by the division; and
 - (B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).
- (d) If:
- (1) the drug testing results ~~provided~~ **obtained** under subsection (a), (b), or (c) indicate the presence of an ~~illegal controlled~~ **prohibited** substance **described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B); or**
 - (2) **an individual refuses to submit to a drug test;**
- the provider is ineligible to receive a voucher payment **until the individual is suspended or terminated from employment or volunteer service at the facility or no longer resides with the**

provider.

(e) A provider that suspends an individual described in subsection (d) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

SECTION 24. IC 12-17.2-3.5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15. The division shall adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 25. IC 12-17.2-4-2, AS AMENDED BY P.L.47-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. (a)** A license may be issued only if a child care center is in compliance with food, health, safety, and sanitation standards as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(b) A license may be issued only if the child care center is in substantial compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(c) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsections (a) and (b).

(d) Except as provided in subsection (e), the division may issue a license under this chapter only if the child care center is staffed, when children are being cared for, by at least one (1) child care provider who is annually certified in a program on pediatric cardiopulmonary resuscitation and pediatric airway obstruction under the American Heart Association's Basic Life Support Course D or any other comparable course approved by the division:

(e) The requirement set forth in subsection (d) does not apply to a child care center that:

- (1) serves only children who are at least thirteen (13) years of age and less than twenty-one (21) years of age; and
- (2) has on duty, when the children are being cared for, at least one (1) child care provider who is annually certified in a program on cardiopulmonary resuscitation as required by the division.

(d) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care center shall be present at all times when a child is in the care of a child care center.

(e) An individual who:

- (1) is employed; or**
- (2) volunteers;**

as a caregiver at a child care center shall maintain current certification in first aid applicable to all age groups of children cared for by the child care center.

(f) Upon request, the county office of family and children shall provide, within forty-eight (48) hours, excluding weekends and holidays, copies of substantiated noncompliances and other substantiated complaints filed with the division of family and children concerning a licensed child care center.

SECTION 26. IC 12-17.2-4-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) A child care center shall, at the child care center's or individual's expense, maintain and make available to the division upon request a copy of drug testing results for an individual who:**

- (1) is employed; or**
- (2) volunteers;**

as a caregiver at the child care center. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

- (i) tobacco; or**
- (ii) a potentially toxic substance in a manner other than**

the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance; is prohibited in the child care center when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the child care center will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or

(2) an individual refuses to submit to a drug test;

the child care center shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care center that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care center that does not comply with this section is subject to:

(1) denial of an application for a license; or

(2) suspension or revocation of a license issued;

under this chapter.

SECTION 27. IC 12-17.2-4-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17.5. A licensee shall ensure that a child in the licensee's care is continually supervised by a caregiver.**

SECTION 28. IC 12-17.2-4-18.1, AS ADDED BY P.L.121-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.1. (a) After December 31, 2002, a licensee shall maintain and annually update documentation provided by the**

physician of each child who is cared for in a child care center where the licensee provides child care that the child has received complete age appropriate immunizations, including:

- (1) conjugated pneumococcal vaccine; and
- (2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A licensee meets the requirement of subsection (a) if:

- (1) a child's parent:
 - (A) objects to immunizations for religious reasons; and
 - (B) provides documentation of the parent's objection; or
- (2) the child's physician provides documentation of a medical reason the child should not be immunized; or
- (3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;**

and the licensee maintains and annually updates the documentation provided by the parent or physician under this subsection.

SECTION 29. IC 12-17.2-5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) A child care home shall, at the child care home's or individual's expense, maintain and make available to the division upon request a copy of drug testing results for:**

- (1) the provider;**
- (2) an individual who resides with the provider and who is at least eighteen (18) years of age; and**
- (3) an individual who:**
 - (A) is employed; or**
 - (B) volunteers;**

as a caregiver at the child care home.

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care home shall maintain a written policy specifying the following:

- (1) That the:**
 - (A) use of:**

- (i) tobacco;
- (ii) alcohol; or
- (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of an illegal substance;

is prohibited in the child care home when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the child care home will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

(1) the drug testing results obtained under subsection (a) or (b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or

(2) an individual refuses to submit to a drug test;

the child care home shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care home that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).

(e) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

(f) A child care home that does not comply with this section is subject to:

(1) denial of an application for a license; or

(2) suspension or revocation of a license issued;

under this chapter.

SECTION 30. IC 12-17.2-5-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17.5.** A licensee shall ensure that a child in the licensee's care is continually supervised by a caregiver.

SECTION 31. IC 12-17.2-5-18.1, AS ADDED BY P.L.121-2002,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18.1. (a) After December 31, 2002, a licensee shall maintain and annually update documentation provided by the physician of each child who is cared for in a child care home where the licensee provides child care that the child has received complete age appropriate immunizations, including:

- (1) conjugated pneumococcal vaccine; and
- (2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A licensee meets the requirement of subsection (a) if:

- (1) a child's parent:
 - (A) objects to immunizations for religious reasons; and
 - (B) provides documentation of the parent's objection; **or**
- (2) the child's physician provides documentation of a medical reason the child should not be immunized; **or**
- (3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;**

and the licensee maintains and annually updates the documentation provided by the parent or physician under this subsection.

SECTION 32. IC 12-17.2-5-18.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.2. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care home shall be present at all times when a child is in the care of a child care home.**

(b) An individual who:

- (1) is employed; or**
- (2) volunteers;**

as a caregiver at a child care home shall maintain current certification in first aid applicable to all age groups of children cared for by the child care home.

SECTION 33. IC 31-33-17-6, AS AMENDED BY P.L.109-2002, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Upon request, a person or an organization may have access to information contained in the registry as follows:

- (1) A law enforcement agency or local child protective service may have access to a substantiated report.
- (2) A person may have access to information consisting of an identifiable notation of a conviction arising out of a report of child abuse or neglect.
- (3) Upon submitting written verification of an application for employment or a consent for release of information signed by a child care provider, a person or an agency may obtain the following information contained in the child abuse registry regarding an individual who has applied for employment or volunteered for services in a capacity that would place the individual in a position of trust with children less than eighteen (18) years of age or regarding a child care provider who is providing or may provide child care for the person's child:
 - (A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.
 - (B) Whether criminal charges were filed against the applicant, volunteer, or child care provider based on a report of child abuse or neglect naming the applicant, volunteer, or child care provider as the alleged perpetrator.
 - (C) Whether a court has issued an arrest warrant for the applicant, volunteer, or child care provider based on a report of child abuse or neglect in which the applicant, volunteer, or child care provider is named as the alleged perpetrator.
- (4) A person may have access to whatever information is contained in the registry pertaining to the person, with protection for the identity of:
 - (A) the person who reports the alleged child abuse or neglect; and
 - (B) any other appropriate person.
- (5) A person or an agency to whom child abuse and neglect reports are available under IC 31-33-18 may also have access to information contained in the registry.
- (6) If a child care provider provides child care in the provider's home, upon submitting a consent for release of information signed by an individual who is at least eighteen (18) years of age, who

resides with the child care provider, and who may have direct contact with children for whom the provider provides child care, a person may obtain the following information contained in the child abuse registry regarding the individual:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges were filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

(7) ~~A voucher agent (as defined in IC 12-17.2-3.5-2)~~ **The division of family and children** may ~~have access to use~~ the following information contained in the registry regarding an individual ~~(as defined in IC 12-17.2-3.5-4.1)~~ **described in IC 12-17.2-3.5-4.1(a)** for purposes of determining the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3):

(A) Whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges have been filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

~~The voucher agent shall~~ **division of family and children may not** disclose information ~~obtained used in connection with the~~ **division's activities** under this subdivision.

SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 12-7-2-199.3; IC 12-17.2-3.5-2.

P.L.19-2003

[S.182. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-149, AS AMENDED BY P.L.283-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 149. "Provider" means the following:

- (1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.
- (2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:
 - (A) IC 12-14-1 through IC 12-14-9.5.
 - (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.
 - (C) IC 12-17-10.
 - (D) IC 12-17-11.
 - (E) IC 12-17.6.
 - (F) IC 12-17.7.
- (3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.
- (4) For the purposes of IC 12-17.2, a person who ~~operates a~~ **provides** child care ~~center or child care home~~ under IC 12-17.2.
- (5) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 2. IC 12-17.2-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. (a) When the division adopts an administrative rule or a policy statement to administer this article, the division shall make the administrative rule or policy statement available to the public upon request.**

(b) When the division adopts an administrative rule or a policy statement to administer this article, the administrative rule or policy statement must specifically identify the type of provider to which the administrative rule or policy statement applies.

(c) When the division provides information to the public concerning an administrative rule or a policy statement adopted by the division, each document provided must specifically identify the type of provider to which the administrative rule or policy statement applies.

P.L.20-2003

[S.220. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 12-15-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 43. PACE Program

Sec. 1. The office may implement the Program of All-Inclusive Care for the Elderly (PACE) (42 U.S.C. 1396u-4) established under the federal Balanced Budget Act of 1997.

Sec. 2. The office may adopt rules under IC 4-22-2 necessary to implement this chapter.

P.L.21-2003

[S.240. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-94.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 94.5. "Low speed vehicle" means a four (4) wheeled electrically powered motor vehicle:**

- (1) with a maximum design speed of not more than thirty-five (35) miles per hour;**
- (2) with a maximum weight not to exceed two thousand two hundred (2,200) pounds;**
- (3) with a seating capacity of not more than four (4) persons;**
- (4) with operational and equipment specifications described in 49 CFR 571.500;**
- (5) that is equipped with:**
 - (A) headlamps;**
 - (B) front and rear turn signal lamps, tail lamps, and stop lamps;**
 - (C) reflex reflectors;**
 - (D) exterior or interior mirrors;**
 - (E) brakes as specified in IC 9-19-3-1;**
 - (F) a windshield;**
 - (G) a vehicle identification number; and**
 - (H) a safety belt installed at each designated seating position; and**
- (6) that has not been privately assembled as described in IC 9-17-4-1.**

SECTION 2. IC 9-13-2-97, AS AMENDED BY P.L.78-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 97. (a) "Manufacturer" means, except as provided in subsection (b), a person engaged in the business of constructing or assembling vehicles, of a type required to be registered under IC 9-18,**

at an established place of business. ~~in Indiana~~. The term does not include a converter manufacturer or recreational vehicle manufacturer.

(b) "Manufacturer", for purposes of IC 9-23, means a person who is engaged in the business of manufacturing or assembling new motor vehicles or major component parts of motor vehicles, or both, and sells new motor vehicles to dealers, wholesale dealers, distributors, or the general public. The term includes the following:

- (1) A factory branch office of the manufacturer.
- (2) An authorized representative of the manufacturer.
- (3) A partnership, a firm, an association, a joint venture, a limited liability company, a corporation, or a trust, resident or nonresident, that is controlled by the manufacturer.

The term does not include a converter manufacturer or recreational vehicle manufacturer.

SECTION 3. IC 9-13-2-123 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 123. (a) "Passenger motor vehicle" means, except as provided in subsection (b), a motor vehicle designed for carrying passengers. The term **includes a low speed vehicle but** does not include a motorcycle, bus, or school bus.

(b) For purposes of IC 9-19-10, the term includes buses, school buses, and private buses, and excludes trucks, tractors, and recreational vehicles.

SECTION 4. IC 9-17-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This article does not apply to farm wagons **or to a motor vehicle that was designed to have a maximum design speed of not more than twenty-five (25) miles per hour and that was built, constructed, modified, or assembled by a person other than the manufacturer.**

SECTION 5. IC 9-17-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) Except as provided in subsection (b),** certificates of origin and assignments of certificates of origin must be in a form:

- (1) prescribed by the bureau; or
- (2) approved by the bureau.

(b) A manufacturer's certificate of origin for a low speed vehicle must indicate that the motor vehicle is a low speed vehicle.

SECTION 6. IC 9-21-1-3, AS AMENDED BY P.L.128-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 3. (a) A local authority, with respect to private roads and highways under the authority's jurisdiction, in accordance with section 2 of this chapter, and within the reasonable exercise of the police power, may do the following:

- (1) Regulate the standing or parking of vehicles.
- (2) Regulate traffic by means of police officers or traffic control signals.
- (3) Regulate or prohibit processions or assemblages on the highways.
- (4) Designate a highway as a one-way highway and require that all vehicles operated on the highway be moved in one (1) specific direction.
- (5) Regulate the speed of vehicles in public parks.
- (6) Designate a highway as a through highway and require that all vehicles stop before entering or crossing the highway.
- (7) Designate an intersection as a stop intersection and require all vehicles to stop at one (1) or more entrances to the intersection.
- (8) Restrict the use of highways as authorized in IC 9-21-4-7.
- (9) Regulate the operation of bicycles and require the registration and licensing of bicycles, including the requirement of a registration fee.
- (10) Regulate or prohibit the turning of vehicles at intersections.
- (11) Alter the prima facie speed limits authorized under IC 9-21-5.
- (12) Adopt other traffic regulations specifically authorized by this article.
- (13) Adopt traffic regulations governing traffic control on public school grounds when requested by the governing body of the school corporations.
- (14) Regulate or prohibit the operation of low speed vehicles on highways.**

(b) An ordinance or regulation adopted under subsection (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), (a)(10), (a)(11), (a)(12), ~~or~~ (a)(13), **or (a)(14)**, is effective when signs giving notice of the local traffic regulations are posted upon or at the entrances to the highway or part of the highway that is affected.

SECTION 7. IC 9-21-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Whenever, under this article,

the Indiana department of transportation designates or determines the location of, necessity for, and extent of:

- (1) traffic control devices;
- (2) state speed limits, other than maximum limits;
- (3) speed limits on elevated structures;
- (4) no passing zones;
- (5) one-way roadways;
- (6) certain lanes for slow moving traffic;
- (7) course of turning movements at intersections;
- (8) dangerous railroad crossings requiring stops;
- (9) through highways and stop intersections;
- (10) angle parking; or
- (11) restrictions on the use of highways for certain periods or for certain vehicles, **including low speed vehicles**;

the designation or determination shall be by order of the commissioner of the Indiana department of transportation and shall, except for subdivision (1), be evidenced by official signs or markings under this article.

(b) At a trial of a person charged with a violation of the restrictions imposed by subsection (a) and in all civil actions, oral evidence of the location and content of the signs or markings is prima facie evidence of the adoption and application of the restriction by the Indiana department of transportation and the validity of the adoption and application of the restriction. The Indiana department of transportation shall, upon request by a party in an action at law, furnish, under the seal of the Indiana department of transportation, a certification of the order establishing the restriction in question. A certification under this subsection shall be accepted by any court as conclusive proof of the designation or determination by the commissioner of the Indiana department of transportation. Certified copies shall be furnished without cost to the parties to a court action involving the restriction upon request.

(c) Whenever, under this article, a permit or permission of the Indiana department of transportation is required, the permit must be in writing and under the seal of the Indiana department of transportation.

SECTION 8. IC 9-21-5-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.5. A person may not drive a low speed vehicle on a**

highway that has a speed limit in excess of thirty-five (35) miles per hour.

SECTION 9. IC 9-21-9-0.5, AS ADDED BY P.L.143-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 0.5. This chapter does not apply to **the following:**

- (1) An electric personal assistive mobility device.
- (2) **A low speed vehicle.**

P.L.22-2003

[S.320. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-43-5-1, AS AMENDED BY P.L.180-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or as a computer generated document, including the following:

- (1) An account.
- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.

- (11) A receipt for payment.
- (12) A physician's records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and
- (2) in return for the insertion or deposit of a coin, bill, or token automatically:
 - (A) to offer, provide, or assist in providing; or
 - (B) to permit the acquisition of;
some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(h) "Identifying information" means information that identifies an individual, including an individual's:

- (1) name, **address**, date of birth, **place of employment, employer identification number, mother's maiden name**, Social Security number, or any identification number issued by a governmental entity;
- (2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;
- (3) unique electronic identification number, address, or routing code;
- (4) telecommunication identifying information; or
- (5) telecommunication access device, including a card, **a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile**

identification number, or ~~other~~ **another** telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value;

or

(B) initiate a transfer of funds.

(i) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).

(3) An administrator contract entered into under IC 27-1-25.

(j) "Insurer" has the meaning set forth in IC 27-1-2-3(x).

(k) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(l) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(m) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(n) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes poor relief, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(o) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(p) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(q) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

(r) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 2. IC 35-43-5-3.5, AS ADDED BY P.L.180-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. (a) Except as provided in subsection (b), a person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person:

- (1) without the other person's consent; and
- (2) with intent to:

- (A) harm or defraud another person;
- (B) assume another person's identity; or**
- (C) profess to be another person;**

commits identity deception, a Class D felony.

(b) The conduct prohibited in subsection (a) does not apply to:

- (1) a person less than twenty-one (21) years of age who uses the identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);
- (2) a minor (as defined in IC 35-49-1-4) who uses the identifying information of another person to acquire:
 - (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
 - (B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);
 - (C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or
 - (D) an item that is prohibited by law for use or consumption by a minor; or
- (3) any person who uses the identifying information for a lawful

purpose.

(c) It is not a defense in a prosecution under subsection (a) that no person was harmed or defrauded.

SECTION 3. IC 35-38-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) As used in this section, "crime of deception" means any offense in which a person assumes the identity of another person, professes to be another person, uses the identifying information of another person, or falsely suggests that the person is acting with the authority of another person. The term includes an offense under IC 35-43-5.**

(b) This section applies to an offender who has been convicted of a crime of deception.

(c) During or after the sentencing of a person convicted of a crime of deception, the court may, upon motion by the state or upon application by a victim or a victim's representative, issue an order:

(1) describing the person whose credit history may be affected by the offender's crime of deception, with sufficient identifying information to assist another person in correcting the credit history; and

(2) stating that the person described in subdivision (1) was the victim of a crime of deception that may have affected the person's credit history.

(d) The order described in subsection (c) may be used to correct the credit history of any person described in the order.

SECTION 4. [EFFECTIVE JULY 1, 2003] IC 35-43-5-1 and IC 35-43-5-3.5, both as amended by this act, apply only to crimes committed after June 30, 2003.

P.L.23-2003

[H.1176. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-4-1-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 31. (a) The board may adopt rules under IC 4-22-2 to do the following:**

- (1) Require continuing education and training for architects.**
- (2) Set minimum requirements for continuing education and training for architects.**
- (3) Set minimum requirements for continuing education instructors approved by the board.**

(b) The rules adopted under this section must require an architect to comply with the following renewal requirements:

- (1) The architect shall provide the board with a sworn statement signed by the architect that the architect has fulfilled the continuing education requirements required by the board.**
- (2) The architect shall retain copies of certificates of completion for continuing education courses for three (3) years after the end of the licensing period for which the continuing education applied. The architect shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit.**

(c) Every two (2) years the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the architects required to take continuing education courses.

SECTION 2. IC 25-4-2-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13. (a) The board may adopt rules under IC 4-22-2 to**

do the following:

(1) **Require continuing education and training for landscape architects.**

(2) **Set minimum requirements for continuing education and training for landscape architects.**

(3) **Set minimum requirements for continuing education instructors approved by the board.**

(b) **The rules adopted under this section must require a landscape architect to comply with the following renewal requirements:**

(1) **The landscape architect shall provide the board with a sworn statement signed by the landscape architect that the landscape architect has fulfilled the continuing education requirements required by the board.**

(2) **The landscape architect shall retain copies of certificates of completion for continuing education courses for three (3) years after the end of the licensing period for which the continuing education applied. The landscape architect shall provide the board with copies of the certificates of completion upon the board's request for a compliance audit.**

(c) **Every two (2) years the board shall randomly audit for compliance more than one percent (1%) but less than ten percent (10%) of the landscape architects required to take continuing education courses.**

SECTION 3. IC 25-6.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

(1) be at least eighteen (18) years of age;

(2) have completed at least eighty (80) actual hours of auction instruction from a course provider approved by the commission;

(3) not have a conviction for:

(A) an act which would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice competently.

(c) Auction instruction required under subsection (b) must provide

the applicant with knowledge of all of the following:

- (1) The value of real estate and of various goods commonly sold at an auction.
- (2) Bid calling.
- (3) Sale preparation, sale advertising, and sale summary.
- (4) Mathematics.
- (5) The provisions of this article and the commission's rules.
- (6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an initial application for an auctioneer license, each individual shall:

- (1) pay a nonrefundable examination fee of thirty-five dollars (\$35); and
- (2) pay a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.

(e) When filing an application for a renewal of an auctioneer license, each individual shall do the following:

- (1) File with the commission a completed application on the form prescribed by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.
- (2) Pay the license fee prescribed by section 5 of this chapter.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination prepared and administered by the commission. The commission shall hold examinations as the commission may prescribe. The examination for an auctioneer's license shall include questions on the applicant's:

- (1) ability to read and write;
- (2) knowledge of the value of real estate and of various goods commonly sold at an auction;
- (3) knowledge of calling;
- (4) knowledge of sale preparation, sale advertising, and sale summary;

(5) knowledge of mathematics; and

(6) knowledge of the provisions of this article and the commission's rules.

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of ~~two (2)~~ **four (4)** years. A license expires at midnight, February 28, ~~of the next even-numbered year following the year in which the license is issued,~~ **2004, and every fourth year thereafter**, unless renewed before that date. If the license has expired, it may be reinstated not more than one (1) year after the date it expired upon the payment of the renewal fee plus the sum of twenty-five dollars (\$25) and submission of proof that the applicant has complied with the continuing education requirement. If the license has expired for a period of more than one (1) year, the person must file an application and take the required examination. However, an applicant for restoration of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to restore the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.

(j) The commission may waive the requirement that a nonresident applicant pass an examination and that the nonresident submit written statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the

commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

(k) The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

(l) The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

(m) An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

(n) An individual who does not pass the examination required under subsection (m) may not be issued a temporary permit.

SECTION 4. IC 25-6.1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section does not apply to an organization that operates a wholesale dealer automobile auction.

(b) Every person, before operating an auction house, must obtain a license from the commission for that auction house.

(c) Except as provided in subsection (d), before applying for a license from the commission to operate an auction house, the following must obtain a license as an auctioneer as provided in section 2 of this chapter:

(1) An individual who seeks to operate an auction house.

(2) One (1) or more individuals designated by an organization that seeks to operate an auction house.

(d) Subsection (c) does not apply to:

(1) a person that holds a valid license for an auction house as of June 30, 1998; or

(2) a person that holds a valid renewal of a license described in subdivision (1).

(e) Every applicant seeking to operate an auction house shall file with the commission a completed application on a form provided by the commission for a license for each auction house to be operated by that person. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and may verify the information contained therein.

(g) If the commission determines that the application has been completed and that the statements made therein by the applicant are true, the commission shall issue a license, in such form as it may prescribe, for such auction house.

(h) Auction house licenses shall expire at midnight, February 28, ~~of the next even-numbered year following the year in which the license is issued: 2004, and every fourth year thereafter.~~ A renewal license with a term of ~~two (2)~~ **four (4)** years shall be issued if an application is for a renewal license.

SECTION 5. IC 25-6.1-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Every person other than:

- (1) an individual who is a licensed auctioneer; or
- (2) an individual who has a licensed auction house;

who is seeking to operate as an auction company must obtain a license from the commission. Notwithstanding the fact that an individual who is a licensed auctioneer or an individual who has a licensed auction house also has an interest in an organization, every organization which seeks to operate an auction company must obtain a license for that auction company.

(b) Every such person shall file with the commission a completed application on the form prescribed by the commission. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(c) Upon the receipt of a completed application for an initial or renewal license, the commission shall examine the application and verify the information contained therein.

(d) Upon a determination by the commission that an application is completed and duly verified, the commission shall issue an auction company license, in such form as it may prescribe, to the applicant.

(e) Auction company licenses shall expire at midnight, February 28, ~~of the next even-numbered year following the year in which the license is issued: 2004, and every fourth year thereafter.~~ A renewal license with a term of ~~two (2)~~ **four (4)** years shall be issued if the application is for a renewal license.

(f) Any individual who wishes to operate an auction company, and who is exempt under subsection (a) from obtaining an auction company license, shall, on February 28, 1978, or on the date on which the individual begins to operate an auction company, whichever is later, notify the secretary of the commission, in a writing signed by the individual, that the individual is operating as an auction company or as more than one (1) auction company. The individual shall specify in such written notification, the trade or business name, and the address of the principal place of business, of each auction company which the individual operates. Whenever an individual to whom this subsection applies shall discontinue the operation of an auction company theretofore operated by the individual, or shall change its address or trade or business name, the individual shall promptly notify the secretary of the commission of such discontinuance or change, in a writing signed by the individual.

SECTION 6. IC 25-6.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) At the time of obtaining a license under this chapter, the licensee shall pay the license fee prescribed by this section.

(b) The fee for the license issued to any person, auction company, or auction house during each licensing period is ~~thirty-five dollars (\$35):~~ **seventy dollars (\$70).**

(c) ~~The full amount of the prescribed license fee is due and payable by the applicant for the license, regardless of the length of the unexpired portion of the licensing period that exists at the time of the issuance of the license in question. The commission may adopt rules that provide for the payment of a proportionate amount of the licensing fee if a license will be issued for less than the full term of the license.~~

SECTION 7. IC 25-6.1-9-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE MARCH 1, 2004]: Sec. 1. (a) Except as provided in sections 7 and 9 of this chapter, an individual who applies for license renewal under IC 25-6.1-3-2 must complete ~~twelve (12)~~ **sixteen (16)** actual hours of continuing education **every four (4) years** from course providers that are approved by the commission.

(b) The continuing education requirement is as follows:

(1) At least six (6) actual hours of courses in any of the following core subjects:

- (A) Indiana rules and statutes governing auctioneering.
- (B) Federal statutes governing auctioneering.
- (C) Auctioneering ethics.
- (D) Escrow and trust funds.
- (E) Contracts.
- (F) Any other subject matter approved by the commission.

(2) At least ~~six (6)~~ **ten (10)** actual hours of courses in any of the following elective subjects:

- (A) Agency.
- (B) Business courses related to auctioneering.
- (C) Auction management.
- (D) Bid calling.
- (E) Public speaking.
- (F) Advertising.
- (G) Specialty auction topics.
- (H) Any other subject matter approved by the commission.

P.L.24-2003

[H.1209. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-12-0.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Commission" refers to the commission for higher education.

"Committee" refers to the committee on statewide transfer and articulation established by the commission under the transfer and articulation initiative, March 1, 2000.

"State educational institution" means any university, college, or other educational institution, existing on or after March 29, 1971, in Indiana, for the purpose of providing programs of collegiate or university education or other postsecondary education and which is supported in whole or in part by appropriations made by the general assembly.

"Vocational education" means any postsecondary vocational, agricultural, occupational, manpower, employment, or technical training or retraining of less than a baccalaureate level that:

- (1) is offered by a state educational institution; and
- (2) enhances an individual's career potential.

SECTION 2. IC 20-12-0.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The commission shall have the following powers and duties:

(1) To develop, continually keep current, and implement a long range plan for postsecondary education. In developing this plan, the commission shall take into account the plans and interests of the state private institutions, anticipated enrollments in state postsecondary institutions, financial needs of students and other factors pertinent to the quality of educational opportunity available to the citizens of Indiana. The plan shall define the educational missions and the projected enrollments of the various state educational institutions.

(2) To consult with and make recommendations to the commission on vocational and technical education within the department of workforce development on all postsecondary vocational education programs. The commission shall biennially prepare a plan for implementing postsecondary vocational education programming after considering the long range state plan developed under IC 20-1-18.3-10. The commission shall submit this plan to the commission on vocational and technical education within the department of workforce development for its review and recommendations, and shall specifically report on how the plan addresses preparation for employment.

(3) To make recommendations to the general assembly and the governor concerning the long range plan, and prepare to submit drafts and proposed legislation needed to implement the plan. The commission may also make recommendations to the general assembly concerning the plan for postsecondary vocational education under subdivision (2).

(4) To review the legislative request budgets of all state educational institutions preceding each session of the general assembly and to make recommendations concerning appropriations and bonding authorizations to state educational institutions including public funds for financial aid to students by any state agency. The commission may review all programs of any state educational institution, regardless of the source of funding, and may make recommendations to the governing board of the institution, the governor, and the general assembly concerning the funding and the disposition of the programs. In making this review, the commission may request and shall receive, in such form as may reasonably be required, from all state educational institutions, complete information concerning all receipts and all expenditures.

(5) To submit to the commission on vocational and technical education within the department of workforce development for its review under IC 20-1-18.3-15 the legislative budget requests prepared by state educational institutions for state and federal funds for vocational education. These budget requests shall be prepared upon request of the budget director, shall cover the period determined by the budget director, and shall be made available to the commission within the department of workforce development before review by the budget committee.

(6) To make, or cause to be made, studies of the needs for various types of postsecondary education and to make recommendations to the general assembly and the governor concerning the organization of these programs. The commission shall make or cause to be made studies of the needs for various types of postsecondary vocational education and shall submit to the commission on vocational and technical education within the department of workforce development its findings in this regard.

(7) To approve or disapprove the establishment of any new

branches, regional or other campuses, or extension centers or of any new college or school, or the offering on any campus of any additional associate, baccalaureate, or graduate degree, or of any additional program of two (2) semesters, or their equivalent in duration, leading to a certificate or other indication of accomplishment. After March 29, 1971, no state educational institution shall establish any new branch, regional campus, or extension center or any new or additional academic college, or school, or offer any new degree or certificate as defined in this subdivision without the approval of the commission or without specific authorization by the general assembly. Any state educational institution may enter into contractual agreements with governmental units or with business and industry for specific programs to be wholly supported by the governmental unit or business and industry without the approval of the commission.

(8) If so designated by the governor or the general assembly, to serve as the agency for the purposes of receiving or administering funds available for postsecondary education programs, projects, and facilities for any of the acts of the United States Congress where the acts of Congress require the state to designate such an agency or commission. However, this subdivision does not provide for the designation of the commission by the governor as the recipient of funds which may be provided by acts of the United States Congress, received by an agency, a board, or a commission designated by the general assembly.

(9) To designate and employ an executive officer and necessary employees, to designate their titles, and to fix the compensation in terms of the employment.

(10) To appoint appropriate advisory committees composed of representatives of state educational institutions, representatives of private colleges and universities, students, faculty, and other qualified persons.

(11) To employ all powers properly incident to or connected with any of the foregoing purposes, powers, or duties, including the power to adopt rules.

(12) To develop a definition for and report biennially to the:

(A) general assembly;

(B) governor; and

(C) commission on vocational and technical education within the department of workforce development; on attrition and persistence rates by students enrolled in state vocational education.

(13) To submit a report to the legislative council not later than August 30 of each year on the status of the transfer of courses and programs between state educational institutions. The report must include any changes made during the immediately preceding academic year.

(14) To direct the activities of the committee, including the activities set forth in subdivisions (15) and (16).

(15) To develop through the committee statewide transfer of credit agreements for courses that are most frequently taken by undergraduates.

(16) To develop through the committee statewide agreements under which associate of arts and associate of science programs articulate fully with related baccalaureate degree programs.

(17) To publicize by all appropriate means, including an Internet web site, a master list of course transfer of credit agreements and program articulation agreements.

SECTION 3. [EFFECTIVE JULY 1, 2003] (a) Under IC 20-12-0.5-8(13), as amended by this act, the commission for higher education shall submit an annual report to the legislative council by August 30, 2003. The annual report that is submitted to the legislative council by August 30, 2003, must include a comparison of the transfer of courses and programs between state educational institutions for the 2001-2002 academic year with the transfer of courses and programs between those institutions for the 2002-2003 academic year.

(b) This SECTION expires September 1, 2003.

SECTION 4. [EFFECTIVE JULY 1, 2003] (a) The commission for higher education shall complete the duties set forth in IC 20-12-0.5-8(13), IC 20-12-0.5-8(14), IC 20-12-0.5-8(15), IC 20-12-0.5-8(16), and IC 20-12-0.5-8(17), all as amended by this act, not later than August 30, 2005.

(b) This SECTION expires September 1, 2005.

P.L.25-2003

[H.1395. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-131 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 131. "Mentally ill individual", for purposes of **IC 12-21-2**, IC 12-22-1, and IC 12-24-17, means an individual who:

- (1) has a psychiatric disorder that substantially impairs the individual's mental health; and
- (2) requires care, treatment, training, or detention:
 - (A) because of the psychiatric disorder; or
 - (B) for the welfare of the individual or others of the community in which the individual resides.

SECTION 2. IC 12-21-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a) Subject to subsection (b)**, the director may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the director decides that a final decision is to be made concerning the placement of a mentally ill individual in a mental health facility, the final decision must be made:

- (1) by the director, if the director is a licensed psychiatrist or licensed psychologist; or**
 - (2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the director;**
- in consultation with the patient's psychiatrist or psychologist.**

P.L.26-2003

[H.1632. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 12-15-7-6, AS ADDED BY P.L.294-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) If an individual described in section 1 of this chapter:

- (1) is a recipient of assistance under the federal Supplemental Security Income (SSI) program; and
- (2) receives an income that is less than the amount described in section 2 of this chapter;

the office shall pay to the individual an amount equal to the difference between the amount of the monthly allowance described in section 2 of this chapter and the amount of **income, including** assistance under the federal Supplemental Security Income (SSI) program received by the individual.

(b) Money paid to an individual under subsection (a) is exempt from income eligibility consideration.

SECTION 2. IC 12-15-32-6.5, AS ADDED BY P.L.294-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.5. (a) If a resident of a facility:

- (1) is a recipient of assistance under the federal Supplemental Security Income (SSI) program; and
- (2) receives an income that is less than the amount described in section 6 of this chapter;

the office shall pay to the individual an amount equal to the difference between the amount of the monthly personal allowance described in section 6 of this chapter and the amount of **income, including** assistance under the federal Supplemental Security Income (SSI) program received by the individual.

(b) Money paid to an individual under subsection (a) is exempt from income eligibility consideration.

SECTION 3. IC 12-15-41-9, AS ADDED BY P.L.287-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The office shall annually review the amount of the premium that an individual is required to pay under section 8 of this chapter.

~~(b) The office may increase the premium required under section 8 of this chapter only after conducting an annual review under subsection (a):~~

~~(c)~~ **(b) In addition to the annual review required under subsection (a),** the office shall ~~decrease~~ **adjust** the premium that an individual is required to pay under section 8 of this chapter if:

- (1) ~~a change in the individual notifies the office of a change in individual's~~ **income or family size is verified;** and
- (2) the sliding scale adopted under section 7 of this chapter applied to the individual's changed circumstances prescribes a premium for the individual that is ~~lower than~~ **different from** the premium the individual is paying.

P.L.27-2003

[H.1708. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.**

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of ~~his~~ **the person's** business without changing the form of the property. ~~However,~~

(c) The following transactions involving a new motor vehicle are

exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

P.L.28-2003

[H.1724. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-23-16-12, AS AMENDED BY P.L.1-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The commission shall appoint a group to develop standards that are compatible with principles and goals

contained in the electronic and information technology accessibility standards adopted by the architectural and transportation barriers compliance board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended. **The commission shall adopt rules under IC 4-22-2 concerning the standards developed under this section. Those standards must conform with the requirements of Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended.**

(b) The group shall consist, at minimum, of the following:

(1) A representative of an organization with experience in and knowledge of assistive technology policy.

(2) An individual with a disability.

(3) Representatives of the judicial and legislative branches of state government.

(4) Representatives of the administrative branch of state government.

(5) At least three (3) representatives of local units of government.

(c) If an agency cannot immediately follow the information technology accessibility standards, it shall submit a plan for undue burden with timelines for compliance, and the plan must provide alternative means for accessibility during the period.

(d) Notwithstanding any law, the standards developed under subsection (a) apply to the executive, legislative, judicial, and administrative branches of state and local government.

P.L.29-2003

[H.1897. Approved April 14, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-31-2.9 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]:

Chapter 2.9. Application of Residential Landlord-Tenant Statutes

Sec. 1. The definitions in IC 32-31-3 apply throughout this chapter.

Sec. 2. As used in this chapter, "residential landlord-tenant statute" refers to any of the following:

- (1) IC 32-31-3.**
- (2) IC 32-31-4.**
- (3) IC 32-31-5.**
- (4) IC 32-31-6.**
- (5) IC 32-31-7.**
- (6) IC 32-31-8.**

Sec. 3. The residential landlord-tenant statutes apply to rental agreements for dwelling units located in Indiana.

Sec. 4. The residential landlord-tenant statutes do not apply to any of the following arrangements unless the arrangement was created to avoid application of the residential landlord-tenant statutes:

- (1) Residence at a rental unit owned or operated by an institution that is directly related to detention or the provision of medical care, maternity home care, education, counseling, religious service, geriatric service, or a similar service.**
- (2) Occupancy under a contract of sale of a rental unit or the property of which the rental unit is a part if the occupant is the purchaser or a person who succeeds to the purchaser's interest.**
- (3) Occupancy by a member of a fraternal or social organization in the part of a structure operated for the benefit of the organization.**
- (4) Transient occupancy in a hotel, motel, or other lodging.**
- (5) Occupancy by an employee of a landlord whose right to occupancy is conditional upon employment in or about the premises.**
- (6) Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative.**
- (7) Occupancy under a rental agreement covering property used by the occupant primarily for agricultural purposes.**

Sec. 5. This chapter does not limit the application of a statute

that is not a residential landlord-tenant statute to a residential landlord-tenant relationship if the statute would otherwise be applicable to the relationship.

SECTION 2. IC 32-31-3-1 IS REPEALED [EFFECTIVE JULY 1, 2003].

P.L.30-2003

[H.1055. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning commerce.

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

SECTION 1. IC 4-4-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) Before July 1, 2004**, the department shall devise a distinctive trademark and register it with the secretary of state under IC 24-2-1. The trademark must indicate in some way that the product to which it is affixed is substantially produced or assembled in Indiana.

(b) The department shall register the trademark with the United States Patent and Trademark Office.

P.L.31-2003

[H.1133. Approved April 15, 2003.]

AN ACT concerning transportation.

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

SECTION 1. P.L.140-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 1. (a) As used in this SECTION, "member" refers to a person appointed under

subsection (c)(3) or (c)(4) or to a legislator whose district includes all or part of Lake County, Porter County, LaPorte County, St. Joseph County, or Elkhart County.

(b) The northwest Indiana transportation study commission is established.

(c) The commission consists of fourteen (14) voting members appointed as follows:

(1) Six (6) members of the senate, not more than three (3) of whom may be members of the same political party, appointed by the president pro tempore of the senate.

(2) Six (6) members of the house of representatives, not more than three (3) of whom may be members of the same political party, appointed by the speaker of the house of representatives.

(3) One (1) individual who is not a legislator, appointed by the Northwestern Indiana Regional Planning Commission.

(4) One (1) individual who is not a legislator, appointed by the Michiana Area Council of Governments.

(d) The chairman of the legislative council shall select one (1) member of the commission to serve as the chairperson and the vice chairman of the legislative council shall select one (1) member of the commission to serve as the vice chairperson.

(e) The commission shall:

(1) monitor the development of commuter transportation and rail service in the Lowell-Chicago and Valparaiso-Chicago corridors;

(2) study all aspects of regional mass transportation and road and highway needs in Lake County, Porter County, LaPorte County, St. Joseph County, and Elkhart County; and

(3) study other topics as assigned by the legislative council.

(f) The commission shall submit a final report of the commission's findings and recommendations to the legislative council before November 1, ~~2003~~: **2005**.

(g) Each member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative or lay members on interim study committees established by the legislative council.

(h) The legislative services agency shall provide staff support to the commission.

(i) This SECTION expires November 2, ~~2003~~: **2005**.

P.L.32-2003

[H.1278. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-12-19.5-1, AS AMENDED BY P.L.52-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The children of:

- (1) regular, paid law enforcement officers;
- (2) regular, paid firefighters;
- (3) volunteer firefighters ~~under~~ **(as defined in IC 36-8-12-2)**;
- (4) county police reserve officers; ~~or~~
- (5) city police reserve officers;
- (6) paramedics (as defined in IC 16-18-2-266);**
- (7) emergency medical technicians (as defined in IC 16-18-2-112); or**
- (8) advanced emergency medical technicians (as defined in IC 16-18-2-6);**

who have been killed in the line of duty shall not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the children are under the age of twenty-three (23) and are full-time students pursuing a prescribed course of study.

(b) The surviving spouse of a:

- (1) regular, paid law enforcement officer;
- (2) regular, paid firefighter;
- (3) volunteer firefighter ~~under~~ **(as defined in IC 36-8-12-2)**;
- (4) county police reserve officer; ~~or~~
- (5) city police reserve officer;
- (6) paramedic (as defined in IC 16-18-2-266);**
- (7) emergency medical technician (as defined in IC 16-18-2-112); or**
- (8) advanced emergency medical technician (as defined in IC 16-18-2-6);**

who has been killed in the line of duty may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the surviving spouse is pursuing a prescribed course of study at the institution towards an undergraduate degree.

(c) This section applies to the children and surviving spouse of a:

- (1) regular, paid law enforcement officer;
- (2) regular, paid firefighter;
- (3) volunteer firefighter ~~under~~ **(as defined in IC 36-8-12-2)**;
- (4) county police reserve officer; ~~or~~
- (5) city police reserve officer;
- (6) paramedic (as defined in IC 16-18-2-266);**
- (7) emergency medical technician (as defined in IC 16-18-2-112); or**
- (8) advanced emergency medical technician (as defined in IC 16-18-2-6);**

if the public safety officer described in this subsection was **a resident of Indiana and was** killed in the line of duty before, on, or after July 1, 1993.

P.L.33-2003

[H.1645. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 36-1-4-19, AS ADDED BY P.L.195-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. **(a) As used in this section, "subject property" refers to the property in Vanderburgh County within the Northwest Quarter of Section 26, Township 6 South, Range 10 West.**

(b) An ordinance of a unit that regulates the parking of motor

vehicles is not applicable in Vanderburgh County within the Northwest Quarter of Section 26, Township 6 South, Range 10 West. **subject property.**

(c) A zoning ordinance of a unit is not applicable within the subject property.

(d) Any requirements for municipal roads or streets do not apply to a road or street within the subject property.

SECTION 2. P.L.195-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 15. (a) As used in this SECTION, "commissioner" refers to the commissioner of the Indiana department of administration.

(b) As used in this SECTION, "department" refers to the Indiana department of administration created by IC 4-13-1-2.

(c) As used in this SECTION, "phase I grantee" refers to a person designated by the commissioner to be a grantee of the phase I real estate:

(d) As used in this SECTION, "phase II grantee" refers to a person designated by the commissioner to be a grantee of the phase II real estate:

(e) (c) As used in this SECTION, "historic building" refers to any of the following buildings located on the grounds of Evansville State Hospital:

- (1) The auditorium.**
- (2) The bakery.**
- (3) The castle.**
- (4) The Phantom Theatre.**

(d) As used in this SECTION, "phase I real estate" refers to the real property located in Section 26, Township 6 South, Range 10 West of the Second Principal Meridian, Vanderburgh County, Indiana, owned by the state of Indiana, and designated by the commissioner under subsection (t) for transfer to a phase I grantee: Preservation Park, Inc. The real property designated under this subsection must include all the historic buildings and as much of the real property surrounding the historic buildings that the commissioner and Preservation Park, Inc., agree are appropriate for use with the historic buildings. The real property transferred under this subsection may not include any real property described in subsection (u).

(f) (e) As used in this SECTION, "~~phase~~ **tract II real estate**" refers to the real property located in Section 26, Township 6 South, Range 10 West of the Second Principal Meridian, Vanderburgh County, Indiana, owned by the state of Indiana, and designated by the commissioner under subsection (u) for transfer to a ~~phase II grantee~~: **the city of Evansville. The real property designated under this subsection must include all of the real property located in Section 26, Township 6 South, Range 10 West of the Second Principal Meridian, Vanderburgh County, Indiana, owned by the state of Indiana, except the following real property:**

- (1) Any real property described in subsection (u).
- (2) The real property determined by the commissioner and the secretary of family and social services necessary for the operation of Evansville State Hospital.
- (3) The tract I real estate.
- (4) The tract III real estate.

(f) As used in this SECTION, "**tract III real estate**" refers to the real property located in Section 26, Township 6 South, Range 10 West of the Second Principal Meridian, Vanderburgh County, Indiana, owned by the state of Indiana and designated by the commissioner, the parks department of the city of Evansville, and the Buffalo Trace Council of the Boy Scouts of America for the Buffalo Trace Council. The real property transferred under this subsection may not include any real property described in subsection (u). The tract III real estate is real property in addition to the real property transferred to the Buffalo Trace Council under subsection (v).

(g) The governor and the commissioner are authorized and directed on behalf of and in the name of the state of Indiana to convey ~~phase the tract I real estate to a phase I grantee~~: **Preservation Park, Inc.** Except as provided in this SECTION, the conveyance of the real estate shall be made without consideration. Conveyance of the ~~phase tract I real estate~~ is subject to the following:

- (1) Use of the real estate for educational, **educational housing**, cultural, recreational, art, or museum purposes.
- (2) The easement granted under subsection (p).
- (3) Highways, easements, and restrictions of record.

However, ~~no phase~~ **Except for educational housing as provided in**

subdivision (1), tract I real estate may **not** be used for public or private housing. ~~The main building of the Evansville State Hospital may be used for public or private housing.~~

(h) The **phase tract I** real estate reverts to the state if either of the following applies:

(1) The **phase tract I** real estate is not used for the purposes described in subsection (g)(1).

(2) Renovation to use the real estate for purposes described in subsection (g)(1) has not begun before ~~July 1, 2002~~: **ten (10) years after environmental remediation is completed under subsection (dd).**

(i) The conveyance of **phase tract I** real estate must comply with IC 4-20.5-7 to the extent that IC 4-20.5-7 does not conflict with this SECTION. The department shall have a quitclaim deed prepared to convey **phase tract I** real estate to a **phase I grantee: Preservation Park, Inc.** The deed must state the conditions and restrictions contained in subsections (g) and (h). The commissioner and the governor shall sign the deed, and the seal of the state shall be affixed to the deed.

(j) ~~The phase I grantee Preservation Park, Inc.,~~ shall have the deed to the **phase tract I** real estate recorded in Vanderburgh County, Indiana.

(k) The governor and the commissioner are authorized and directed on behalf of and in the name of the state of Indiana to convey the **phase tract II** real estate to the **phase II grantee: city of Evansville.** Except as provided in this SECTION, the conveyance of the real estate shall be made without consideration. Conveyance of the **phase tract II** real estate is subject to the following:

(1) Use of the real estate for educational, cultural, recreational, art, museum, ~~nonprofit housing,~~ or social services purposes.

(2) Highways, easements, and restrictions of record.

However, ~~no phase the tract II~~ real estate ~~other than the main building of the Evansville State Hospital~~ may **not** be used for public or private housing.

(l) The **phase tract II** real estate reverts to the state if ~~either of the following applies:~~

(+) ~~The phase tract II~~ real estate is not used for the purposes described in subsection (k)(1).

~~(2) Substantial work to use the real estate for purposes described in subsection (k)(1) has not begun before two (2) years after the date of the deed conveying the phase H real estate to the phase H grantee.~~

(m) The conveyance of the **phase tract II** real estate may not be made until a new facility for Evansville State Hospital is completed and patients are transferred to the new facility.

(n) The conveyance of **phase tract II** real estate must comply with IC 4-20.5-7 to the extent that IC 4-20.5-7 does not conflict with this SECTION. The department shall have a quitclaim deed prepared to convey ~~phase the tract II~~ real estate to a **phase H grantee: the city of Evansville**. The deed must state the conditions and restrictions contained in subsections (k) and (l). The commissioner and the governor shall sign the deed, and the seal of the state shall be affixed to the deed.

(o) The **phase H grantee city of Evansville** shall have the deed to the **phase tract II** real estate recorded in Vanderburgh County, Indiana.

(p) The governor and the commissioner are authorized and directed on behalf of and in the name of the state of Indiana to grant an easement through the **phase tract I** real estate to the parks department of the city of Evansville for operation of a recreational greenway. The location of the easement on the real estate shall be determined by the department and **the** parks department of the city of Evansville. Except as provided in this SECTION, the grant shall be made without consideration. The easement is subject to highways, other easements, and restrictions of record.

(q) The grant required by subsection (p) expires if the easement is not used for the purposes described in subsection (p). The instrument granting the easement must state the conditions and restrictions contained in subsection (p) and this subsection.

(r) The parks department of the city of Evansville shall have the easement recorded in Vanderburgh County, Indiana.

(s) The easement granted under subsection (p) must comply with IC 4-20.5-7 to the extent that IC 4-20.5-7 does not conflict with this SECTION.

(t) The department shall inform the superintendent of Evansville State Hospital when the conveyances and grant under this SECTION have been completed.

(u) **The governor and the commissioner of the department of administration are authorized and directed on behalf of and in the name of the state to convey to a phase I or phase II grantee property described in subsection (e) or (f) tract I real estate, the tract II real estate, and the tract III real estate together consist of all the real property located in Section 26, Township 6 South, Range 10 West of the Second Principal Meridian, Vanderburgh County, Indiana, owned by the state of Indiana** except the following property:

Commencing at the northwest corner of the Northeast Quarter of said Section 26; thence along the west line of said quarter section South 01 degrees 07 minutes 41 seconds West 248.92 feet to a point on the southern right-of-way line of State Road 66 (Lloyd Expressway) as described in a Declaration of Departmental transfer recorded in Deed Drawer 1, Card 20807 in the office of the Recorder of Vanderburgh County, Indiana and being the northwest corner of the land described in a deed to the Southwestern Indiana Mental Health Center, Inc. recorded in Deed Drawer 4, Card 3658 in the office of said Recorder and being the POINT OF BEGINNING of this description; thence continuing along the west line of said quarter section and the west line of the Southwestern Indiana Mental Health Center parcel South 01 degree 07 minutes 41 seconds West 316.19 feet to the southwest corner of said Mental Health Center parcel; thence along the south line of said Mental Health Center parcel South 87 degrees 34 minutes 27 seconds East 599.96 feet; thence South 01 degree 07 minutes 36 seconds West 2072.09 feet to a point on the south line of the Northeast Quarter of said Section 26; thence along said south line North 88 degrees 46 minutes 29 seconds West 599.86 feet to the southeast corner of the Northwest Quarter of said Section 26; thence along the south line of said Northwest Quarter North 88 degrees 48 minutes 56 seconds West 2022.00 feet to a center punched railroad spike; thence North 01 degree 11 minutes 04 seconds East 556.00 feet to a 3/4 inch rebar with cap stamped BLA FIRM 0030, hereinafter referred to as 3/4 inch rebar; thence North 56 degrees 49 minutes 09 seconds East 40.07 feet to a 3/4 inch rebar; thence Northeasterly 641.79 feet along an arc to the left and having a radius of 3500.00 feet and subtended by a long chord having a

bearing of North 51 degrees 33 minutes 58 seconds East and a length of 640.89 feet to a 3/4 inch rebar; thence North 46 degrees 18 minutes 47 seconds East 306.50 feet to a 3/4 inch rebar; thence South 43 degrees 41 minutes 13 seconds East 94.00 feet to a 3/4 inch rebar; thence North 46 degrees 18 minutes 47 seconds East 32.50 feet to a 3/4 inch rebar; thence Northeasterly 155.49 feet along an arc to the right and having a radius of 785.00 feet and subtended by a long chord having a bearing of North 51 degrees 59 minutes 14 seconds East and a length of 155.23 feet to a 3/4 inch rebar and being the point of intersection with a non-tangent line; thence South 76 degrees 15 minutes 26 seconds East 429.08 feet to a 3/4 inch rebar; thence North 13 degrees 44 minutes 34 seconds East 201.39 feet to a 3/4 inch rebar; thence South 76 degrees 15 minutes 26 seconds East 71.33 feet to a 3/4 inch rebar; thence Easterly, Northeasterly, and Northerly 109.96 feet along an arc to the left and having a radius of 70.00 feet and subtended by a long chord having a bearing of North 58 degrees 44 minutes 34 seconds East and a length of 98.99 feet to a 3/4 inch rebar; thence North 13 degrees 44 minutes 34 seconds East 248.11 feet to a 3/4 inch rebar; thence South 76 degrees 15 minutes 26 seconds East 125.50 feet to a 3/4 inch rebar; thence North 13 degrees 44 minutes 34 seconds East 131.01 feet to a center punched railroad spike; thence South 76 degrees 15 minutes 26 seconds East 32.23 feet to a 3/4 inch rebar; thence North 13 degrees 44 minutes 34 seconds East 71.72 feet to a 3/4 inch rebar; thence North 33 degrees 22 minutes 06 seconds East 127.79 feet to a 3/4 inch rebar; thence North 56 degrees 37 minutes 54 seconds West 30.50 feet to a 3/4 inch rebar; thence North 32 degrees 07 minutes 32 seconds East 232.29 feet to the southeast corner of the land described in a deed to the American Red Cross, Southwest Indiana Chapter recorded in Deed Drawer 13, Card 1819 in the office of said Recorder; thence along the east line of said American Red Cross parcel North 03 degrees 14 minutes 46 seconds East 263.43 feet to the aforescribed southern right-of-way line of State Road 66 (Lloyd Expressway); thence along said southern right-of-way line North 72 degrees 07 minutes 25 seconds East 28.66 feet to the point of beginning and

containing 85.478 acres, more or less.

(v) ~~Notwithstanding other provisions of this SECTION;~~ The governor and the commissioner are authorized and directed on behalf of and in the name of the state of Indiana to convey to the Buffalo Trace Council of the Boy Scouts of America for occupancy by the Buffalo Trace Council to be used for educational and cultural purposes, all right, title, and interest of this state in the real estate that is part of the Northwest Quarter of Section 26, Township 6 South, Range 10 West, in Vanderburgh County, Indiana, more particularly described as follows:

Commencing at the northeast corner of said quarter section; thence north 88 degrees 51 minutes 14 seconds west along the north line of said quarter section 1281.04 feet; thence south 01 degrees 09 minutes 34 seconds west 179.67 feet to the point of beginning, said point being on the south right-of-way of State Road 66 (as recorded in Deed Record 1, Card 20809 in the Office of the Recorder of Vanderburgh County, Indiana) at the center of a 50 foot opening in the limited access right-of-way; thence south 88 degrees 50 minutes 26 seconds east along the south right-of-way of State Road 66 376.20 feet; thence south 01 degrees 09 minutes 34 seconds west 267.05 feet; thence north 78 degrees 10 minutes 30 seconds west 382.81 feet; thence north 01 degrees 09 minutes 34 seconds east 196.20 feet to the point of beginning, containing 2.00 acres (87,137 square feet). Subject to an easement 25 feet in width along the west side for ingress and egress to the State Hospital complex.

The Buffalo Trace Council shall cooperate with ~~phase I and phase II grantees~~ **Preservation Park, Inc., and the city of Evansville** on issues related to the parking of motor vehicles on ~~phase the tract~~ **I** real estate, ~~phase the tract~~ **II** real estate, or ~~the~~ real estate described in this subsection.

(w) The governor and the commissioner of the Indiana department of administration are authorized and directed on behalf of and in the name of the state to convey to the Buffalo Trace Council of the Boy Scouts of America for ingress and egress to and from the property described in subsection ~~(t)~~ **(v)** an easement in the real estate that is part of the Northwest Quarter of Section 26, Township 6 South, Range 10 West, in Vanderburgh County, Indiana, more particularly described as

follows:

Commencing at the northeast corner of said quarter section; thence north 88 degrees 51 minutes 14 seconds west along the north line of said quarter section 1281.04 feet; thence south 01 degrees 09 minutes 34 seconds west 179.67 feet to the point of beginning, said point being on the south right-of-way of State Road 66 (as recorded in Deed Record 1, Card 20809 in the office of the Recorder of Vanderburgh County, Indiana) at the center of a 50 foot opening in the limited access right-of-way; thence continue south 01 degrees 09 minutes 34 seconds west 196.20 feet; thence north 78 degrees 10 minutes 30 seconds west 25.44 feet; thence north 01 degrees 09 minutes 34 seconds east 191.49 feet to a point on the south right-of-way line for State Road 66 and the west end of an opening in the limited access right-of-way previously described; thence south 88 degrees 50 minutes 26 seconds east along the south line of the State Road 66 right-of-way 25.00 feet to the point of beginning.

(x) Upon the taking effect of this SECTION, the commissioner of the Indiana department of administration shall have a deed prepared to convey to the Buffalo Trace Council of the Boy Scouts of America the real estate and easement described in subsections (v) and (w). The governor shall sign the deed. The deed shall be attested by the commissioner of the Indiana department of administration, who shall have the seal of the state affixed to the deed. The commissioner of the Indiana department of administration shall deliver the completed deed to the Buffalo Trace Council.

(y) The real estate described in subsections (v) and (w) revert to the state if any of the following apply:

(1) The real estate is used for a purpose other than the purposes described in subsections (v) and (w).

(2) The Buffalo Trace Council fails to use the real estate for a purpose described in subsection (v) or (w) before July 1, 2003.

(3) The real estate is vacant or abandoned on or after July 1, 2003.

The provisions of this subsection shall be included in the deed.

(z) The governor and the commissioner are authorized and directed on behalf of and in the name of the state of Indiana to convey to the Buffalo Trace Council of the Boy Scouts of America for occupancy by the Buffalo Trace Council to be used for

educational and cultural purposes, all right, title, and interest of the state in the tract III real estate. Except as provided in this SECTION, the conveyance of the tract III real estate shall be made without consideration. Conveyance of the tract III real estate is subject to the following:

(1) Use of the real estate for educational and cultural purposes.

(2) Highways, easements, and restrictions of record.

However, the tract III real estate may not be used for public or private housing.

(aa) The tract III real estate reverts to the city of Evansville if the tract III real estate is not used for the purposes described in subsection (z).

(bb) The conveyance of tract III real estate must comply with IC 4-20.5-7 to the extent that IC 4-20.5-7 does not conflict with this SECTION. The department shall have a quitclaim deed prepared to convey the tract III real estate to the Buffalo Trace Council of the Boy Scouts of America. The deed must state the conditions and restrictions contained in subsections (z) and (aa). The commissioner and the governor shall sign the deed, and the seal of the state shall be affixed to the deed.

(cc) The Buffalo Trace Council of the Boy Scouts of America shall have the deed to the tract III real estate recorded in Vanderburgh County, Indiana.

(dd) As provided in IC 4-20.5-7-5, the department shall conduct an environmental audit of the real property to be conveyed under this SECTION and remediate contamination found before conveying the interests required to be conveyed under this SECTION.

(ee) This SECTION expires July 1, 2006: 2013.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The Indiana department of transportation shall work with the city of Evansville and the Evansville Urban Transit Study to determine the most practical way to connect the grounds of the Evansville State Hospital with Wesselman Park, Wesselman Woods, and the Pigeon Creek greenway system.

(b) This SECTION expires July 1, 2008.

SECTION 4. An emergency is declared for this act.

P.L.34-2003

[H.1968. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-14-3-5, AS AMENDED BY P.L.225-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), (c), or (d), the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be submitted in writing to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau may not disclose: ~~the~~

- (1) **the** Social Security number;
- (2) **the** federal identification number;
- (3) **the** driver's license number; ~~or~~
- (4) **the** digital image of the driver's license applicant; **or**
- (5) **a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3;**

of any person except to a law enforcement officer or an agent or a designee of the department of state revenue.

(c) As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

(d) The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection (c)) to sign a voter registration application, except as authorized under IC 3-7-14.

SECTION 2. IC 9-24-11-5, AS AMENDED BY P.L.1-2002, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A permit or license issued under this chapter

must bear the distinguishing number assigned to the permittee or licensee, and must contain:

- (1) the name of the permittee or licensee;
- (2) the date of birth of the permittee or licensee;
- (3) the mailing address or residence address of the permittee or licensee;
- (4) a brief description of the permittee or licensee;
- (5) if the permittee or licensee is less than eighteen (18) years of age at the time of issuance, the dates on which the permittee or licensee will become:
 - (A) eighteen (18) years of age; and
 - (B) twenty-one (21) years of age;
- (6) if the permittee or licensee is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the permittee or licensee will become twenty-one (21) years of age; and
- (7) except as provided in subsection (c), for the purpose of identification, a:
 - (A) photograph; or
 - (B) computerized image;of the permittee or licensee;

and additional information that the bureau considers necessary, including a space for **reproduction of** the signature of the permittee or licensee.

(b) In carrying out this section, the bureau shall obtain the equipment necessary to provide the photographs and computerized images for permits and licenses as provided in subsection (a).

(c) The following permits or licenses do not require a photograph or computerized image:

- (1) Temporary motorcycle learner's permit issued under IC 9-24-8.
- (2) Motorcycle learner's permit issued under IC 9-24-8.
- (3) Operator's license reissued under IC 9-24-12-6.

(d) The bureau may provide for the omission of a photograph or computerized image from any other license or permit if there is good cause for the omission.

(e) The information contained on the permit or license as required by subsection (a)(5) or (a)(6) for a permittee or licensee who is less

than twenty-one (21) years of age at the time of issuance shall be printed perpendicular to the bottom edge of the permit or license.

SECTION 3. IC 9-24-16-3, AS AMENDED BY P.L.1-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An identification card must have the same dimensions and shape as a driver's license, but the card must have markings sufficient to distinguish the card from a driver's license.

(b) The front side of an identification card must contain the following information about the individual to whom the card is being issued:

- (1) Full legal name.
- (2) Mailing address and, if different from the mailing address, the residence address.
- (3) Date of birth.
- (4) Date of issue and date of expiration.
- (5) Distinctive identification number or Social Security account number, whichever is requested by the individual.
- (6) Sex.
- (7) Weight.
- (8) Height.
- (9) Color of eyes and hair.
- (10) **Reproduction of the** signature of the individual identified.
- (11) Whether the individual is blind (as defined in IC 12-7-2-21(1)).
- (12) If the individual is less than eighteen (18) years of age at the time of issuance, the dates on which the individual will become:
 - (A) eighteen (18) years of age; and
 - (B) twenty-one (21) years of age.
- (13) If the individual is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the individual will become twenty-one (21) years of age.
- (14) Photograph or computerized image.

(c) The information contained on the identification card as required by subsection (b)(12) or (b)(13) for an individual who is less than twenty-one (21) years of age at the time of issuance shall be printed perpendicular to the bottom edge of the permit or license.

SECTION 4. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 9-24-11-6; IC 9-24-13-2.

P.L.35-2003

[H.1078. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-14-1.5-2, AS AMENDED BY P.L.90-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. For the purposes of this chapter:

(a) "Public agency" means the following:

- (1) Any board, commission, department, agency, authority, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the state.
- (2) Any county, township, school corporation, city, town, political subdivision, or other entity, by whatever name designated, exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power.
- (3) Any entity which is subject to either:
 - (A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or
 - (B) audit by the state board of accounts.
- (4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public facilities.
- (5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.
- (6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.
- (7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(b) "Governing body" means two (2) or more individuals who are:

(1) a public agency that:

(A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and

(B) takes official action on public business;

(2) the board, commission, council, or other body of a public agency which takes official action upon public business; or

(3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by a ~~school corporation~~ **the governing body** to conduct collective bargaining on behalf of ~~that school corporation~~ **the governing body** does not constitute a governing body for purposes of this chapter.

(c) "Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include:

(1) any social or chance gathering not intended to avoid this chapter;

(2) any on-site inspection of any project or program;

(3) traveling to and attending meetings of organizations devoted to betterment of government; or

(4) a caucus.

(d) "Official action" means to:

(1) receive information;

(2) deliberate;

(3) make recommendations;

(4) establish policy;

(5) make decisions; or

(6) take final action.

(e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.

(f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

(g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

(h) "Caucus" means a gathering of members of a political party or

coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.

(i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).

(j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

P.L.36-2003

[H.1083. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 24-5-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 22. Deceptive Commercial Electronic Mail

Sec. 1. As used in this chapter, "assist the transmission" means to provide substantial assistance or support that enables a person to formulate, compose, send, originate, initiate, or transmit a commercial electronic mail message when the person providing the assistance knows or consciously avoids knowing that the initiator of the commercial electronic mail message is engaged or intends to engage in a practice that violates this chapter.

Sec. 2. (a) As used in this chapter, "commercial electronic mail message" refers to an electronic mail message sent to promote the sale or lease of real property, goods, or services.

(b) The term does not include an electronic mail message to which an interactive computer service provider has attached an advertisement in exchange for free use of an electronic mail account, if the sender has agreed to such an arrangement.

Sec. 3. As used in this chapter, "electronic mail address" means a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

Sec. 4. (a) As used in this chapter, "initiate the transmission" refers to the action by the original sender of an electronic mail message.

(b) The term does not include an action by any intervening interactive computer service that handles or retransmits the message.

Sec. 5. (a) As used in this chapter, "interactive computer service" means an information service, a system, or an access software provider that provides or enables computer access to a computer server by multiple users.

(b) The term includes the following:

- (1) A service or system that provides access to the Internet.
- (2) A system operated or services offered by a library, a school, a state educational institution (as defined in IC 20-12-0.5-1), or a private college or university.

Sec. 6. As used in this chapter, "Internet domain name" refers to a globally unique, hierarchical reference to an Internet host or service, assigned through centralized Internet naming authorities, comprising a series of character strings separated by periods, with the right most string specifying the top of the hierarchy.

Sec. 7. (a) For purposes of this section, a person knows that the intended recipient of a commercial electronic mail message is an Indiana resident if that information is available, upon request, from the registrant of the Internet domain name contained in the recipient's electronic mail address.

(b) Subsection (c) applies only to a commercial electronic mail message that:

- (1) uses a third party's Internet domain name without permission of the third party;
- (2) otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of the commercial electronic mail message; or

(3) contains false or misleading information in the subject line.

(c) A person may not initiate or assist in the transmission of a commercial electronic mail message described in subsection (b):

(1) from a computer located in Indiana; or

(2) to an electronic mail address that the sender:

(A) knows; or

(B) has reason to know;

is held by a resident of Indiana.

Sec. 8. A person may not do any of the following:

(1) Send unsolicited commercial electronic mail and fail to use "ADV:" as the initial four (4) characters in the subject line of the electronic mail. This subdivision does not apply if any of the following apply:

(A) The sender of the electronic mail has a current business relationship with the recipient of the electronic mail.

(B) The sender of the electronic mail is an organization using the electronic mail to communicate with its members.

(C) The sender of the electronic mail is an organization using the electronic mail to communicate exclusively with the organization's employees or contractors, or both.

(2) Send unsolicited commercial electronic mail and fail to use "ADV:ADLT" as the first eight (8) characters in the subject line of the electronic mail if the unsolicited commercial electronic mail is any of the following:

(A) The unsolicited commercial electronic mail contains a solicitation for the sale or lease of services or tangible or intangible personal or real property that may not be purchased, leased, or possessed by a minor under Indiana law.

(B) The unsolicited commercial electronic mail contains a solicitation for an extension of credit.

(C) The unsolicited commercial electronic mail contains matter that is harmful to minors under Indiana law.

(3) Send unsolicited commercial electronic mail and fail to provide a means for the recipient easily and at no cost to the recipient to remove the recipient's name from the sender's

electronic mail address lists.

(4) Send unsolicited commercial electronic mail to a recipient who has asked the sender to remove the recipient's electronic mail address from the sender's electronic mail address lists.

(5) Provide to a third person the electronic mail address of a recipient who has asked the sender to remove the recipient's electronic mail address from the sender's electronic mail address lists. This subdivision applies to a third person who is a part of the sender's business organization. This subdivision does not prohibit providing a recipient's electronic mail address to a third person for the sole purpose of inclusion of the electronic mail address on a do-not-mail list.

Sec. 9. (a) An interactive computer service may, upon its own initiative, block the receipt or transmission through its service of any commercial electronic mail message that it reasonably believes is or will be sent in violation of this chapter.

(b) An interactive computer service is not liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any commercial electronic mail message that it reasonably believes is or will be sent in violation of this chapter.

Sec. 10. (a) The following have a right of action against a person who initiates or assists the transmission of a commercial electronic mail message that violates this chapter:

(1) A person who receives the commercial electronic mail message.

(2) An interactive computer service that handles or retransmits the commercial electronic mail message.

(b) This chapter does not provide a right of action against:

(1) an interactive computer service;

(2) a telephone company; or

(3) a CMRS provider (as defined by IC 36-8-16.5-6);

whose equipment is used to transport, handle, or retransmit a commercial electronic mail message that violates this chapter.

(c) It is a defense to an action under this section if the defendant shows by a preponderance of the evidence that the violation of this chapter resulted from a good faith error and occurred notwithstanding the maintenance of procedures reasonably adopted to avoid violations of this chapter.

(d) If the plaintiff prevails in an action filed under this section,

the plaintiff is entitled to the following:

- (1) An injunction to enjoin future violations of this chapter.
- (2) Compensatory damages equal to any actual damage proven by the plaintiff to have resulted from the initiation of the commercial electronic mail message. If the plaintiff does not prove actual damage, the plaintiff is entitled to presumptive damages of five hundred dollars (\$500) for each commercial electronic mail message that violates this chapter and that is sent by the defendant:
 - (A) to the plaintiff; or
 - (B) through the plaintiff's interactive computer service.
- (3) The plaintiff's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

(e) A person outside Indiana who:

- (1) initiates or assists the transmission of a commercial electronic mail message that violates this chapter; and
- (2) knows or should know that the commercial electronic mail message will be received in Indiana;

submits to the jurisdiction of Indiana courts for purposes of this chapter.

SECTION 2. IC 34-30-2-96.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 96.5. IC 24-5-22-9 (Concerning the action of an interactive computer service in blocking the receipt or transmission of certain electronic mail messages).**

P.L.37-2003

[H.1399. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-27-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "home health agency" means a person that provides or offers to provide only a home health service for compensation.

(b) The term does not include the following:

(1) An individual health care professional who provides professional services to a patient in the temporary or permanent residence of the patient.

(2) A local health department as described in IC 16-20 or IC 16-22-8.

(3) A person that:

(A) is approved by the division of disability, aging, and rehabilitative services to provide supported living services or supported living supports to individuals with developmental disabilities;

(B) is subject to rules adopted under IC 12-11-2.1; and

(C) serves only individuals with developmental disabilities who are in a placement authorized under IC 12-11-2.1-4.

SECTION 2. An emergency is declared for this act.

P.L.38-2003
[H.1901. Approved April 15, 2003.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 20-3-11-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. (a) The board of school commissioners consists of seven (7) members. Each member shall be elected on a nonpartisan basis in primary elections held in the county as specified in this section. Five (5) of the members shall be elected from the school board districts in which they reside and two (2) members shall be elected at large. Not more than two (2) of the members who serve on the board may reside in the same school board district. When a candidate runs for one (1) of the district positions on the board, only eligible voters residing in the candidate's district may vote for that candidate. When a person is a candidate for one (1) of the at-large positions, eligible voters from all the districts may vote for that candidate. When a candidate files to run for a position on the board, the candidate must specify whether the candidate is running for a district or an at-large position. All members elected to the board serve four (4) year terms. A candidate who runs for a district or an at-large position wins if the candidate receives the greatest number of votes of all the candidates against whom the candidate runs. Districts shall be established within the school corporation by the state board of education. The districts shall be drawn on the basis of precinct lines and as nearly as practicable, of equal population with the population of the largest not to exceed the population of the smallest by more than five percent (5%). District lines must not cross precinct lines. The state board of education shall establish balloting procedures for the election under IC 3 and other procedures required to implement this section.

(b) Each member of the board of school commissioners serves under section 2 of this chapter. The vacancies in the board of school commissioners shall be filled temporarily by the school board as soon as practicable after the vacancy occurs. The member chosen by the board to fill a vacancy holds office until the member's successor is

elected and qualified. The successor shall be elected at the next regular school board election occurring after the date on which the vacancy occurs, at which time the vacancy shall be filled for the remainder of the term.

(c) Persons elected to serve on the board begin their terms on July 1 of the year of their election.

(d) Notwithstanding any law to the contrary, voters shall cast their votes for school board candidates by voting ~~machine~~ **system** or paper ballot. **However, the same method used to cast votes for all other offices for which candidates have qualified to be on the election ballot must be used for the school board offices.**

SECTION 2. IC 20-4-1-26.10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 26.10. (a) This section applies to a community school corporation located in a county containing a consolidated city.**

(b) The same method used to cast votes for all other offices for which candidates have qualified to be on the election ballot must be used for the school board offices on the election ballot.

SECTION 3. IC 20-4-1-27.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 27.2. (a) This section applies to a school corporation located in a county containing a consolidated city.**

(b) The same method used to cast votes for all other offices for which candidates have qualified to be on the election ballot must be used for the school board offices on the election ballot.

SECTION 4. IC 20-4-8-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.5. (a) This section applies to a metropolitan or consolidated school corporation located in a county containing a consolidated city.**

(b) The same method used to cast votes for all other offices for which candidates have qualified to be on the election ballot must be used for the school board offices on the election ballot.

SECTION 5. [EFFECTIVE JULY 1, 2003] IC 20-3-11-3.1, as amended by this act, and IC 20-4-1-26.10, IC 20-4-1-27.2, and IC 20-4-8-18.5, as added by this act, apply to all school board elections held after December 31, 2003.

P.L.39-2003

[H.1044. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-26-5-3, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The division of state court administration shall:

- (1) develop and adopt:
 - (A) a petition for an order for protection;
 - (B) an order for protection, including:
 - (i) orders issued under this chapter;
 - (ii) ex parte orders; and
 - (iii) no contact orders under IC 31 and IC 35;
 - (C) a confidential sheet;
 - (D) a notice of modification or extension for an order for protection;
 - (E) a notice of termination for an order for protection; and
 - (F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and
- (2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

- (1) either party; or
- (2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection:

VIOLATION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S

RESIDENCE, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

- (1) the forms adopted under subsection (a);
- (2) all other forms required to petition for an order for protection, including forms:
 - (A) necessary for service; and
 - (B) required under IC 31-17-3; and
- (3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. **A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.**

(e) A petition for an order for protection must be:

- (1) verified or under oath under Trial Rule 11; and
- (2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

P.L.40-2003

[H.1102. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-6-2-48.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 48.3. "Foreign judgment", for purposes of IC 34-54-11, means a judgment decree or order of a court:**

- (1) of the United States;**
- (2) of a state other than Indiana; or**
- (3) that is entitled to the full faith and credit of Indiana.**

The term does not include a foreign protection order.

SECTION 2. IC 34-54-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 11. Enforcement of Foreign Judgments

Sec. 1. (a) A certified and exemplified copy of a foreign judgment may be filed in the office of the clerk of any court of record in a county in Indiana where the debtor resides or owns property, and is subject to IC 34-55-9-2.

(b) The clerk of the court in which the copy is filed shall treat the foreign judgment in the same manner as a judgment of an Indiana court.

(c) A foreign judgment filed under subsection (a) has the same effect and is subject to the same procedures and defenses as a judgment entered by an Indiana court.

Sec. 2. (a) A judgment creditor filing a foreign judgment under this chapter must file an affidavit with the clerk of the court in which the foreign judgment is filed at the time the foreign judgment is filed. The affidavit must set forth:

- (1) the name and last known address of the judgment debtor;**
and
- (2) the name and last known address of the judgment creditor.**

(b) The judgment creditor must send notice of the filing of the foreign judgment in the same process prescribed under Indiana Trial Rule 4 through Indiana Trial Rule 4.17.

(c) The notice described in subsection (b) must contain:

- (1) the name and address of the judgment creditor;**
- (2) the name and address of the judgment creditor's attorney, if any; and**
- (3) the nature and amount of the judgment creditor's claim under the foreign judgment.**

(d) Execution or other process for the enforcement of a foreign judgment may not be issued earlier than twenty-one (21) days after the entry of the judgment in the judgment's original jurisdiction.

(e) Not later than twenty-one (21) days after the date notice is served to the judgment debtor by the judgment creditor or the judgment creditor's attorney, the judgment debtor may file a notice with the court in which the judgment has been filed asserting any defenses that would prohibit the judgment creditor from execution or another process for enforcement of the foreign judgment.

Sec. 3. (a) The filing fee for a foreign judgment is the same as the fee for filing a cause of action with the clerk of the court in which the foreign judgment is filed.

(b) All filing fees are due and payable at the time of filing.

Sec. 4. (a) If the judgment debtor shows the court with whose clerk the foreign judgment is filed:

(1) that:

- (A) an appeal from the foreign judgment is pending;**
- (B) an appeal from the foreign judgment will be taken; or**
- (C) a stay of execution of the foreign judgment has been granted; and**

(2) that the judgment debtor has furnished the security, if any, for the judgment required under the jurisdiction in which the foreign judgment was rendered;

the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

(b) If:

- (1) the judgment debtor shows the court grounds upon which enforcement of a judgment of a court of Indiana would be**

stayed; and

(2) the judgment debtor gives the court security for the judgment debt;

the court shall stay enforcement of the foreign judgment for the same period as would be appropriate to stay enforcement for a similar judgment by an Indiana court.

Sec. 5. This chapter does not impair a judgment creditor's right to bring an action to enforce a foreign judgment by other means.

P.L.41-2003

[H.1129. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-13-16.5-2, AS AMENDED BY P.L.42-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) There is established a governor's commission on minority and women's business enterprises. The commission shall consist of the following members:

- (1) A governor's designee, who shall serve as chairman of the commission.
- (2) The commissioner of the Indiana department of transportation.
- (3) The director of the department of commerce.
- (4) The commissioner of the department.
- (5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority and women's business enterprises, appointed by the governor from the following geographical areas of the state:
 - (A) Three (3) from the northern one-third (1/3) of the state.
 - (B) Three (3) from the central one-third (1/3) of the state.
 - (C) Three (3) from the southern one-third (1/3) of the state.
- (6) Two (2) members of the house of representatives, no more

than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.

(7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman deems necessary.

(f) The duties of the commission shall include but not be limited to the following:

- (1) Identify minority and women's business enterprises in the state.
 - (2) Assess the needs of minority and women's business enterprises.
 - (3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.
 - (4) Give special publicity to procurement, bidding, and qualifying procedures.
 - (5) Include minority and women's business enterprises on solicitation mailing lists.
 - (6) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies with state and federal legislation and policy concerning the awarding of contracts to minority and women's business enterprises.
 - (7) Establish annual goals:
 - (A) for the use of minority and women's business enterprises; and
 - (B) derived from a statistical analysis of utilization study of state contracts that are required to be updated every five (5) years.
 - (8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.
- ~~(g) The department shall develop size standards based on 13 CFR 121.~~
- ~~(h)~~ **(g)** The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under subsection (a)(6) or (a)(7).
- ~~(i)~~ **(h)** The department shall furnish administrative support and staff as is necessary for the effective operation of the commission.
- SECTION 2. IC 4-13-16.5-4, AS ADDED BY P.L.195-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Before January 1 of even-numbered years, the department shall determine whether, during the most recently completed two (2) year period ending the previous July 1, the goals set under section 2(f)(7) of this chapter have been met.

(b) The department shall adopt rules under IC 4-22-2 to ensure that the goals set under section 2(f)(7) of this chapter are met. ~~The rules adopted by the department must provide that if a business qualifies as both a minority business enterprise and a women's business enterprise, a contract awarded to the business is considered awarded to a minority business enterprise. Expenditures with business enterprises that qualify as both a minority business enterprise and a women's business enterprise may be counted toward the attainment of the goal for either:~~

(1) minority business enterprises; or

(2) women's business enterprises;

at the election made by the procurer of goods, services, or goods and services, but not both.

SECTION 3. An emergency is declared for this act.

P.L.42-2003

[H.1155. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-3.5-1.1-2, AS AMENDED BY P.L.178-2002, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The county council of any county in which the county option income tax will not be in effect on July 1 of a year under an ordinance adopted during a previous calendar year may impose the county adjusted gross income tax on the adjusted gross income of county taxpayers of its county effective July 1 of that year.

(b) Except as provided in section 2.5, 2.7, 2.8, 2.9, **3.3**, 3.5, or 3.6 of this chapter, the county adjusted gross income tax may be imposed at a rate of one-half of one percent (0.5%), three-fourths of one percent (0.75%), or one percent (1%) on the adjusted gross income of resident county taxpayers of the county. Any county imposing the county adjusted gross income tax must impose the tax on the nonresident

county taxpayers at a rate of one-fourth of one percent (0.25%) on their adjusted gross income. If the county council elects to decrease the county adjusted gross income tax, the county council may decrease the county adjusted gross income tax rate in increments of one-tenth of one percent (0.1%).

(c) To impose the county adjusted gross income tax, the county council must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance must substantially state the following:

"The _____ County Council imposes the county adjusted gross income tax on the county taxpayers of _____ County. The county adjusted gross income tax is imposed at a rate of _____ percent (____%) on the resident county taxpayers of the county and one-fourth of one percent (0.25%) on the nonresident county taxpayers of the county. This tax takes effect July 1 of this year."

(d) Any ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(e) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this section and immediately send a certified copy of the results to the department by certified mail.

(f) If the county adjusted gross income tax had previously been adopted by a county under IC 6-3.5-1 (before its repeal on March 15, 1983) and that tax was in effect at the time of the enactment of this chapter, then the county adjusted gross income tax continues in that county at the rates in effect at the time of enactment until the rates are modified or the tax is rescinded in the manner prescribed by this chapter. If a county's adjusted gross income tax is continued under this subsection, then the tax shall be treated as if it had been imposed under this chapter and is subject to rescission or reduction as authorized in this chapter.

SECTION 2. IC 6-3.5-1.1-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.3. (a) This section applies only to a county that:**

(1) operates a county jail that is subject to an order that:

(A) was issued by a federal district court before January 1, 2003; and

may not exceed thirty (30) years.

(e) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (d). The tax rate may not be imposed at a rate greater than is necessary to pay the costs of financing, acquiring, improving, renovating, and equipping the county jail and related buildings and parking facilities, including costs related to the demolition of existing buildings and the acquisition of land.

(f) The county treasurer shall establish a county jail revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county jail revenue fund before making a certified distribution under section 11 of this chapter.

(g) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (c).

(h) A county described in subsection (a) possesses unique economic development challenges due to underemployment in relation to similarly situated counties. Maintaining low property tax rates is essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter, rather than use of property taxes, to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (c) promotes that purpose.

(i) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

- (1) the redemption of bonds issued; or
- (2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county general fund.

SECTION 3. IC 6-3.5-1.1-10, AS AMENDED BY P.L.157-2002, SECTION 2, AND AS AMENDED BY P.L.178-2002, SECTION 57,

IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) *Except as provided in subsection (b), one-half (1/2) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 8 of this chapter to the appropriate county treasurer on May 1 and the other one-half (1/2) on November 1 of that calendar year.*

(b) This subsection applies to a county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000). Notwithstanding section 9 of this chapter, the initial certified distribution certified for a county under section 9 of this chapter shall be distributed to the county treasurer from the account established for the county under section 8 of this chapter according to the following schedule during the eighteen (18) month period beginning on July 1 of the year in which the county initially adopts an ordinance under section 2 of this chapter:

- (1) One-fourth (1/4) on October 1 of the year in which the ordinance was adopted.*
- (2) One-fourth (1/4) on January 1 of the calendar year following the year in which the ordinance was adopted.*
- (3) One-fourth (1/4) on May 1 of the calendar year following the year in which the ordinance was adopted.*
- (4) One-fourth (1/4) on November 1 of the calendar year following the year in which the ordinance was adopted.*

Notwithstanding section 11 of this chapter, the part of the certified distribution received under subdivision (1) that would otherwise be allocated to a civil taxing unit or school corporation as property tax replacement credits under section 11 of this chapter shall be set aside and treated for the calendar year when received by the civil taxing unit or school corporation as a levy excess subject to IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7. Certified distributions made to the county treasurer for calendar years following the eighteen (18) month period described in this subsection shall be made as provided in subsection (a).

~~(b)~~ (c) *Except for:*

- (1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;*
- (2) revenue that must be used to pay the costs of:*
 - (A) financing, constructing, acquiring, improving, renovating,*

or equipping facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

*(3) revenue that must be used to pay the costs of construction, improvement, ~~or~~ renovation, or remodeling of a jail and related buildings and parking structures under section 2.7 ~~or~~ 2.9, **or 3.3** of this chapter; ~~or~~*

~~(3)~~ *(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or*

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

distributions made to a county treasurer under ~~subsection~~ *subsections (a) and (b)* shall be treated as though they were property taxes that were due and payable during that same calendar year. *Except as provided by subsection (b)*, the certified distribution shall be distributed and used by the taxing units and school corporations as provided in sections 11 through 15 of this chapter.

~~(c)~~ *(d)* All distributions from an account established under section 8 of this chapter shall be made by warrants issued by the auditor of the state to the treasurer of the state ordering the appropriate payments.

SECTION 4. IC 6-3.5-1.1-11, AS AMENDED BY P.L.178-2002, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except for:

(1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;

(2) revenue that must be used to pay the costs of:

(A) financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;

(B) debt service on bonds; or

(C) lease rentals;

under section 2.8 of this chapter;

(3) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, ~~or~~ 2.9, **or 3.3** of this chapter;

(4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before August 2 of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received. The percentages are set forth in the following table:

COUNTY ADJUSTED GROSS INCOME TAX RATE	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 5. IC 6-3.5-7-5, AS AMENDED BY P.L.192-2002(ss), SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), and (p), the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);
- (7) forty-five hundredths percent (0.45%); or
- (8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g) or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at

a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%); if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred

(71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

- (1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or
 - (2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);
- except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more

than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and:

- (A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

- (B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

- (1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

- (2) the:

- (A) county economic development income tax; and

- (B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

- (1) the actual county economic development tax rate; and
- (2) the maximum rate that would otherwise apply under this section.

(r) Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of state revenue.

(b) Notwithstanding IC 6-3.5-1.1-3, the county council of a county described in IC 6-3.5-1.1-3.3, as added by this act, may adopt an ordinance to increase the county's county adjusted gross income tax rate after March 31, 2003, and before January 1, 2004.

(c) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION before June 1, 2003, takes effect July 1, 2003. In determining the certified distribution for the calendar year beginning January 1, 2004, as required under IC 6-3.5-1.1-9 to be performed before July 2, 2003, for a county adopting an ordinance within the time specified in this subsection, the department shall take into account the certified ordinance forwarded to the department under IC 6-3.5-1.1-3(c) in determining the amount of the county's certified distribution for the calendar year beginning January 1, 2004.

(d) Notwithstanding IC 6-3.5-1.1-3, an ordinance adopted under this SECTION after May 31, 2003, and before January 1, 2004, takes effect January 1, 2004. Not later than thirty (30) days after receiving the certified ordinance under IC 6-3.5-1.1-3(c) from a county adopting an ordinance within the time specified in this subsection, the department shall revise the county's certified distribution determined under IC 6-3.5-1.1-9 for the calendar year beginning January 1, 2004, to take into account the increased county adjusted gross income tax rate specified in the certified ordinance. Notwithstanding IC 6-3.5-1.1-10, as amended by this act, the first distribution reflecting the increased county adjusted gross income tax rate shall be made to the county treasurer beginning November 1, 2004.

SECTION 7. An emergency is declared for this act.

P.L.43-2003

[H.1397. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-1-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) This section applies to public work contracts in excess of one hundred thousand dollars (\$100,000) for projects other than highways, roads, streets, alleys, bridges, and appurtenant structures situated on streets, alleys, and dedicated highway rights-of-way. This section also applies to a lessor corporation qualifying under IC 21-5-11 or IC 21-5-12 or any other lease-back arrangement containing an option to purchase, notwithstanding the statutory provisions governing those leases.

(b) A board that enters into a contract for public work, and a contractor who subcontracts parts of that contract, shall include in their respective contracts provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. ~~Either the board or~~ **At the discretion of the contractor, or both, shall place the retainage shall be held by the board or shall be placed** in an escrow account with a bank, savings and loan institution, or the state as the escrow agent. The escrow agent shall be selected by mutual agreement between board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and:

- (1) the board and the contractor; or
- (2) the subcontractor and the contractor.

The board shall not be required to pay interest on the amounts of retainage that it holds under this section.

(c) To determine the amount of retainage to be withheld, the board shall:

- (1) withhold no more than ten percent (10%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed, and nothing further after that; or

(2) withhold no more than five percent (5%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted, an amount computed under subsection (f) of this section shall be withheld until those items are completed.

(d) The escrow agreement must contain the following provisions:

(1) The escrow agent shall invest all escrowed principal in obligations selected by the escrow agent.

(2) The escrow agent shall hold the escrowed principal and income until receipt of notice from the board and the contractor, or the contractor and the subcontractor, specifying the part of the escrowed principal to be released from the escrow and the person to whom that portion is to be released. After receipt of the notice, the escrow agent shall remit the designated part of escrowed principal and the same proportion of then escrowed income to the person specified in the notice.

(3) The escrow agent shall be compensated for the agent's services. The parties may agree on a reasonable fee comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income.

The escrow agreement may include other terms and conditions consistent with this subsection, including provisions authorizing the escrow agent to commingle the escrowed funds with funds held in other escrow accounts and limiting the liability of the escrow agent.

(e) The contractor shall furnish the board with a performance bond equal to the contract price. If acceptable to the board, the performance bond may provide for incremental bonding in the form of multiple or chronological bonds that, when taken as a whole, equal the contract price. The surety on the performance bond may not be released until one (1) year after the date of the board's final settlement with the contractor. The performance bond must specify that:

(1) a modification, omission, or addition to the terms and conditions of the public work contract, plans, specifications, drawings, or profile;

(2) a defect in the public work contract; or

(3) a defect in the proceedings preliminary to the letting and

awarding of the public work contract;
does not discharge the surety.

(f) The **board or escrow agent shall pay the contractor** ~~shall be paid in full, including all escrowed principal and escrowed income, by the board and escrow agent,~~ within sixty-one (61) days after the date of substantial completion, subject to sections 11 and 12 of this chapter. **Payment by the escrow agent shall include all escrowed principal and escrowed income.** If within sixty-one (61) days after the date of substantial completion there remain uncompleted minor items, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed. Required warranties begin not later than the date of substantial completion.

(g) Actions against a surety on a performance bond must be brought within one (1) year after the date of the board's final settlement with the contractor.

(h) This subsection applies to public work contracts of less than two hundred fifty thousand dollars (\$250,000). The board may waive the performance bond requirement of subsection (e) and accept from a contractor an irrevocable letter of credit for an equivalent amount from an Indiana financial institution approved by the department of financial institutions instead of a performance bond. Subsections (e) through (g) apply to a letter of credit submitted under this subsection.

P.L.44-2003

[S.28. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-14-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. If the state or a political subdivision of the state pays the initial costs of blood testing

or genetic testing in a paternity action, the state or political subdivision may recover those costs from an individual found to be the biological ~~father~~ **parent** of the child in the action. The court shall determine the manner in which reimbursement for the costs is to be made.

SECTION 2. [EFFECTIVE JULY 1, 2003] IC 31-14-6-4, as amended by this act, does not negate a court order entered before July 1, 2003, requiring an individual found to be the biological father of a child to reimburse the state or a political subdivision for the costs of genetic testing.

P.L.45-2003

[S.88. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-9-4-4, AS AMENDED BY P.L.126-2002, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The election division shall develop a filing and coding system consistent with the purposes of this article. The election division and each county election board shall use the filing and coding system. The coding system must provide:

- (1) not more than ten (10) codes to account for various campaign expenditure items; and
- (2) a clear explanation of the kinds of expenditure items that must be accounted for under each code.

(b) The election division shall develop and use a computer system to store campaign finance reports required to be filed under IC 3-9-5-6, IC 3-9-5-10, and IC 3-9-5-20.1. The computer system must enable the election division to do the following:

- (1) Identify all candidates or committees that received contributions from a contributor over the past three (3) years.
- (2) Identify all contributors to a candidate or committee over the

past three (3) years.

(3) Provide for electronic submission, retrieval, storage, and disclosure of campaign finance reports of candidates for the following:

(A) Legislative office.

(B) State office.

The election division shall provide training at no cost to candidates to enable candidates described in this subdivision to file campaign finance reports electronically.

(c) The election division shall notify each candidate's committee that the election division will provide at the committee's request at no cost a standardized software program to permit the committee to install the software on a computer and generate an electronic version of the reports and statements required to be filed with the election division under this article. However, the election division is not required to provide or alter the software program to make the program compatible for installation or operation on a specific computer.

~~(c)~~ **(d)** This subsection applies to an electronic submission under subsection (b)(3). An electronic submission must be in a format previously approved by the commission that permits the election division to print out a hard copy of the report after the receipt of the electronic submission from the candidate. Filing of a report occurs under IC 3-5-2-24.5 on the date and at the time electronically recorded by the election division's computer system. If a discrepancy exists between the text of the electronic submission and the printed report, the text of the printed report prevails until an amendment is filed under this article to correct the discrepancy.

~~(d)~~ **(e)** The election division is not required to accept an electronic submission unless the submission complies with subsection (b)(3). Upon receiving approval from the commission, the election division may accept an electronic submission from candidates, committees, or persons described in subsection (b)(3).

~~(e)~~ **(f)** The election division shall make campaign finance reports stored on the computer system under subsection (b) available to the general public through an on-line service.

P.L.46-2003

[S.121. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-28-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a)** The term of office of a member of the commission is three (3) years.

(b) A member may not serve more than five (5) consecutive terms.

P.L.47-2003

[S.141. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-4-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. The public employees' retirement fund shall adopt a policy that:**

(1) promotes direct deposit as the preferred way for members and beneficiaries to receive monthly benefits; and

(2) strongly encourages members and beneficiaries who apply for benefits to receive their monthly benefits by direct deposit.

SECTION 2. IC 5-10.2-4-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.4. (a) This section applies to a member or a beneficiary of the public employees' retirement fund who receives a monthly benefit by direct deposit.**

(b) The fund shall furnish to the member or beneficiary:

(1) before each change in the amount of the member's or beneficiary's benefit; or

(2) once every twelve (12) months, if the member's or beneficiary's benefit amount does not change;

a written notice showing the member's or beneficiary's benefit amount, including any cost of living increase or other adjustment to the benefit amount, and a summary of the member's or beneficiary's benefit payment history since the member's or beneficiary's last written notice.

SECTION 3. [EFFECTIVE JULY 1, 2003] (a) The public employees' retirement fund shall:

(1) adopt the policy required by IC 5-10.2-4-1.2, as added by this act; and

(2) implement a procedure for furnishing the written notices required by IC 5-10.2-4-1.4, as added by this act;

before January 1, 2004.

(b) This SECTION expires January 2, 2004.

P.L.48-2003

[S.259. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-29-6-17, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. ~~(a)~~ This chapter applies to the release of a mortgage after June 30, 2001, ~~and before July 1, 2002~~, regardless of when the mortgage was created or assigned.

~~(b) This chapter expires July 1, 2003.~~

P.L.49-2003

[S.332. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 4-6-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The division has the following powers and duties:

(1) The power to investigate any written consumer complaint made by a nonmerchant arising from a transaction between a merchant as defined in the Uniform Commercial Code and a nonmerchant concerning sales, leases, assignments, awards by chance, or other dispositions of goods, services, or repairs, and intangibles to a person for purposes that are primarily personal, familial, household, charitable, or agricultural, or a solicitation to supply any of the above things. When a consumer trades in or sells a motor vehicle to another consumer or nonconsumer, he shall be deemed to be a nonconsumer and shall be subject to the provisions of this chapter. The division shall have no jurisdiction over matters concerning utilities subject to regulation by the utility regulatory commission or by an agency of the United States except that the provisions of subdivision (5) shall apply and except as provided in IC 8-1-29.

(2) For complaints filed after August 31, 1984, the duty to ascertain from the consumer whether ~~he~~ **the consumer** consents to public disclosure by the division of the filing of the complaint, including ~~his~~ **the consumer's** identity and telephone number, if any.

(3) The duty to notify the merchant of the nature of the complaint by written communication and request a written reply.

(4) Upon receipt of reply, the duty to act as mediator between the parties and attempt to resolve all complaints in a conciliatory manner. **The director of the division and the attorney general**

have discretion whether to mediate complaints involving a de minimis amount of money.

(5) If no reply is received or if the parties are unable to resolve their differences, and no violation of federal or state statute or rule is indicated, the duty to provide the complainant with a copy of all correspondence relating to the matter.

(6) Whenever a violation of a state or federal law or administrative rule is indicated, the duty to forward to the appropriate state or federal agency a copy of the correspondence and request that the agency further investigate the complaint and report to the division upon the disposition of the complaint.

(7) The power to initiate and prosecute civil actions on behalf of the state whenever an agency to which a complaint has been forwarded fails to act upon the complaint within ten (10) working days after its referral, or whenever no state agency has jurisdiction over the subject matter of the complaint.

(b) All complaints and correspondence in the possession of the division under this chapter are confidential unless disclosure of a complaint or correspondence is:

- (1) requested by the person who filed the complaint;
- (2) consented to, in whole or in part, after August 31, 1984, by the person who filed the complaint;
- (3) in furtherance of an investigation by a law enforcement agency; or
- (4) necessary for the filing of an action by the attorney general under IC 24-5-0.5.

(c) Notwithstanding subsection (b), the division may publicly disclose information relating to the status of complaints under subsection (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7).

P.L.50-2003

[S.355. Approved April 22, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-1.5-1-8, AS AMENDED BY P.L.179-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. "Qualified entity" means:

- (1) a political subdivision (as defined in IC 36-1-2-13);
- (2) a state educational institution (as defined in IC 20-12-0.5-1(b));
- (3) a leasing body (as defined in IC 5-1-1-1(a));
- (4) a not-for-profit utility (as defined in IC 8-1-2-125);
- (5) any rural electric membership corporation organized under IC 8-1-13;
- (6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;
- (7) any telephone cooperative corporation formed under IC 8-1-17;
- (8) any commission, authority, or authorized body of any qualified entity;
- (9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified entities;
- (10) any commission, authority, or instrumentality of the state;
- (11) any other participant (as defined in IC 13-11-2-151.1); **or**
- (12) a charter school established under IC 20-5.5 that is not a qualified entity under IC 5-1.4-1-10; **or**
- (13) a volunteer fire department (as defined in IC 36-8-12-2).**

P.L.51-2003

[S.75. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning the general assembly.

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

SECTION 1. IC 5-14-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6. Electronic Transmission of Reports to the General Assembly

Sec. 1. As used in this chapter, "public agency" includes the following:

- (1) The judicial branch of state government.**
- (2) A state agency (as defined in IC 4-13-1-1).**
- (3) A body corporate and politic created by statute.**
- (4) A state educational institution (as defined in IC 20-12-0.5-1).**

Sec. 2. As used in this chapter, "report" includes any annual or other report that a public agency:

- (1) voluntarily; or**
- (2) under a statutory directive;**

submits to the entire membership of the general assembly, the legislative services agency, or the legislative council. The term does not include any document prepared for or at the request of an individual member or committee of the general assembly.

Sec. 3. (a) A public agency may not submit a report to the general assembly, the legislative services agency, or the legislative council on paper.

(b) Notwithstanding any law, no funds appropriated to a public agency from the state treasury may be used to duplicate, print, distribute, or mail a report to the general assembly, the legislative services agency, or the legislative council in violation of this chapter.

Sec. 4. (a) A public agency shall submit all reports in an electronic format specified by the executive director of the legislative services agency. Unless otherwise specified in statute, the electronic copy shall be delivered to the executive director of the legislative services agency.

(b) An agency that submits a report under subsection (a) shall do the following:

(1) Post, or cause to be posted, a copy of the report on the Internet.

(2) Send a copy of the report to each member of the general assembly, using the member's senate or house of representatives electronic mail address.

(c) The legislative services agency shall periodically compile reports received under this chapter on a CD-ROM or other suitable storage medium and shall distribute copies of the CD-ROM or other medium to any member of the general assembly who requests a copy.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) The legislative services agency, under the direction of the code revision commission, shall prepare legislation for introduction during the 2004 regular session of the general assembly that brings statutes concerning annual or other reports by public agencies into conformity with this act.

(b) This SECTION expires January 1, 2005.

SECTION 3. An emergency is declared for this act.

P.L.52-2003

[S.188. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-18-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 41. (a) **This subsection**

applies to a municipality located in a county that does not have a county housing authority. A municipal housing authority has jurisdiction to exercise the powers granted by this chapter in the municipality and in the area within five (5) miles of the corporate boundaries of the municipality. However, the authority may not exercise its powers within the corporate boundaries of another municipality without the consent, by resolution, of the fiscal body of that municipality.

(b) **Except as provided in subsection (c),** a county housing authority has jurisdiction to exercise the powers granted by this chapter in all unincorporated areas of the county outside the jurisdiction of municipal housing authorities. However, the jurisdiction of a county housing authority may be expanded to include all or part of the jurisdiction of a municipal housing authority **within the corporate boundaries of the municipality** if the fiscal bodies of the county and of the municipality each adopt a resolution declaring a need for the county housing authority to exercise its powers within the jurisdiction of the municipal housing authority. Such a resolution may be adopted only after a public hearing, with notice of the time, place, and purpose of the hearing given by the fiscal body by publication in accordance with IC 5-3-1.

(c) **A municipal housing authority and a county housing authority share jurisdiction to exercise the powers granted by this chapter in the area that is:**

- (1) **within the county; and**
- (2) **located within five (5) miles outside the corporate boundaries of the municipality.**

(d) Notwithstanding subsections (a), ~~and~~ (b), **and (c),** the housing authority of a consolidated city has jurisdiction to exercise the powers granted by this chapter only in the area that was subject to its jurisdiction on December 31, 1969.

P.L.53-2003

[S.219. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-4-11-8.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.3. The council shall do the following:**

- (1) Assist buyers and sellers in determining the validity of complaints between the buyer and the seller.
- (2) Recommend cost damages resulting from the failure of seed to perform or produce properly, whether related to:
 - (A) specific representations on the label;
 - (B) other information on the seed container; or
 - (C) conditions attributed to the quality of the seed.

SECTION 2. IC 15-4-11-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.5. The council may do the following:**

- (1) Examine all nonprivileged records of the buyer and the seller that the council considers relevant to a complaint filed under this chapter.
- (2) Investigate and conduct tests the council considers necessary to determine the validity of the complaint. The council may enter into contracts with qualified persons to perform investigations and tests under this subdivision.
- (3) Hold hearings at the times and places designated by the chairman to perform the functions described in section 8.3 of this chapter. Written notice of a hearing must be given to the buyer and the seller not later than twenty (20) days before the hearing. Each party must be given an opportunity to present its position at a hearing.
- (4) Negotiate and recommend to the buyer and the seller conditions for settlement of a complaint.

(5) Hold hearings to present:

- (A) the results of the investigations of a complaint; and**
- (B) the recommendations to the buyer and the seller for settlement of the complaint.**

(6) Compel either or both of the following by subpoena:

- (A) The attendance and testimony of witnesses.**
- (B) The production of documents.**

If the council issues a subpoena, the circuit or superior court of the county where a subpoena is to be served shall enforce the subpoena.

SECTION 3. IC 15-4-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) As a condition precedent to maintaining a civil action against a seller for failure of the agricultural or vegetable seeds to produce or perform:

- (1) as represented by the label required to be attached to those seeds or furnished under IC 15-4-1-4 or IC 15-4-1-5;
- (2) as represented by warranty; or
- (3) because of negligence;

the buyer must submit the claim to arbitration.

(b) Any applicable period of limitation with respect to a claim subject to this chapter is tolled until ~~ten (10)~~ **twenty (20)** days after the filing of the report of arbitration with the commissioner.

SECTION 4. IC 15-4-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) As a condition precedent to asserting a counterclaim or a defense in an action brought by a seller against a buyer, the counterclaim or defense must be submitted to arbitration.

(b) Upon the buyer's filing of a written notice of intention to assert a claim as a counterclaim or defense, accompanied by a copy of the buyer's complaint in arbitration filed under section 15 of this chapter, the action brought by the seller shall be stayed and any applicable statute of limitations is tolled with respect to the claim until ~~ten (10)~~ **twenty (20)** days after filing of the report of arbitration with the commissioner.

SECTION 5. IC 15-4-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. **(a)** A buyer shall invoke arbitration under this chapter by filing a sworn complaint with the commissioner together with a filing fee of ~~ten one hundred~~ dollars

~~(\$10)~~ **(\$100)**. The buyer shall serve a copy of the complaint upon the seller by certified mail.

(b) Except in case of seed that has not been planted, the claim shall be filed within ~~such a reasonable~~ time **after the alleged defect or violation becomes apparent** so as to permit effective inspection of:

(1) the **crops or plants** under field conditions; **or**

(2) the **grain harvested from the crops or plants**.

(c) **Notwithstanding subsection (b), a claim must be filed not later than ninety (90) days after completion of the harvest.**

SECTION 6. IC 15-4-11-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. ~~Within five (5)~~ **(a) Not later than twenty (20) days** after receipt of a copy of the complaint, the seller shall file with the commissioner an answer to the complaint and serve a copy of the answer upon the buyer by certified mail.

(b) The seller shall pay a filing fee of one hundred dollars (\$100) to the commissioner when the seller files the answer to the complaint under subsection (a).

SECTION 7. IC 15-4-11-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15.5. **(a) Before beginning a complaint investigation, the commissioner shall prepare and provide to the parties an estimate of the costs to be incurred during the investigation of the complaint.**

(b) Before a complaint investigation begins, the buyer and the seller shall each pay to the commissioner an amount equal to fifty percent (50%) of the costs estimated by the commissioner under subsection (a). The money required to be paid under this subsection is in addition to the filing fee required by sections 14 and 15 of this chapter.

(c) The commissioner shall deposit the money paid under subsection (b) in a separate account. The costs of the investigation shall be paid from money in the account.

(d) If the actual costs of the investigation are greater than the costs estimated under subsection (a), the buyer and the seller shall each pay fifty percent (50%) of the difference between the actual costs and the costs estimated under subsection (a).

(e) If the actual costs of the investigation are less than the costs

estimated under subsection (a), the commissioner shall refund to the buyer and the seller each fifty percent (50%) of the difference between the actual costs and the costs estimated under subsection (a).

SECTION 8. IC 15-4-11-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 20.5. The council shall ensure that all trade secrets and other information of a proprietary nature collected during the course of an investigation under this chapter be kept confidential to the degree necessary to ensure the property rights of the seller and the civil rights of the buyer.**

SECTION 9. IC 15-4-11-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 22.5. The buyer and seller shall each give written notice to the commissioner of the acceptance or rejection of the council's recommended terms of settlement not later than thirty (30) days after the date of the council's recommendation.**

SECTION 10. IC 15-4-11-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24. The commissioner may adopt rules under IC 4-22-2 to do the following:**

- (1) Describe the conditions and circumstances relating to seed to which arbitration under this chapter is applicable.**
- (2) Supplement the procedures of the arbitration process set forth in this chapter.**

SECTION 11. IC 15-4-11-19 IS REPEALED [EFFECTIVE JULY 1, 2003].

P.L.54-2003
[S.222. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-24-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. **(a)** A verified petition filed under section 2 of this chapter must be filed in the circuit court of the county in which the petitioner resides.

(b) The clerk of the circuit court shall docket the verified petition in the name of the petitioner against the prosecuting attorney of the county. ~~the sheriff of the county and the bureau:~~

(c) The prosecuting attorney ~~the sheriff and the bureau~~ shall appear in person or by deputy and be heard by the court on the petition. ~~Summons must be issued and returned as provided in other civil actions, except that the coroner must serve the summons on the sheriff. The defendants may file waivers or consents:~~

(d) The bureau:

(1) serves as a recordkeeper; and

(2) is not a party;

in a proceeding under this chapter.

SECTION 2. IC 9-24-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a)** The issues before the court in a proceeding under this chapter must be considered closed by denial of all matters at issue without the necessity of filing any further pleadings.

(b) Changes of venue from the judge or from the county must be granted a party under the law governing changes of venue in civil causes.

(c) A suspension or revocation under this title remains in full force and effect during the pendency of a cause under this chapter and until the issuance of the restricted driving permit by the bureau in accordance with the recommendation of the court.

(d) Records accumulated in the regular course of business and

routinely on file in the offices of the ~~prosecutor~~, **prosecuting attorney of the county**, sheriff of the county, and bureau may be admitted at the hearing on the petition. The records constitute prima facie evidence of the matters contained on the face of the petition in relation to the petitioner.

(e) Court costs for the action on the petition must be charged against the petitioner. The ~~prosecutor, sheriff, and bureau~~ **are prosecuting attorney of the county** is not liable or taxable for any costs in any action under this chapter.

SECTION 3. An emergency is declared for this act.

P.L.55-2003

[S.225. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 5-2-12-5, AS AMENDED BY P.L.116-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Subject to section 13 of this chapter, the following persons must register under this chapter:

(1) An offender who resides in Indiana. An offender resides in Indiana if either of the following applies:

(A) The offender spends or intends to spend at least seven (7) days (including part of a day) in Indiana during a one hundred eighty (180) day period.

(B) The offender owns real property in Indiana and returns to Indiana at any time.

(2) An offender not described in subdivision (1) who works or carries on a vocation or intends to work or carry on a vocation full-time or part-time for a period of time:

(A) exceeding fourteen (14) consecutive days; or

(B) for an aggregate period of time exceeding thirty (30) days;

during any calendar year in Indiana, whether the offender is financially compensated, volunteered, or is acting for the purpose of government or educational benefit.

(3) An offender not described in subdivision (1) who is enrolled or intends to be enrolled on a full-time or part-time basis in any public or private educational institution, including any secondary school, trade, or professional institution, or institution of higher education in Indiana.

(b) Except as provided in subsection (e), an offender who resides in Indiana shall register with the sheriff of the county where the offender resides. If an offender resides in more than one (1) county, the offender shall register with the sheriff of each county in which the offender resides. However, if an offender resides in a county having a consolidated city, the offender shall register with the police chief of the consolidated city.

(c) An offender described in subsection (a)(2) shall register with the sheriff of the county where the offender is or intends to be employed or carry on a vocation. However, an offender described in subsection (a)(2) who is employed or intends to be employed or to carry on a vocation in a consolidated city shall register with the police chief of the consolidated city. If an offender is or intends to be employed or carry on a vocation in more than one (1) county, the offender shall register with the sheriff of each county. However, if an offender is employed or intends to be employed or to carry on a vocation in a county containing a consolidated city and another county, the offender shall register with the police chief of the consolidated city and the sheriff of the other county.

(d) An offender described in subsection (a)(3) shall register with the sheriff of the county where the offender is enrolled or intends to be enrolled as a student. However, if an offender described in subsection (a)(3) is enrolled or intends to be enrolled as a student in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(e) An offender described in subsection (a)(1)(B) shall register with the sheriff in the county in which the real property is located. However, if the offender owns real property in a county containing a consolidated city, the offender shall register with the police chief of the consolidated city.

(f) An offender shall complete a registration form. Each sheriff or police chief of a consolidated city shall make the registration forms available to registrants.

(g) The offender shall register not more than seven (7) days after the offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21);**
- (2) is released from a secure private facility (as defined in IC 31-9-2-115);**
- (3) is released from a juvenile detention facility;**
- (4) is transferred to a community transition program;**
- (5) is placed on parole;**
- (6) is placed on probation;**
- (7) is placed on home detention; or**
- (8) arrives at the place where the offender is required to register under subsection (b), (c), or (d);**

whichever occurs first.

(h) Whenever an offender registers with a sheriff or the police chief of a consolidated city, the sheriff or police chief shall immediately notify the institute of the offender's registration by forwarding a copy of the registration form to the institute.

(i) The sheriff with whom an offender registers under this section shall make and publish a photograph of an offender on the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The police chief of a consolidated city with whom an offender registers under this section shall make a photograph of the offender that complies with the requirements of IC 36-2-13-5.5 and transmit the photograph (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. Every time a sex offender submits a new registration form to the police chief of a consolidated city, but at least once per year, the police chief shall make a photograph of the sex offender that complies with the requirements of IC 36-2-13-5.5. The police chief of a consolidated city shall transmit the photograph and a copy of the registration form to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. The sheriff of a county containing a consolidated city shall provide the police chief of a consolidated city with all photographic and computer equipment

necessary to enable the police chief of the consolidated city to transmit sex offender photographs (and other identifying information required by IC 36-2-13-5.5) to the Indiana sheriffs' sex offender registry web site established under IC 36-2-13-5.5. In addition, the sheriff of a county containing a consolidated city shall provide all funding for the county's financial obligation for the establishment and maintenance of the Indiana sheriff's sex offender registry web site established under IC 36-2-13-5.5.

(j) When an offender completes a new registration form, the sheriff or police chief of a consolidated city shall:

- (1) forward a copy of the new registration form to the institute; and
- (2) notify every law enforcement agency having jurisdiction in the area where the offender resides.

SECTION 2. IC 35-38-2.5-4.7, AS AMENDED BY P.L.123-2002, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.7. As used in this chapter, "violent offender" means a person who is:

- (1) convicted of an offense or attempted offense, except for an offense under ~~IC 35-42-4 or IC 35-46-1-3~~; under IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, IC 35-47-5-1 (repealed), or IC 35-47.5-5;
- (2) charged with an offense or attempted offense listed in IC 35-50-1-2(a), IC 35-42-2-1, IC 35-42-2-1.3, **IC 35-42-4**, IC 35-43-1-1, IC 35-44-3-5, IC 35-45-10-5, **IC 35-46-1-3**, IC 35-47-5-1 (repealed), or IC 35-47.5-5; or
- (3) a security risk as determined under section 10 of this chapter.

SECTION 3. IC 35-38-2.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A court may not order home detention for an offender unless the offender agrees to abide by all of the requirements set forth in the court's order issued under this chapter.

- (b) A court may not order home detention for an offender who
- (+) is being held under a detainer, warrant, or process issued by a court of another jurisdiction. ~~or~~
 - (-) ~~is~~

(c) A court may not order home detention for an offender who has been convicted of a sex offense under IC 35-42-4 or IC 35-46-1-3

unless:

- (1) the home detention is supervised by a court approved home detention program; and**
- (2) the conditions of home detention include twenty-four (24) hour per day supervision of the offender.**

P.L.56-2003

[S.251. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-10-10-4, AS AMENDED BY P.L.246-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this chapter, "public safety officer" means any of the following:

- (1) A state police officer.
- (2) A county sheriff.
- (3) A county police officer.
- (4) A correctional officer.
- (5) An excise police officer.
- (6) A county police reserve officer.
- (7) A city police reserve officer.
- (8) A conservation enforcement officer.
- (9) A town marshal.
- (10) A deputy town marshal.
- (11) A probation officer.
- (12) A state university police officer appointed under IC 20-12-3.5.
- (13) An emergency medical services provider (as defined in IC 16-41-10-1) who is:
 - (A) employed by a political subdivision (as defined in IC 36-1-2-13); and

(B) not eligible for a special death benefit under IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22, or IC 36-8-8-20.

(14) A firefighter who is employed by the fire department of a state university.

P.L.57-2003

[S.292. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-26-9-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. (a) As used in this section, "agricultural land" means land that is:**

- (1) zoned or otherwise designated as agricultural land;**
- (2) used for growing crops or raising livestock; or**
- (3) reserved for conservation.**

(b) This chapter does not apply to a fence that separates two (2) adjoining parcels of property unless at least one (1) of the adjoining parcels is agricultural land.

SECTION 2. IC 32-26-9-6, AS ADDED BY P.L.2-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.** This chapter shall be liberally construed in favor of the objects and purposes for which it is enacted and shall apply to all **agricultural** land, whether enclosed or unenclosed, cultivated or uncultivated, wild or wood lot.

P.L.58-2003

[S.314. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-48-4-8.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.3. (a) A person who possesses a raw material, an instrument, a device, or other object that the person intends to use for:

- (1) introducing into the person's body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance; or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits a Class A infraction for possessing paraphernalia.

(b) A person who ~~(1)~~ knowingly or intentionally violates subsection (a) **commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section. and**

~~(2) has a previous judgment or conviction under this section; commits possession of paraphernalia, a Class D felony.~~

(c) A person who recklessly possesses a raw material, an instrument, a device, or other object that is to be used primarily for:

- (1) introducing into the person's body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance; or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits reckless possession of paraphernalia, a ~~Class A~~ **Class B** misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.

SECTION 2. IC 35-48-4-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. (a) A person who

keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;
- (2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;
- (3) enhancing the effect of a controlled substance;
- (4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;
- (5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or
- (6) any purpose announced or described by the seller that is in violation of this chapter;

commits a Class A infraction for dealing in paraphernalia.

(b) A person who

~~(1)~~ knowingly or intentionally violates subsection (a) **commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section. and**

~~(2)~~ has a previous judgment or conviction under this section;

~~commits dealing in paraphernalia; a Class D felony.~~

(c) A person who recklessly keeps for sale, offers for sale, or delivers an instrument, a device, or other object that is to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, or a controlled substance;
- (2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, or a controlled substance;
- (3) enhancing the effect of a controlled substance;
- (4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, or a controlled substance;
- (5) diluting or adulterating marijuana, hash oil, hashish, or a controlled substance by individuals; or
- (6) any purpose announced or described by the seller that is in violation of this chapter;

commits reckless dealing in paraphernalia, a ~~Class A~~ **Class B** misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.

(d) This section does not apply to the following:

- (1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
- (2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

P.L.59-2003

[S.367. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-41-39.4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The state department may do the following:

- (1) Determine the magnitude of lead poisoning in Indiana's children ~~who are not more than six (6) years of age:~~ **residents.**
- (2) Provide consultation and education to a medical provider network that screens for lead poisoning throughout Indiana.
- (3) Receive and analyze blood samples or assist regional lab sites to receive and analyze blood samples for lead poisoning.
- (4) Develop and maintain a database of unduplicated children with lead poisoning.
- (5) Provide consultation to local health departments regarding medical case follow-up and environmental inspections connected

to reducing the incidence of lead poisoning.

(6) Coordinate lead exposure detection activities with local health departments.

(7) Coordinate with the Indiana Minority Health Coalition for outreach programs regarding lead poisoning.

(8) Notify and update pediatricians and family practice physicians of lead hazards in a timely fashion.

(9) Provide consumer alerts and consumer education regarding lead hazards, including those associated with mini-blinds.

SECTION 2. IC 16-41-39.4-3, AS ADDED BY P.L.99-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A person that examines the blood of ~~a child less than seven (7) years of age~~ **an individual described in section 2 of this chapter** for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:

- (1) With respect to the ~~child~~ **individual** whose blood is examined:
 - (A) the name;
 - (B) the date of birth;
 - (C) the gender;
 - (D) the race; and
 - (E) any other information that is required to be included to qualify to receive federal funding.
- (2) With respect to the examination:
 - (A) the date;
 - (B) the type of blood test performed;
 - (C) the person's normal limits for the test;
 - (D) the results of the test; and
 - (E) the person's interpretation of the results of the test.
- (3) The names, addresses, and telephone numbers of:
 - (A) the person; and
 - (B) the attending physician, hospital, clinic, or other specimen submitter.

SECTION 3. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "state department" refers to the state department of health established by IC 16-19-1-1.**

(b) The state department shall collect the following data for

each county concerning each county resident diagnosed with lead poisoning:

- (1) The individual's name.
- (2) The individual's address.
- (3) Whether the individual is a child or an adult.
- (4) The results of the blood test used to diagnose the individual.
- (5) The individual's normal limits for the test.

(c) Personal information collected under subsection (b) is confidential.

(d) The state department shall, not later than:

- (1) December 31, 2003, for data collected during 2003; and
- (2) December 31, 2004, for data collected during 2004;

report to the governor's office and the legislative council the number of adults and the number of children diagnosed with lead poisoning in each county.

(e) This SECTION expires December 31, 2005.

P.L.60-2003

[S.401. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-8-16.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. The fund consists of the following:

- (1) Service charges assessed on CMRS users in the state under section ~~25~~ **25.5** of this chapter.
- (2) Appropriations made by the general assembly.
- (3) Grants and gifts intended for deposit in the fund.
- (4) Interest, premiums, gains, or other earnings on the fund.

SECTION 2. IC 36-8-16.5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) The board may

invest money in the fund in **the same manner as other funds of the state may be invested under IC 5-13. In addition, the board may invest money in the fund in** any of the following:

(1) Securities of the United States government and federal agencies, subject to the following conditions:

(A) Securities issued by the United States government may be purchased and held up to one hundred percent (100%) of the fund.

(B) Securities issued by federal agencies that are guaranteed by the United States government with respect to payment of principal and interest may be purchased and held up to fifty percent (50%) of the fund.

(C) Securities issued by the following federal agencies that are not guaranteed by the United States government as to principal and interest may be purchased and held up to twenty-five percent (25%) of the fund:

(i) Federal Land Banks.

(ii) Federal Home Loan Banks.

(iii) Federal Home Loan Mortgage Corporation.

(iv) Bank for Cooperatives.

(v) Federal Intermediate Credit Banks.

(vi) Federal Farm Credit Banks.

(2) (1) Corporate bonds, notes, and debentures, subject to the following conditions:

(A) Maximum participation in any issue is limited to seven percent (7%) of the total issue.

(B) The board shall establish minimum quality rating standards and maximum purchase amount standards for corporate issues.

(3) (2) Investments maturing in one (1) year or less, subject to the following conditions:

(A) These investments must be: United States Treasury obligations; repurchase agreements secured by United States Treasury obligations;

(i) Prime-1 commercial paper; and certificates of deposit and

(ii) banker's acceptance approved by banks' trust investment committees.

(B) The maximum amount may not exceed fifty percent (50%) of the fund.

(4) Interest bearing deposit accounts (as defined in IC 5-13-4-7):

(b) Whenever the quality, maturity, and yield of an investment in an Indiana corporation or in a corporation that does business in Indiana are equal to or better than similar investments in other corporations, preference shall be given to investment in the Indiana corporation or in the corporation that does business in Indiana.

SECTION 3. IC 36-8-16.5-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.**

(b) Except as provided in section 34 of this chapter, the board shall assess a monthly wireless emergency enhanced 911 fee on each CMRS subscriber that is a customer having a place of primary use in Indiana. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15.

SECTION 4. IC 36-8-16.5-26, AS AMENDED BY P.L.16-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 26.** The board may adjust the wireless emergency enhanced 911 fee that is assessed under section ~~25~~ **25.5** of this chapter. The board shall assess the fees at rates that ensure full recovery over a reasonable period of time of costs incurred by CMRS providers and PSAPs to develop and maintain an enhanced wireless 911 system. The fees may not:

- (1) be raised or lowered more than one (1) time in a calendar year;
- (2) be raised more than seven cents (\$0.07) by an adjustment; or
- (3) exceed one dollar (\$1) per month for each telephone number.

SECTION 5. IC 36-8-16.5-30.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.**

(b) Except as provided in section 34 of this chapter, each CMRS provider shall collect the wireless emergency enhanced 911 fee assessed under section 25.5 of this chapter as follows:

- (1) As part of its normal monthly billing process, a CMRS

provider shall collect the fee from each standard subscriber that is a customer having a place of primary use in Indiana and may list the fee as a separate line item on each bill. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15. If a CMRS provider receives a partial payment for a monthly bill from a CMRS standard subscriber, the CMRS provider shall apply the payment against the amount the CMRS standard subscriber owes to the CMRS provider before applying the payment against the fee.

(2) A CMRS provider shall collect and remit to the board under section 36 of this chapter fees from its prepaid subscribers in a total amount equal to the fee amount multiplied by the number of active prepaid subscriber accounts on the last day of each calendar month.

SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 36-8-16.5-25; IC 36-8-16.5-30.

P.L.61-2003

[S.517. Approved April 24, 2003.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-14-21-9, AS AMENDED BY P.L.200-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) **Subject to IC 31-19-2-14**, if a court presiding over a paternity action under this article knows of:

- (1) a pending adoption of a child who is the subject of the paternity action; and
- (2) the court in which the adoption is pending;

the court having jurisdiction over the paternity action shall establish a child's paternity within the period prescribed by this chapter.

(b) **Subject to IC 31-19-2-14**, the court shall conduct an initial hearing not more than thirty (30) days after:

- (1) the filing of the paternity petition; or
- (2) the birth of the child;

whichever occurs later.

SECTION 2. IC 31-19-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 13. (a) Except for a child who is under the care and supervision of the division of family and children, a petitioner for adoption may file a separate, ex parte, verified petition requesting temporary custody of a child sought to be adopted at the time of or any time after the filing of a petition for adoption. The petition for temporary custody must be signed by each petitioner for adoption.**

(b) A court may grant a petition for temporary custody filed under subsection (a) if the court finds that:

- (1) the petition for adoption is in proper form; and**
- (2) placing the child with the petitioner or petitioners for adoption pending the hearing on the petition for adoption is in the best interests of the child.**

(c) If temporary custody is granted under this section, the petitioner or petitioners for adoption are legally and financially responsible for the child until otherwise ordered by the court.

SECTION 3. IC 31-19-2-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 14. (a) If a petition for adoption and a petition to establish paternity are pending at the same time for a child sought to be adopted, the court in which the petition for adoption has been filed has exclusive jurisdiction over the child, and the paternity proceeding must be consolidated with the adoption proceeding.**

(b) If the petition for adoption is dismissed, the court hearing the consolidated adoption and paternity proceeding shall determine who has custody of the child under IC 31-19-11-5.

(c) Following a dismissal of the adoption petition under subsection (b), the court may:

- (1) retain jurisdiction over the paternity proceeding; or**
- (2) return the paternity proceeding to the court in which it was originally filed.**

If the paternity proceeding is returned to the court in which it was

originally filed, the court assumes jurisdiction over the child, subject to any provisions of the consolidated court's order under IC 31-19-11-5.

SECTION 4. IC 31-19-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 2.5. General Notice Requirements

Sec. 1. This chapter applies to notice given to a:

- (1) putative father under IC 31-19-4; and
- (2) person under IC 31-19-4.5.

Sec. 2. (a) Except as provided in subsection (b), IC 31-19-4 applies to notice given to a putative father and IC 31-19-4.5 applies to notice given to other persons.

(b) If a petition for adoption alleges the consent of a putative father or a parent to the adoption has not been obtained and is unnecessary under:

- (1) IC 31-19-9-8(a)(1);
- (2) IC 31-19-9-8(a)(2);
- (3) IC 31-19-9-8(a)(4)(B);
- (4) IC 31-19-9-8(a)(4)(C);
- (5) IC 31-19-9-8(a)(9); or
- (6) IC 31-19-9-8(a)(11);

notice must be given under IC 31-19-4.5.

Sec. 3. (a) Except as provided in section 4 of this chapter, notice must be given to a:

- (1) person whose consent to adoption is required under IC 31-19-9-1; and
- (2) putative father who is entitled to notice under IC 31-19-4.

(b) If the parent-child relationship has been terminated under IC 31-35 (or 31-6-5 before its repeal), notice of the pendency of the adoption proceedings shall be given to the:

- (1) licensed child placing agency; or
- (2) county office of family and children;

that is the ward of the child.

Sec. 4. Notice of the pendency of the adoption proceedings does not have to be given to:

- (1) a person whose consent to adoption has been filed with the petition for adoption;
- (2) a person whose consent to adoption is not required by:

- (A) IC 31-19-9-8(a)(4)(A);
- (B) IC 31-19-9-8(a)(4)(D);
- (C) IC 31-19-9-8(a)(5);
- (D) IC 31-19-9-8(a)(6);
- (E) IC 31-19-9-8(a)(7);
- (F) IC 31-19-9-8(a)(8);
- (G) IC 31-19-9-12; or
- (H) IC 31-19-9-15; or

(3) the hospital of an infant's birth or a hospital to which an infant is transferred for medical reasons after birth if the infant is being adopted at or shortly after birth.

SECTION 5. IC 31-19-4-1, AS AMENDED BY P.L.200-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS: Sec. 1. Except as provided by ~~section 11 of this chapter~~, **IC 31-19-2.5-4**, if:

- (1) on or before the date the mother of a child executes a consent to the child's adoption, the mother has provided an attorney or agency arranging the adoption with the name and address of the putative father; and
- (2) the putative father of the child has:
 - (A) failed or refused to consent to the adoption of the child; or
 - (B) not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal);

the putative father shall be given notice of the adoption proceedings under Rule 4.1 of the Indiana Rules of Trial Procedure.

SECTION 6. IC 31-19-4-2, AS AMENDED BY P.L.200-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Except as provided by ~~section 11 of this chapter~~, **IC 31-19-2.5-4**, if:

- (1) on or before the date the mother of a child executes a consent to the child's adoption, the mother has not provided an attorney or agency arranging the adoption with the name or address, or both, of the putative father of the child; and
- (2) the putative father of the child has:
 - (A) failed or refused to consent to the adoption of the child or has not had the parent-child relationship terminated under IC 31-35 (or IC 31-6-5 before its repeal); and
 - (B) registered with the putative father registry under IC 31-19-5 (or IC 31-6-5 before its repeal) within the period

under IC 31-19-5-12;
the putative father shall be given notice of the adoption proceedings under Rule 4.1 of the Indiana Rules of Trial Procedure.

SECTION 7. IC 31-19-4-4, AS AMENDED BY P.L.200-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. Notice of the adoption proceeding required under section 3 of this chapter shall be given to an unnamed putative father in substantially the following form:

"NOTICE TO UNNAMED FATHER

The unnamed putative father of the child born to _____ (mother's name) on _____ (date), or the person who claims to be the father of the child born to _____ (mother's name) on _____ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of _____ court, _____ (address of court).

If the unnamed putative father seeks to contest the adoption of the child, the unnamed putative father must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court or a paternity action under IC 31-14 within thirty (30) days after the date of service of this notice. This notice may be served by publication.

If the unnamed putative father:

(1) does not file:

(A) a motion to contest the adoption; or

(B) a paternity action under IC 31-14;

within thirty (30) days after service of this notice; or

(2) after filing a paternity action under IC 31-14 fails to establish paternity;

the above named court shall hear and determine the petition for adoption. The unnamed putative father's consent is irrevocably implied and the unnamed putative father loses the right to contest the adoption or the validity of the unnamed putative father's implied consent to the adoption. The unnamed putative father loses the right to establish paternity of the child under IC 31-14.

Nothing _____ (mother's name) or any one else says to the unnamed putative father of the child relieves the unnamed putative father of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father.

This notice complies with IC 31-19-4-4 but does not exhaustively set forth the unnamed putative father's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes."

SECTION 8. IC 31-19-4-5, AS AMENDED BY P.L.200-1999, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Notice of the adoption proceeding shall be given to:

- (1) the putative father who is entitled to notice under section 1 or 2 of this chapter; or
- (2) a named putative father under section 3 of this chapter;

in substantially the following form:

"NOTICE TO NAMED FATHER

_____ (putative father's name), who has been named the father of the child born to _____ (mother's name) on _____ (date), or who claims to be the father of the child born to _____ (mother's name) on _____ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of _____ court, _____ (address of the court).

If _____ (putative father's name) seeks to contest the adoption of the child, he must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court, or a paternity action under IC 31-14 not later than thirty (30) days after the date of service of this notice.

If _____ (putative father's name):

(1) does not file:

(A) a motion to contest the adoption; or

(B) a paternity action under IC 31-14;

within thirty (30) days after service of this notice; or

(2) after filing a paternity action under IC 31-14 fails to establish paternity;

the above named court will hear and determine the petition for adoption. His consent will be irrevocably implied and he will lose his right to contest either the adoption or the validity of his implied consent to the adoption. He will lose his right to establish his paternity of the child under IC 31-14.

Nothing _____ (mother's name) or anyone else says to _____ (putative father's name) relieves _____

(putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father. For purposes of this notice, _____ (putative father's name) is a putative father under the laws in Indiana regarding adoption.

This notice complies with IC 31-19-4-5 but does not exhaustively set forth a putative father's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes."

SECTION 9. IC 31-19-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The notice required by this chapter may be waived in writing before or after the birth of a child.

(b) A waiver of notice under subsection (a) must:

- (1) be in writing and signed in the presence of a notary public; and**
- (2) acknowledge that the waiver is irrevocable.**

A person who waives notice of an adoption may not subsequently challenge or contest an adoption of the child.

SECTION 10. IC 31-19-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 4.5. Other Persons Entitled to Notice of Adoption

Sec. 1. This chapter:

- (1) shall not be construed to affect notice of an adoption provided to a putative father under IC 31-19-4; and**
- (2) applies to a putative father who has abandoned, failed to support, or failed to communicate with a child.**

Sec. 2. Except as provided in IC 31-19-2.5-4, if a petition for adoption alleges that consent to adoption is not required under IC 31-19-9-8, notice of the adoption must be given to the person from whom consent is allegedly not required under IC 31-19-9-8. Notice shall be given under:

- (1) Rule 4.1 of the Indiana Rules of Trial Procedure if the person's name and address are known; and**
- (2) Rule 4.13 of the Indiana Rules of Trial Procedure if the name or address of the person is not known;**

to a petitioner for adoption.

Sec. 3. Notice of the adoption proceeding shall be given to a person entitled to notice under section 2 of this chapter in substantially the following form:

"NOTICE OF ADOPTION

_____ (person's name) is notified that a petition for adoption of a child, named _____ (child's name, if named), born to _____ (mother's name) on _____ (date) was filed in the office of the clerk of _____ court, _____ (address of the court). The petition for adoption alleges that the consent to adoption of _____ (person's name) is not required because _____ (provide a brief description of the reason(s) the consent is not required).

If _____ (person's name) seeks to contest the adoption of the child, _____ (person's name) must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court not later than thirty (30) days after the date of service of this notice.

If _____ (person's name) does not file a motion to contest the adoption within thirty (30) days after service of this notice the above named court will hear and determine the petition for adoption. The consent to adoption of _____ (person's name) will be irrevocably implied and _____ (person's name) will lose the right to contest either the adoption or the validity of _____'s (person's name) implied consent to the adoption.

No oral statement made to _____ (person's name) relieves _____ (person's name) of _____'s (person's name) obligations under this notice.

This notice complies with IC 31-19-4.5-3 but does not exhaustively set forth a person's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes."

Sec. 4. (a) The notice required by this chapter may be waived in writing before or after the birth of a child.

(b) A waiver of notice under subsection (a) must:

- (1)** be in writing and signed in the presence of a notary public; and
- (2)** acknowledge that the waiver is irrevocable.

A person who waives notice of an adoption may not challenge or

contest an adoption of the child.

Sec. 5. The description in the notice under section 3 of this chapter of the reasons consent to adoption is not required need only include enough information to put a reasonable person on notice that a petition for adoption that alleges the person's consent to adoption is unnecessary is pending. The description does not require an exhaustive description of the reasons the person's consent to adoption is not required.

SECTION 11. IC 31-19-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Consent to adoption, **which may be required under section 1 of this chapter**, is not required from any of the following:

- (1) A parent or parents if the child is adjudged to have been abandoned or deserted for at least six (6) months immediately preceding the date of the filing of the petition for adoption.
- (2) A parent of a child in the custody of another person if for a period of at least one (1) year the parent:
 - (A) fails without justifiable cause to communicate significantly with the child when able to do so; or
 - (B) knowingly fails to provide for the care and support of the child when able to do so as required by law or judicial decree.
- (3) The biological father of a child born out of wedlock whose paternity has not been established:
 - (A) by a court proceeding other than the adoption proceeding;
or
 - (B) by executing a paternity affidavit under IC 16-37-2-2.1.
- (4) The biological father of a child born out of wedlock who was conceived as a result of:
 - (A) a rape for which the father was convicted under IC 35-42-4-1;
 - (B) child molesting (IC 35-42-4-3);
 - (C) sexual misconduct with a minor (IC 35-42-4-9); or
 - (D) incest (IC 35-46-1-3).
- (5) The putative father of a child born out of wedlock if the putative father's consent to adoption is irrevocably implied under section 15 of this chapter.
- (6) The biological father of a child born out of wedlock if the:
 - (A) father's paternity is established after the filing of a petition

for adoption in a court proceeding or by executing a paternity affidavit under IC 16-37-2-2.1; and

(B) father is required to but does not register with the putative father registry established by IC 31-19-5 within the period required by IC 31-19-5-12.

(7) A parent who has relinquished the parent's right to consent to adoption as provided in this chapter.

(8) A parent after the parent-child relationship has been terminated under IC 31-35 (or IC 31-6-5 before its repeal).

(9) A parent judicially declared incompetent or mentally defective if the court dispenses with the parent's consent to adoption.

(10) A legal guardian or lawful custodian of the person to be adopted who has failed to consent to the adoption for reasons found by the court not to be in the best interests of the child.

(11) A parent if:

(A) a petitioner for adoption proves by clear and convincing evidence that the parent is unfit to be a parent; and

(B) the best interests of the child sought to be adopted would be served if the court dispensed with the parent's consent.

(b) If a parent has made only token efforts to support or to communicate with the child the court may declare the child abandoned by the parent.

SECTION 12. IC 31-19-9-17, AS AMENDED BY P.L.200-1999, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) A putative father whose consent to an adoption is implied under section 15 of this chapter is not entitled to establish paternity of the child:

(1) in a court proceeding under IC 31-14; or

(2) by executing a paternity affidavit under IC 16-37-2-2.1.

(b) Notwithstanding subsection (a), a putative father who is barred from establishing paternity of the child under subsection (a) may establish paternity of the child in a court proceeding under IC 31-14 if:

(1) the putative father submits, together with the petition to establish paternity, an affidavit prepared by the:

(A) licensed child placing agency; or

(B) attorney;

that served notice or caused notice to be served upon the putative father under IC 31-19-3-1 stating that neither a petition for adoption nor a placement of the child in a proposed adoptive home is pending; and

(2) the court finds on the record, based on all the information available to the court, including an affidavit described under subdivision (1), that neither a:

(A) petition for adoption; nor

(B) placement of the child in a prospective adoptive home; is pending.

The requirements of this subsection are jurisdictional and must be strictly adhered to by the putative father and the court.

(c) An individual who is otherwise barred from establishing paternity under this article may establish paternity in relation to a child if an adoption for the child is not pending or contemplated. A petition for adoption that is not filed or a petition for adoption that is dismissed is not a basis for enabling an individual to establish paternity under this section unless the requirements of subsection (b) are satisfied.

SECTION 13. IC 31-19-9-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18. (a) The consent of a person who is served with notice under IC 31-19-4.5 to adoption is irrevocably implied without further court action if the person:**

(1) fails to file a motion to contest the adoption as required under IC 31-19-10 not later than thirty (30) days after service of notice under IC 31-19-4.5; or

(2) files a motion to contest the adoption as required under IC 31-19-10 but fails to:

(A) appear at the hearing to contest the adoption; and

(B) prosecute the motion to contest without unreasonable delay.

(b) A court shall dismiss a motion to contest an adoption filed under subsection (a)(2) with prejudice and the person's consent to the adoption shall be irrevocably implied if the court finds that the person who filed the motion to contest is failing to prosecute the motion without unreasonable delay.

SECTION 14. IC 31-19-9-19 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19. A person whose consent to adoption is irrevocably implied under section 18 of this chapter may not contest the adoption or the validity of the person's implied consent to the adoption.**

SECTION 15. IC 31-19-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) Except as provided in subsection (c), only a person entitled to notice of adoption under IC 31-19-4 or IC 31-19-4.5 may contest an adoption.**

(b) A person contesting an adoption must file a motion to contest the adoption with the court not later than thirty (30) days after service of notice of the pending adoption.

~~(b)~~ **(c)** A person seeking to withdraw consent to an adoption must file a motion to withdraw consent to the adoption with the court.

SECTION 16. IC 31-19-10-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. (a) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under:**

(1) IC 31-19-9-8(a)(1); or

(2) IC 31-19-9-8(a)(2);

and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner for adoption has the burden of proving that the parent's consent to the adoption is unnecessary under IC 31-19-9-8.

(b) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under:

(1) IC 31-19-9-8(a)(4)(B); or

(2) IC 31-19-9-8(a)(4)(C);

and the parent files a motion to contest the adoption under section 1 of this chapter, the parent has the burden of proving that the child was not conceived under circumstances that would cause the parent's consent to be unnecessary under IC 31-19-9-8(a)(4). The absence of a criminal prosecution and conviction is insufficient to satisfy the burden of proof.

(c) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under IC 31-19-9-8(a)(9) and the parent files a motion to contest the adoption under section 1 of this

chapter, a petitioner for adoption has the burden of proving that the parent's consent to the adoption is unnecessary under IC 31-19-9-8(a)(9).

(d) If a petition for adoption alleges that a legal guardian or lawful custodian's consent to adoption is unnecessary under IC 31-19-9-8(a)(10) and the legal guardian or lawful custodian files a motion to contest the adoption under section 1 of this chapter, the legal guardian or lawful custodian has the burden of proving that the withholding of the consent to adoption is in the best interests of the person sought to be adopted.

(e) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under IC 31-19-9-8(a)(11) and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner for adoption has the burden of proving that the requirements of IC 31-19-9-8(a)(11) are satisfied and that the best interests of the child are served if the court dispenses with the parent's consent to adoption.

(f) If a petition for adoption alleges that a parent's consent to adoption is unnecessary under:

- (1) IC 31-19-9-9; or
- (2) IC 31-19-9-10;

and the parent files a motion to contest the adoption under section 1 of this chapter, a petitioner has the burden of proving that the requirements of IC 31-19-9-9 or IC 31-19-9-10, respectively, are satisfied and that the best interests of the child are served if the court dispenses with the parent's consent to adoption.

(g) If a court finds that the person who filed the motion to contest the adoption is failing to prosecute the motion without undue delay, the court shall dismiss the motion to contest with prejudice, and the person's consent to the adoption shall be irrevocably implied.

SECTION 17. IC 31-19-10-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.4. A court, in making a determination under section 1.2(e) of this chapter, shall consider all relevant evidence, but may not base its determination solely on a finding that a:**

- (1) petitioner for adoption would be a better parent for a child than the parent who filed the motion to contest the adoption;

or

(2) parent has a biological link to the child sought to be adopted.

SECTION 18. IC 31-19-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** A consent to adoption may ~~not be withdrawn before the entry of the adoption decree unless:~~ **not later than thirty (30) days after consent to adoption is signed if:**

(1) the court finds, after notice and opportunity to be heard afforded to the petitioner for adoption, that the person seeking the withdrawal is acting in the best interest of the person sought to be adopted; and

(2) the court orders the withdrawal.

(b) A consent to adoption may not be withdrawn after:

(1) thirty (30) days after the consent to adoption is signed;

(2) the person who signs the consent to adoption appears before a court in which the petition for adoption has been or will be filed; or

(3) the person who signs the consent to adoption appears before a court of competent jurisdiction if the parent is outside of Indiana and acknowledges that the person:

(A) understood the consequences of the signing of the consent to adoption;

(B) freely and voluntarily signed the consent to adoption;
and

(C) believes that adoption is in the best interests of the person to be adopted;

whichever occurs first.

SECTION 19. IC 31-19-10-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. The putative father of a child who is served with notice under IC 31-19-4 ~~may and wishes to~~ contest the adoption **must do so** in accordance with this chapter.

SECTION 20. IC 31-19-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a)** The court may:

(1) send all notices of the filing of a motion to contest an adoption; ~~and~~

(2) conduct bifurcated hearings under this chapter; **and**

(3) issue an order protecting the anonymity of a petitioner for

adoption.

(b) An order issued under subsection (a)(3) may include an order directed to an attorney who represents a party:

(1) contesting an adoption; or

(2) seeking to withdraw a consent to adoption.

An order under subdivision (1) or (2) may order the attorney not to disclose information that identifies or may tend to identify a petitioner for adoption.

SECTION 21. IC 35-46-1-9.5, AS ADDED BY P.L.200-1999, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.5. A person who is a birth mother, or a woman who holds herself out to be a birth mother, and who knowingly or intentionally benefits from adoption related expenses paid:

(1) when the person knows or should have known that the person is not pregnant; ~~or~~

(2) by or on behalf of a prospective adoptive parent who is unaware that at the same time another prospective adoptive parent is also incurring adoption related expenses **described under section 9(b) of this chapter** in an effort to adopt the same child; **or**

(3) when the person does not intend to make an adoptive placement;

commits adoption deception, a Class A misdemeanor. In addition to any other penalty imposed under this section, a court may order the person who commits adoption deception to make restitution to a prospective adoptive parent, attorney, or licensed child placing agency that incurs an expense as a result of the offense.

SECTION 22. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 31-19-4-10; IC 31-19-4-11; IC 31-19-4-12.

SECTION 23. [EFFECTIVE JULY 1, 2003] **IC 35-46-1-9.5, as amended by this act, applies to an offense committed after June 30, 2003.**

P.L.62-2003

[H.1106. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-8-10.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The education board shall adopt rules under IC 4-22-2 establishing minimum basic training requirements for full-time firefighters and volunteer firefighters that must include a ~~minimum of twenty-four (24) total hours~~ of training in the following areas:

- (1) Orientation. ~~one (1) hour~~.
- (2) Personal safety. ~~two (2) hours~~.
- (3) Forcible entry. ~~two (2) hours~~.
- (4) Ventilation. ~~two (2) hours~~.
- (5) Apparatus. ~~two (2) hours~~.
- (6) Ladders. ~~four (4) hours~~.
- (7) Self-contained breathing apparatus. ~~six (6) hours~~.
- (8) Hose loads. ~~one and one-half (1 1/2) hours~~.
- (9) Streams. ~~one and one-half (1 1/2) hours~~.
- (10) Basic recognition of special hazards. ~~two (2) hours~~.

(b) In addition to the requirements of ~~subsection~~ **subsections (a) and (c)**, the minimum basic training requirements for full-time firefighters and volunteer firefighters must include successful completion of a basic or inservice course of education and training on sudden infant death syndrome that is certified by the emergency medical services commission (created under IC 16-31-2-1) in conjunction with the state health commissioner.

(c) In addition to the requirements of subsections (a) and (b), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of an instruction course on vehicle emergency response driving safety. The education board shall adopt rules under IC 4-22-2 to operate this course.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 36-8-10.5-7, as amended by this act, the board of firefighting personnel standards and education shall carry out the duties imposed upon it under IC 36-8-10.5-7(c) under interim written guidelines approved by the board of firefighting personnel standards and education.**

(b) **This SECTION expires on the earlier of the following:**

(1) **The date rules are adopted under IC 36-8-10.5-7(c).**

(2) **January 1, 2004.**

SECTION 3. **An emergency is declared for this act.**

P.L.63-2003

[H.1335. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-14-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. To carry out the office's responsibilities, the state fire marshal or a deputy fire marshal may:

- (1) exercise the powers of a law enforcement officer to prevent fires and conduct arson investigations;
- (2) enter and inspect any property, at a reasonable hour;
- (3) issue and enforce administrative orders under IC 22-12-7 and apply for judicial orders under IC 22-12-7-13;
- (4) direct a fire department to assist the office; ~~and~~
- (5) cooperate with law enforcement officers; **and**
- (6) **provide hazardous materials and counterterrorism:**
 - (A) **training;**
 - (B) **support; and**
 - (C) **response assistance.**

P.L.64-2003

[H.1647. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-13-5-2, AS ADDED BY P.L.71-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Upon the written request of an interested person, the office of the state building commissioner may issue a written interpretation of a building law. An interpretation issued by the office of the state building commissioner must be consistent with building laws enacted by the general assembly or adopted by the commission.

(b) The office of the state building commissioner may issue a written interpretation of a building law under subsection (a) whether or not the county or municipality has taken any action to enforce the building law.

P.L.65-2003

[S.67. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-8-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) Notwithstanding any other provision of this article, the following do not cause a person that has contracted with a call center operator for a telephone service to have a duty to**

register as a retail merchant or to collect or remit the state gross retail or use tax imposed by this article:

(1) The ownership or leasing by the person of tangible or intangible property that is:

(A) located at the Indiana premises of the call center operator;

(B) used to provide or assist directly with the provision of a telephone service as described in subsection (c); and

(C) not held for sale, shipment, or distribution in response to orders received as a result of a telephone service provided by the call center operator.

(2) The activities of any kind performed by or on behalf of the person at the Indiana premises of the call center operator.

(3) The activities of any kind performed by the call center operator in Indiana for or on behalf of the person.

(b) Tangible or intangible property that is:

(1) owned or leased by a person that has contracted with a call center operator for a telephone service;

(2) located at the premises of the call center operator;

(3) used to provide or assist directly with the provision of a telephone service as described in subsection (c); and

(4) not held for sale, shipment, or distribution in response to orders received as a result of a telephone service provided by the call center operator;

shall not be considered to be, or to create, an office, a place of distribution, a sales location, a sample location, a warehouse, a storage place, or other place of business maintained, occupied, or used in any way by the person. For purposes of this section, a call center operator with which a person has contracted for a telephone service shall not be considered to be in any way a representative, an agent, a salesman, a canvasser, or a solicitor for the person.

(c) For purposes of this section, a telephone service includes soliciting orders by telephone, accepting orders by telephone, and making and receiving any other telephone calls.

P.L.66-2003

[S.136. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 1-1-3.5-3, AS AMENDED BY P.L.170-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) For purposes of the statutes described in section 5(c) of this chapter, a reference to population is a reference to population as determined by the most recent of the following:

- (1) Federal decennial census.
- (2) Federal special census.
- (3) Special tabulation.
- (4) Corrected population count.

(b) For purposes of statutes relating to drawing boundaries of county executive districts, county fiscal body districts, municipal legislative body districts, or the districts of any other political subdivision, a reference to population is a reference to population as determined by the most recent of the following:

- (1) Federal decennial census.**
- (2) Federal special census.**
- (3) Special tabulation.**
- (4) Corrected population count.**

(c) For purposes of a noncode statute, a reference to population is the population determined by the most recent federal decennial census in effect before the passage of the statute, unless the population description in the statute is changed by subsequent legislation.

~~(c)~~ **(d)** For purposes of statutes not described in subsection (a), ~~or~~ (b), **or** (c), a reference to population is the population determined by the most recent federal decennial census in effect, unless the statute specifically provides otherwise.

~~(d)~~ **(e)** This subsection applies to a political subdivision located in more than one (1) county. If a political subdivision is described in a statute by reference to the county in which the political subdivision is

located, the reference is to the county that contains a majority of the population of the political subdivision.

(e) (f) The effective date of each:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

is April 1 of the calendar year following the year in which the tabulation of population or corrected population count is delivered to the state by the United States Secretary of Commerce under 13 U.S.C. 141 and received by the governor.

(f) (g) Promptly upon receiving the tabulation of population or corrected population count, the governor shall issue an executive order:

- (1) evidencing the date of receipt; and
- (2) noting that the effective date of the tabulation of population or corrected population count for purposes of any statute described in this section is April 1 of the following year.

SECTION 2. IC 3-5-2-48.5, AS AMENDED BY P.L.126-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 48.5. "Testing authority" means an independent test authority as described in:

- (1) ~~Appendix E of the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems System Standards~~ issued by the Federal Election Commission ~~in January 1990; on April 30, 2002;~~ or
- (2) other more recent voting systems standards adopted by the commission under IC 3-11-15-13.

SECTION 3. IC 3-6-4.2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. ~~The commission shall provide~~ Equal funding **shall be provided** to each co-director with which to employ employees under section 6 of this chapter.

SECTION 4. IC 3-6-6-40, AS ADDED BY SEA 477-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 40. (a) This section applies after December 31, 2003.

(b) The county election board shall conduct a training and educational meeting for precinct election officers.

(c) The board shall require inspectors and judges to attend the

meeting and may require other precinct election officers to attend the meeting.

(d) The meeting required under this section must include information: ~~related~~

(1) relating to making polling places and voting systems accessible to elderly voters and disabled voters; **and**

(2) relating to the voting systems used in the county.

The meeting may include other information relating to the duties of precinct election officers as determined by the county election board.

(e) The meeting required by this section must be held not later than the day before election day.

SECTION 5. IC 3-7-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section applies to a person who:

(1) on the day of the next general, municipal, or special election, will meet the age and residency requirements of section 1 of this chapter; and

(2) does not meet the age or residency requirements on primary election day.

(b) A person described in subsection (a) may not cast a ballot:

(1) for candidates for:

(A) elected offices;

(B) precinct committeeman; or

(C) state convention delegate; or

(2) on public questions;

to be voted on at the same time that the primary election is conducted.

SECTION 6. IC 3-7-27-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. In a county that has a board of registration, the board shall have prepared ~~in triplicate~~ a memorandum for each voter's original affidavit of registration or transfer of an original registration executed by the board.

SECTION 7. IC 3-7-28-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Upon **written** request and as soon as the list required by section 4 of this chapter is prepared, a copy of the list shall be furnished to the following:

(1) The county chairman of any political party that has at least one
(1) candidate on the ballot in the next election.

(2) The committee of a candidate whose name will appear on the

ballot in the next election.

(3) The county chairman of any other bona fide political party.

SECTION 8. IC 3-7-38.1-4, AS AMENDED BY P.L.38-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A contract entered into under section 3 of this chapter must require the following:

(1) The contractor shall determine the following information regarding each voter with duplicate registrations:

(A) The voter's name.

(B) Each address at which the voter is registered.

(C) Other information the commission determines is necessary to implement this chapter.

The contractor shall obtain the information required by this subdivision from the information submitted to the election division under IC 3-7-26-4.

(2) The contractor shall compile the information determined under subdivision (1) and provide the following with the information compiled under subdivision (1) in the form required by the commission:

(A) The election division.

(B) Each county in which a voter with a duplicate registration is registered to vote.

(3) The contractor shall print, prepare for mailing, and mail a postcard addressed to each voter with duplicate registrations at each address found for that voter. Each postcard must contain the following:

(A) The election division's mailing address as a return address.

(B) A return postcard that contains all of the following:

(i) A mailing address to the election division.

(ii) A listing of all the addresses at which the voter is believed to be registered.

(iii) Instructions to the voter to indicate whether addresses listed on the postcard are previous addresses of the voter.

(iv) A place for the voter to state the voter's current address.

(v) A statement of the voter authorizing cancellation of the voter's registration at other addresses in Indiana.

(vi) A statement informing the voter that the voter must

return the postcard to the election division not later than a date specified by the election division.

(vii) A place for the voter's signature or mark.

(C) A statement of the consequences to the voter of the voter's failure to return the return postcard to the election division not later than a date specified by the election division.

(4) Before a date specified by the election division for each year, the contractor shall provide to the election division the following lists:

(A) A list of all voters with duplicate registrations who have returned postcards to the election division before a date specified by the election division. The list must indicate for each voter the following information:

(i) The voter's current address, including the county, as provided by the voter.

(ii) Each former address, including the county of each former address, at which the voter is registered.

(B) A list of all voters with duplicate registrations who have not returned postcards to the election division before a date specified by the election division. The list must indicate each county in which each voter is registered to vote.

(5) Not later than a date specified by the election division, the contractor shall mail to each county the following lists:

(A) A list of all voters with duplicate registrations who have:

(i) returned postcards to the election division before a date specified by the election division; and

(ii) indicated a current residence within the county.

(B) A list of all voters with duplicate registrations who:

(i) have returned postcards to the election division before a date specified by the election division;

(ii) are registered to vote in the county; and

(iii) have indicated a current residence in another county.

(C) A list of all voters with duplicate registrations who:

(i) have not returned postcards to the election division before a date specified by the election division; and

(ii) are registered to vote in the county.

(6) Not later than a date specified by the election division, the contractor shall ~~do the following:~~

(A) send a postcard to each voter described in subdivision (5)(B) informing the voter how the voter may register to vote in the county of the voter's current residence.

(B) Send a postcard to each voter described in subdivision (5)(C) notifying the voter:

- (i) that if the voter does not notify the county voter registration office of the voter's current residence before a date specified by the election division, the voter's registration will be placed on inactive status; and
- (ii) of the consequences of the voter's registration being placed on inactive status.

Postcards and information supplied on postcards sent under this subdivision must comply with 42 U.S.C. 1973gg-6(d).

(7) Not later than a date specified by the election division, the contractor shall assist the election division in updating the statewide voter registration file using information obtained from the county voter registration offices under section 6 of this chapter.

(b) The contract may require the contractor to perform other services the election division requires.

SECTION 9. IC 3-7-46-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Not later than:

- (1) January 31;
- (2) April 30;
- (3) July 31; and
- (4) October 31;

of each year, a county sheriff shall provide the circuit court clerk or board of registration with a list with the information set forth in subsection (b).

(b) The list required by subsection (a) must identify each person who:

- (1) is a resident of Indiana;
- (2) has been convicted of a crime; and
- (3) has been placed in a county correctional facility during the previous **three (3) month period**.

SECTION 10. IC 3-7-48-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The precinct election board shall add the name and address of a voter described by

section 7 of this chapter to the poll list of the precinct.

(b) The county voter registration office shall add the name of a voter described by section 7 of this chapter to the registration record of the county.

SECTION 11. IC 3-8-1-2, AS AMENDED BY P.L.176-1999, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The commission, a county election board, or a town election board shall act if a candidate (or a person acting on behalf of a candidate in accordance with state law) has filed any of the following:

- (1) A declaration of candidacy under IC 3-8-2 or IC 3-8-5.
- (2) A request for ballot placement in a presidential primary under IC 3-8-3.
- (3) A petition of nomination or candidate's consent to nomination under IC 3-8-6.
- (4) A certificate of nomination under IC 3-8-5, IC 3-8-7, IC 3-10-2-15, or IC 3-10-6-12.
- (5) A certificate of candidate selection under IC 3-13-1 or IC 3-13-2.
- (6) A declaration of intent to be a write-in candidate under IC 3-8-2-2.5.

(7) A contest to the denial of certification under IC 3-8-6-12.

(b) The commission has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the election division. Except for a filing under the jurisdiction of a town election board, a county election board has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the county election board, county voter registration office, or the circuit court clerk. A town election board has jurisdiction to act under this section with regard to any filing that was made with the county election board, the county voter registration office, or the circuit court clerk for nomination or election to a town office.

(c) **Except as provided in subsection (e)**, before the commission or election board acts under this section, a registered voter of the election district that a candidate seeks to represent must file a sworn statement with the election division or election board:

- (1) questioning the eligibility of a candidate to seek the office;
- and

(2) setting forth the facts known to the voter concerning this question.

(d) The eligibility of a write-in candidate or a candidate nominated by a convention, petition, or primary may not be challenged under this section if the commission or board determines that all of the following occurred:

(1) The eligibility of the candidate was challenged under this section before the candidate was nominated.

(2) The commission or board conducted a hearing on the affidavit before the nomination.

(3) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.

(e) Before the commission or election board can consider a contest to the denial of a certification under IC 3-8-6-12, a candidate (or a person acting on behalf of a candidate in accordance with state law) must file a sworn statement with the election division or election board:

(1) stating specifically the basis for the contest; and

(2) setting forth the facts known to the candidate supporting the basis for the contest.

(f) Upon the filing of a sworn statement under subsection (c) **or** (e), the commission or election board shall determine the validity of the questioned:

(1) declaration of candidacy;

(2) declaration of intent to be a write-in candidate;

(3) request for ballot placement under IC 3-8-3;

(4) petition of nomination;

(5) certificate of nomination; **or**

(6) certificate of candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8; **or**

(7) denial of a certification under IC 36-8-6-12.

(g) The commission or election board shall deny a filing if the commission or election board determines that the candidate has not complied with the applicable requirements for the candidate set forth in the Constitution of the United States, the Constitution of the State of Indiana, or this title.

SECTION 12. IC 3-8-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. A candidate for:

- (1) precinct committeeman; or
- (2) delegate to a state convention;

of ~~each a~~ political party in the state whose nominee received at least ten percent (10%) of the total vote cast for secretary of state at the last election must ~~have voted; at the candidate's most recent vote at a primary election; for the candidates of the political party with which the candidate seeks affiliation.~~ However, a candidate is not disqualified for not having previously voted in a primary election. **comply with any candidate requirement set by state party rules.**

SECTION 13. IC 3-8-2-2.5, AS AMENDED BY P.L.26-2000, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) A person who desires to be a write-in candidate for a federal, state, legislative, or local office or school board office in a general, municipal, or school board election must file a declaration of intent to be a write-in candidate with the officer with whom declaration of candidacy must be filed under sections 5 and 6 of this chapter.

(b) The declaration of intent to be a write-in candidate required under subsection (a) must be signed before a person authorized to administer oaths and must certify the following information:

- (1) The candidate's name must be printed or typewritten as:
 - (A) the candidate wants the candidate's name to ~~appear on the ballot; be certified;~~ and
 - (B) the candidate's name is permitted to appear ~~on the ballot~~ under IC 3-5-7.
- (2) A statement that the candidate is a registered voter and the location of the candidate's precinct and township (or ward and city or town), county, and state.
- (3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.
- (4) The candidate's party affiliation or a statement that the candidate is an independent candidate (not affiliated with any party). **For purposes of this subdivision, a candidate is affiliated with a political party only if the candidate satisfies section 7(a)(4) of this chapter.**

(5) A statement of the candidate's intention to be a write-in candidate, the name of the office, including the district, and the

date and type of election.

(6) If the candidate is a candidate for the office of President or Vice President of the United States, a statement declaring the names of the individuals who have consented and are eligible to be the candidate's candidates for presidential electors.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has:

(A) been a candidate for state or local office in a previous primary or general election; and

(B) filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of intent to be a write-in candidate under section 4 of this chapter.

(10) If the candidate is subject to IC 3-9-1-5.5, a statement that the candidate is required to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions.

(B) The candidate makes more than five hundred dollars (\$500) in expenditures.

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

(12) The candidate's signature and telephone number.

(c) At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate is considered a candidate for all purposes.

(d) A write-in candidate must comply with the requirements under IC 3-8-1 that apply to the office to which the write-in candidate seeks election.

(e) A person may not be a write-in candidate in a contest for nomination or for election to a political party office.

(f) A write-in candidate for the office of President or Vice President of the United States must list at least one (1) candidate for presidential elector and may not list more than the total number of presidential electors to be chosen in Indiana.

(g) The commission shall provide that the form of a declaration of intent to be a write-in candidate includes the following information near the separate signature required by subsection (b)(7):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

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

SECTION 14. IC 3-8-6-12, AS AMENDED BY P.L.26-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A petition of nomination for an office filed under section 10 of this chapter must be filed with and, **except as provided in subsection (d)**, certified by the person with whom a declaration of candidacy must be filed under IC 3-8-2.

(b) The petition of nomination must be accompanied by the following:

- (1) The candidate's written consent to become a candidate.
- (2) A statement that the candidate:
 - (A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and
 - (B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(3) If the candidate is subject to IC 3-9-1-5, a statement by the candidate that the candidate has filed a campaign finance statement of organization under IC 3-9-1-5 or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date for filing a petition for nomination under section 10 of this chapter.

(4) If the candidate is subject to IC 3-9-1-5.5, a statement by the candidate that the candidate is aware of the requirement to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

- (A) The candidate receives more than five hundred dollars (\$500) in contributions.
- (B) The candidate makes more than five hundred dollars (\$500) in expenditures.

(5) A statement indicating whether or not each candidate:

- (A) has been a candidate for state or local office in a previous primary or general election; and
- (B) has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(6) A statement that each candidate is legally qualified to hold the office that the candidate seeks, including any applicable residency requirements and restrictions on service due to a criminal conviction.

(7) If the petition is filed with the secretary of state for an office not elected by the electorate of the whole state, a statement signed by the circuit court clerk of each county in the election district of the office sought by the individual.

(8) Any statement of economic interests required under IC 3-8-1-33.

(c) The statement required under subsection (b)(7) must:

(1) be certified by each circuit court clerk; and

(2) indicate the number of votes cast for secretary of state:

(A) at the last election for secretary of state; and

(B) in the part of the county included in the election district of the office sought by the individual filing the petition.

(d) The person with whom the petition of nomination must be filed under subsection (a) shall:

(1) determine whether a sufficient number of signatures as required by section 3 of this chapter have been obtained; and

(2) do one (1) of the following:

(A) If the petition includes a sufficient number of signatures, certify the petition.

(B) If the petition has an insufficient number of signatures, deny the certification.

(e) The secretary of state shall, by noon August 20:

(1) certify; **or**

(2) **deny certification under subsection (d) to;**

each petition of nomination filed in the secretary of state's office to the appropriate county.

~~(e)~~ **(f)** The commission shall provide that the form of a petition of nomination includes the following information near the separate signature required by subsection (b)(2):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

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

the same as the name on the candidate's consent to become a candidate.

(h) If the person with whom the petition was filed denies certification under subsection (d), the person shall notify the candidate immediately by certified mail.

(i) A candidate may contest the denial of certification under subsection (d) based on:

(1) the circuit court clerk's or board of registration's failure to certify, under section 8 of this chapter, qualified petitioners; or

(2) the determination described in subsection (d)(1);

using the procedure in IC 3-8-1-2 and section 14 of this chapter that applies to questions concerning the validity of a petition of nomination.

SECTION 15. IC 3-8-6-14, AS AMENDED BY P.L.58-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) A person may not be selected as a candidate by petition of nomination without giving written consent and having it filed with the public official with whom certificates and petitions of nomination are required to be filed.

(b) Each candidate nominated by petition of nomination must satisfy all statutory eligibility requirements for the office for which the candidate is nominated, including the filing of statements of economic interest.

(c) All questions concerning the validity of a petition of nomination filed with the secretary of state **or contesting the denial of certification under section 12(d) of this chapter** shall be referred to and determined by the commission. A statement questioning the validity of a petition of nomination **or contesting the denial of certification under section 12(d) of this chapter** must be filed with the election division under IC 3-8-1-2(c) **or IC 3-8-1-2(e)** not later than noon seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(d) All questions concerning the validity of a petition of nomination filed with a circuit court clerk **or contesting the denial of certification under section 12(d) of this chapter** shall be referred to and determined by the county election board. A statement questioning the validity of a petition of nomination **or contesting the denial of certification under section 12(d) of this chapter** must be filed with

the county election board under IC 3-8-1-2(c) **or IC 3-8-1-2(e)** not later than noon seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(e) This subsection does not apply to a petition of nomination for election to a school board office subject to IC 3-8-2-14. The commission or a county election board shall rule on the validity of the petition of nomination **or the denial of certification under section 12(d) of this chapter** not later than noon sixty (60) days before the date on which the general or municipal election will be held for the office.

(f) This subsection applies to a petition of nomination for election to a school board office elected in a general election. All questions concerning the validity of the petition of nomination shall be referred to and determined by the county election board not later than noon fifty-four (54) days before the date of the general election. A statement questioning the validity of a petition of nomination must be filed with the county election board under IC 3-8-1-2(c) not later than noon sixty-seven (67) days before the date of the general election.

SECTION 16. IC 3-8-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The election division shall, not later than noon ~~August 20;~~ **seventy-four (74) days before the date of the general election,** certify the primary election results canvassed and tabulated under IC 3-10-1-34 for:

- (1) candidates for federal and state offices; and
- (2) candidates for legislative and local offices who are required to file a declaration of candidacy with the election division under IC 3-8-2;

to the county election board of each county in which the candidates are to be voted for at the next general election. No other form of certification of nomination for the offices is necessary.

SECTION 17. IC 3-8-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. ~~(a)~~ A certificate of nomination for an office to be elected by the electorate of the whole state shall be filed with the election division. A certificate of nomination for any other elected office shall be filed with the person with whom a declaration of candidacy shall be filed.

~~(b) The election division shall, not later than noon August 20;~~

certify each certificate of nomination filed in the election division to the appropriate county election board:

SECTION 18. IC 3-8-7-14, AS AMENDED BY P.L.260-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. **(a) This section does not apply to the certification of nominees under IC 3-10-4-5.**

(b) A certificate of nomination required to be filed with the election division or circuit court clerk shall be filed not later than noon July 15 before the date fixed for the election of the person nominated.

SECTION 19. IC 3-8-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. **(a) This section does not apply to the certification of nominees under IC 3-10-4-5.**

(b) The election division shall certify the following to each county election board not later than noon August 20 ~~(or noon sixty (60) days before the general election for nominees for United States President and Vice President)~~: before an election:

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

- (A) an office for which the electorate of the whole state may vote;
- (B) the United States House of Representatives;
- (C) a legislative office; or
- (D) a local office for which a declaration of candidacy must be filed with the election division under IC 3-8-2.

(2) The name of each:

- (A) justice of the supreme court;
- (B) judge of the court of appeals; and
- (C) judge of the tax court;

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

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

SECTION 20. IC 3-9-3-1 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.
- (4) An auxiliary party organization.
- (5) A legislative caucus committee.

(b) Section 4 of this chapter does not apply to candidates for federal office.

(c) Section 2.5 of this chapter does not apply to candidates for the following:

- (1) Precinct committeeman.**
- (2) State convention delegate.**

SECTION 21. IC 3-9-3-5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) This section does not apply to the following:**

- (1) A communication relating to an election to a federal office.**
- (2) A person whose sole act is, in the normal course of business, participating in the preparation, printing, distribution, or broadcast of the advertising or material containing the false representation.**

(b) As used in this section, "officeholder" refers to a person who holds an elected office.

(c) A person may not knowingly or intentionally authorize, finance, sponsor, or participate in the preparation, distribution, or broadcast of paid political advertising or campaign material that falsely represents that a candidate in any election is or has been an officeholder.

SECTION 22. IC 3-9-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, the election division and each county election board shall preserve reports and statements for four (4) years from December 1 following the election to which they pertain, unless the records are in litigation.

(b) This subsection applies to reports and statements filed by a person that seeks to influence the election or retention of an individual to an office with a term of more than four (4) years. The election

division and each county election board shall preserve the reports and statements subject to this subsection until the final December 1 before the expiration of the term for the office, unless the records are in litigation.

(c) If a report is a duplicate of a report required to be filed under the federal Election Campaign Act (2 U.S.C. 431 et seq.), the report may be discarded on January 1 of the second year after the report was filed.

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

- (1) Fails to file with the election division a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the treasurer of the committee.
- (4) Makes a contribution other than to a committee subject to this article or to a person authorized by law or a committee to receive contributions on the committee's behalf.
- (5) Is a corporation or labor organization that exceeds any of the limitations on contributions prescribed by IC 3-9-2-4.
- (6) Makes a contribution in the name of another person.
- (7) Accepts a contribution made by one (1) person in the name of another person.
- (8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.
- (9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.
- (10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.
- (11) Violates IC 3-9-2-12.
- (12) Fails to designate a contribution as required by IC 3-9-2-5(c).**

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

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

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

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

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

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the

commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

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

- (1) Two (2) times the amount of the contributions undesignated.**
- (2) One thousand dollars (\$1,000).**

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

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

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

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

- (1) Fails to file with a county election board a report in the manner required under IC 3-9-5.
- (2) Fails to file a statement of organization required under IC 3-9-1.
- (3) Is a committee or a member of a committee who disburses or expends money or other property for any political purpose before the money or other property has passed through the hands of the

treasurer of the committee.

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

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

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

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

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

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

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

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

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

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

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

documented by the board. The civil penalty limit under this subsection applies to each report separately.

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

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

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

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

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

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

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

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

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

SECTION 25. IC 3-9-5-8, AS AMENDED BY P.L.176-1999, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section applies to a candidate for nomination to an office in a ~~state~~ convention who becomes a candidate less than twenty-five (25) days before the nomination date for a candidate chosen at a convention.

(b) A candidate is not required to file a report in accordance with section 6(a)(1) of this chapter. The candidate shall file the candidate's first report not later than noon twenty (20) days after the nomination date for a candidate chosen at a ~~state~~ convention.

(c) The reporting period for the first report required for a candidate begins on the date that the individual became a candidate and ends on the day following the adjournment of the ~~state~~ convention.

SECTION 26. IC 3-9-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A person may file duplicates of the reports required to be filed under the Federal Election Campaign Act (2 U.S.C. 431 et seq.) to comply with this chapter.

(b) The duplicate must cover all activity of the committee, and the committee shall file a supplementary report as directed by the election division to provide information required by this article but not included in the federal report.

(c) Each candidate for United States Senator or United States Representative and the treasurer of the candidate's committee may file with the election division duplicates of the reports required by federal law.

(d) If a report is available on the Federal Election Commission's web site, a statement to that effect is all the person is required to file.

SECTION 27. IC 3-9-5-20.1, AS ADDED BY P.L.176-1999, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20.1. (a) This section applies only to a large contribution that ~~satisfies all of the following:~~

~~(1) The contribution is received by a candidate, the candidate's committee, or the treasurer of the candidate's committee.~~

~~(2) The contribution is received:~~

~~(A) not more than twenty-five (25) days before an election;~~
~~and~~

~~(B) not less than forty-eight (48) hours before an election.~~

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

(1) A primary election.

(2) A general election.

(3) A municipal election.

(4) A special election.

(5) For candidates nominated at a state convention, the state convention.

(c) As used in this section, "large contribution" means ~~a contribution~~
~~of contributions:~~

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

(2) that are received:

~~(A) not more than twenty-five (25) days before an election;~~
~~and~~

~~(B) not less than forty-eight (48) hours before an election.~~

(d) The treasurer of a candidate's committee shall file a supplemental large contribution report with the election division or a county election board not later than forty-eight (48) hours after the contribution is received. **A candidate for a legislative office shall file a report required by this section with the election division and the county election board as required by section 3 of this chapter.** A report filed under this section may be filed by facsimile (fax) transmission.

(e) A report required by subsection (d) must contain the following information for each large contribution:

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

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

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

(4) The **total** amount of the contribution.

(5) The ~~date dates~~ and ~~time times~~ the ~~contribution was~~
contributions making up the large contribution were received by the treasurer, the candidate, or the candidate's committee.

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

SECTION 28. IC 3-10-1-13 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. The primary election paper ballots and ballot cards of each political party must be of uniform size and of the same quality paper as the paper ballots and ballot cards used at the general election. The paper ballots and ballot cards must be **distinctively marked or be of a different color for so that the ballots of each party holding a primary election: are easily distinguishable**. All the candidates representing one (1) party shall be placed on one (1) ticket with the name of the party placed at the top in the form prescribed by section 19 of this chapter.

SECTION 29. IC 3-10-1-31, AS AMENDED BY P.L.199-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

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

- (1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(c) Upon delivery of the poll lists, the circuit court clerk or board of registration may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; ~~or~~
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42; **or**

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

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

(d) After the expiration of the period described in subsection (b), the

ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 30. IC 3-10-1-34, AS AMENDED BY P.L.176-1999, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34. The election division, not later than noon:

- (1) ~~on the second Wednesday following a primary election conducted in a year in which a general election will be held; on the date for correcting an error under IC 3-12-5-14;~~ or
- (2) seven (7) days after receipt of the final recount certificate transmitted under IC 3-12-6-31 or IC 3-12-11-18;

whichever occurs later, shall canvass the votes cast for candidates required to file a declaration of candidacy with the election division under IC 3-8-2 and tabulate the result as provided in IC 3-12.

SECTION 31. IC 3-10-2-15, AS AMENDED BY P.L.202-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) This section applies to a political party whose nominee received at least two percent (2%) but less than ten percent (10%) of the votes cast for secretary of state at the last election for that office.

(b) This section applies only to a local office that is:

- (1) not listed in IC 3-8-2-5; and
- (2) not a municipal office subject to IC 3-8-5-17 or IC 3-10-6-12.

(c) A political party subject to this section shall nominate the party's candidate for a local office at a county convention of the party.

(d) The chairman and secretary of the convention shall execute a certificate of nomination in writing, setting out the following:

- (1) The name of each nominee as:
 - (A) the nominee wants the nominee's name to appear on the ballot; and
 - (B) the nominee's name is permitted to appear on the ballot under IC 3-5-7.
- (2) The residence address of each nominee.
- (3) The office for which each nominee was nominated.
- (4) That each nominee is legally qualified to hold office.
- (5) The political party device or emblem by which the ticket will be designated on the ballot.

Both the chairman and secretary shall acknowledge the certificate

before an officer authorized to take acknowledgment of deeds.

(e) Each candidate nominated under this section shall execute a consent to the nomination in the same form as a candidate nominated by petition under IC 3-8-6.

(f) The certificate required by subsection (d) and the consent required by subsection (e) must be filed with the circuit court clerk of the county containing the greatest percentage of population of the election district for which the candidate has been nominated by the convention not later than noon ~~August 1~~ **July 15**.

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

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

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

- (1) the names of their nominees for President and Vice President of the United States;
- (2) the state of which each nominee is a resident; and
- (3) the name of the political party of the nominees, or that the nominees are an independent ticket.

(c) This subsection applies to a political party described in subsection (a) and to candidates nominated by petitioners under

subsection (b). The names of:

- (1) all candidates for presidential electors; and
- (2) all nominees for President and Vice President of the United States;

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

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

SECTION 33. IC 3-10-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a)** A county election board and a town may enter into a written agreement providing that the county election board will conduct a municipal election in the town. ~~However,~~

(b) A town that enters into ~~such~~ an agreement **described in subsection (a)** shall continue to nominate candidates by convention conducted under IC 3-8-5 or by petition filed under IC 3-8-6 **unless the town nominates candidates in a primary election as provided in IC 3-8-5-2.**

(c) An agreement may not be entered into after July 1 of a year in which a municipal election is to be held in the town.

(d) A county election board that enters into an agreement under this section shall conduct the municipal election in the same manner as it conducts a general election in a town that has a population of three thousand five hundred (3,500) or more.

SECTION 34. IC 3-11-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Each county election board shall have the:

- (1) names of all candidates for United States Representative, legislative offices, and local offices; and
- (2) local public questions;

in election districts within the county printed on ~~ballots~~ **a ballot** as

provided in this chapter. **The county may print all offices on a single ballot under this section.**

SECTION 35. IC 3-11-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Except as provided in subsection (c), the election division and county election boards shall use the following colors for paper ballots:

(1) For President and Vice President of the United States; cherry red paper:

(2) For United States Senator; state offices; and public questions; if the public question:

(A) is voted on by the entire electorate of Indiana; or

(B) concerns the retention of a justice of the Indiana supreme court or a judge of the Indiana court of appeals;

pink paper:

(3) For municipal offices; blue paper:

(4) For township offices; yellow paper:

(5) For United States Representative; county offices; school board offices; and all other offices; white paper:

(6) For local public questions; green paper:

(b) The chairman or committee responsible for supplying pasters under IC 3-11-3-29 shall supply pasters of the same color as the ballot on which the paster will be placed.

(c) A county election board, by unanimous vote of its entire membership, may print ballots for township offices in any color if the ballot for township offices in each township within the county is not the same color as any:

(1) other township ballot within the county; or

(2) ballot for other offices or public questions listed in subsection (a):

SECTION 36. IC 3-11-4-8, AS AMENDED BY P.L.126-2002, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

(b) A voter described in subsection (a) is considered to be a voter of the Indiana precinct where the voter registration office is located.

SECTION 37. IC 3-11-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, the absentee ballots that are prepared and printed under the direction of the election division shall be delivered to the circuit court clerk or the clerk's authorized deputy not less than forty-five (45) days before a general election or twenty-nine (29) days before a special election. The absentee ballots shall be delivered in the same manner that other official ballots are delivered.

(b) This subsection applies to the printing of absentee ballots for a general election in which the names of nominees for President and Vice President of the United States are to be printed on the ballot. The absentee ballots that are prepared and printed under the direction of the election division shall be delivered to the circuit court clerk not later than thirty-eight (38) days before the general election.

(c) An absentee ballot described by section 12(d) of this chapter shall be delivered by the election division to the circuit court clerk or the clerk's authorized deputy not later than the first Monday in June before a general election.

SECTION 38. IC 3-11-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. All absentee ballots other than those specified in section 12 of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 of this chapter **and receiving all certifications from the election division required under IC 3-8 or IC 3-10**, the county election board shall immediately proceed to prepare and have printed the ballots. Ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

SECTION 39. IC 3-11-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. **(a) Except as provided in subsection (b)**, the absentee ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk **(or the board acting under IC 3-6-5.2)** at least:

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

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

(b) This subsection applies to the printing of absentee ballots for a general election in which the names of nominees for President and Vice President of the United States are to be printed on the ballot. The absentee ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk (or the board acting under IC 3-6-5.2) not later than thirty-eight (38) days before the general election.

SECTION 40. IC 3-11-8-15, AS AMENDED BY P.L.38-1999, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) Persons other than:

- (1) members of a precinct election board;
- (2) poll clerks and assistant poll clerks;
- (3) election sheriffs;
- (4) deputy election commissioners;
- (5) pollbook holders;
- (6) **challengers;**
- (7) watchers; and
- ~~(7)~~ **(8)** minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29;

are not permitted in the polls during an election except for the purpose of voting.

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

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

SECTION 41. IC 3-11-9-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) As used in this section, "service animal" has the meaning set forth in IC 35-46-3-11.5.**

(b) A voter who requires the assistance of a service animal is entitled to bring the animal into the polls and the voting booth.

SECTION 42. IC 3-11-10-39 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. Each county election board ~~may, not later than the fourth day before election day,~~ **shall** conduct a ~~one (1) day~~ training session for the members of the absentee voter boards. **A member of an absentee voter board must receive the training before the member begins performing the member's duties.** At the training session the duties of the absentee voter boards and the election laws and penalties pertaining to their duties shall be explained in detail. The members of absentee voter boards are entitled to a per diem set by the county executive for attending the training session.

SECTION 43. IC 3-11-15-13.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.1. If a voting system has the capability, the voting system must display on the medium used by the voter to cast the voter's ballot the following information for each candidate:**

- (1) The name of the candidate.**
- (2) A ballot number or other candidate designation uniquely associated with the candidate.**

SECTION 44. IC 3-12-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) This section does not apply to the correction of an error under IC 3-12-6-29 or IC 3-12-11-23.

(b) The county election board or the election division shall correct an error in the certification of the vote for a candidate or on a public question if the error is discovered not later than the final date and hour for the filing of a recount or contest under ~~IC 3-12-~~ **this article.**

SECTION 45. IC 3-12-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) Upon the filing of a petition for a recount, the circuit court clerk shall notify the judge. The judge shall:

- (1) issue a notice of the filing and pendency of the petition to:**
 - (A) each candidate named in the petition;**
 - (B) the county election board; and**
 - (C) the election division if the petition relates to a recount for the office of judge or prosecuting attorney; and**
- (2) deliver the notice to the sheriff of each county in which a candidate resides.**

(b) Each sheriff shall immediately serve the notice upon candidates in person or by leaving a copy at the last and usual place of residence. The sheriff shall make immediate return of the service.

SECTION 46. IC 3-12-6-22.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22.5. (a) **After the commission files its certificate under section 22 of this chapter, the court that appointed the commission shall issue an order that does the following:**

(1) Acknowledges the filing of the certificate.

(2) Discharges the commission.

(3) Releases election materials impounded during the recount.

(b) The determination of a commission under section 22 of this chapter is final, although an appeal may be taken to the court that appointed the commission.

~~(b)~~ (c) An appeal under subsection ~~(a)~~: **(b):**

(1) must be filed not later than thirty (30) days after the court issues the order under subsection (a); and

(2) is limited to:

~~(1)~~ **(A)** questions of law arising out of the recount; and

~~(2)~~ **(B)** procedural defects by the recount commission that affected the outcome of the recount.

SECTION 47. IC 3-12-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** Upon the filing of a petition for a contest, the circuit court clerk shall notify the circuit court judge. The judge shall issue a notice to the county sheriff directing the sheriff to serve notice upon the contestee and all other persons named in the petition as candidates for nomination or election to the office to appear and answer the petition in the circuit court on a day to be fixed in the notice.

(b) The county sheriff shall also serve a copy of the notice described in subsection (a) on:

(1) the county election board; and

(2) the election division if the petition relates to a contest for the office of judge or prosecuting attorney.

SECTION 48. IC 3-13-1-15, AS AMENDED BY P.L.260-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a

meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

- (1) The name of each candidate as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
 - (2) The **residence** address of each candidate.
- (b) The certificate shall be filed with:
- (1) the election division for:
 - (A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or
 - (B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge of a circuit, superior, probate, county, or small claims court or prosecuting attorney; or
 - (2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).
- (c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon July 3 before election day.
- (d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 49. IC 3-13-1-20, AS AMENDED BY P.L.260-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section applies to a political party subject to IC 3-8-4-10.

(b) A candidate vacancy that exists following the convention of the party shall be filled by the state committee of the political party not later than noon June 30 before election day. **The chairman of the state committee shall file a notice of intent to fill the candidate vacancy with the official who is required to receive a certificate of candidate**

selection under section 15 of this chapter. The notice must be filed not later than ten (10) days before the chairman fills the candidate vacancy. The chairman of the state committee shall act in accordance with section 15 of this chapter to certify the candidate selected to fill the vacancy.

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the general election ballot resulting from the failure of the convention to nominate a candidate for an office. The certificate required by subsection (b) shall be filed not later than noon July 3 before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (b) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

SECTION 50. IC 3-13-2-8, AS AMENDED BY P.L.202-1999, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The chairman or chairmen filling a candidate vacancy under this chapter shall immediately file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

- (1) The name of each candidate as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
 - (2) The **residence** address of each candidate.
- (b) The certificate shall be filed with:
- (1) the election division for:
 - (A) one (1) or more chairmen acting under section 2, 3, 4, or 5(b) of this chapter; or
 - (B) a committee acting under section 5(b) of this chapter to fill a candidate vacancy for the office of judge of a circuit, superior, probate, county, or small claims court or prosecuting attorney; or
 - (2) the circuit court clerk of the county in which the greatest percentage of the population of the election district is located, for a chairman acting under section 5(a) of this chapter to fill a

candidate vacancy for a local office not described in subdivision (1).

(c) The certificate required by section (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidate.

SECTION 51. IC 3-14-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) A person who knowingly:

- (1) forges or falsely makes the official endorsement of a ballot; or
- (2) prints or circulates an imitation ballot;

commits a Class D felony.

(b) This section does not prohibit the printing or circulation of a sample ballot or a reproduction of an official ballot if the sample or reproduction complies with IC 3-9-3-2.5 and the printing or circulation does not violate IC 3-14-1-2.

SECTION 52. IC 3-14-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

- (1) on election day within:
 - (A) the polls; or
 - (B) fifty (50) feet of the entrance to the polls; or
- (2) within an area in the office of the circuit court clerk used by an absentee voter board to permit an individual to cast an absentee ballot;

commits a ~~Class D felony~~: **Class A misdemeanor.**

SECTION 53. IC 3-14-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. An election officer who knowingly:

- (1) discloses to a person the name of a candidate for whom a voter has voted or how a voter voted on a public question; or
- (2) does any electioneering on election day;

commits a ~~Class D felony~~: **Class A misdemeanor.**

SECTION 54. IC 6-1.1-19-4.5, AS AMENDED BY P.L.85-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 4.5. (a) With respect to every appeal petition that is delivered to the tax control board by the department of local government finance under section 4.1 of this chapter and that includes a request for emergency financial relief (except an appeal petition described in section 4.7 of this chapter), the tax control board shall, after having made the study of the appeal petition and related materials that the tax control board considers necessary, make an appropriate recommendation to the department of local government finance. If the appeal petition requests an excessive tax levy under subsection (c), the tax control board shall expedite the board's review as necessary to permit the referendum to be conducted without a special election. In respect of the appeal petition, the tax control board may make to the department of local government finance any of the recommendations described in section 4.4(a) of this chapter, subject to the limitations described in section 4.4(b) of this chapter.

(b) In addition, if the tax control board concludes that the appellant school corporation cannot, in the ensuing calendar year, carry out the public educational duty committed to the appellant school corporation by law if, for the ensuing calendar year, the appellant school corporation does not receive emergency financial relief, the tax control board may recommend to the department of local government finance that the order of the county board of tax adjustment or the county auditor in respect of the budget, tax levy, or tax rate of the appellant school corporation be approved, or disapproved and modified, as specified in the tax control board's recommendation and that the appellant school corporation receive emergency financial relief from the state, on terms to be specified by the tax control board in the board's recommendation, in the form of:

- (1) a grant or grants from any funds of the state that are available for such a purpose;
- (2) a loan or loans from any funds of the state that are available for such a purpose;
- (3) permission to the appellant school corporation to borrow funds from a source other than the state or assistance in obtaining the loan;
- (4) an advance or advances of funds that will become payable to the appellant school corporation under any law providing for the payment of state funds to school corporations;

- (5) permission to the appellant school corporation to:
 - (A) cancel any unpaid obligation of the appellant school corporation's general fund to the appellant school corporation's cumulative building fund; or
 - (B) use, for general fund purposes, any unobligated balance in the appellant school corporation's cumulative building fund and the proceeds of any levy made or to be made by the appellant school corporation for the appellant school corporation's cumulative building fund;
- (6) permission to use, for general fund purposes, any unobligated balance in any construction fund, including any unobligated proceeds of a sale of the school corporation's general obligation bonds; or
- (7) a combination of the emergency financial relief described in subdivisions (1) through (6).

(c) In addition to, or in lieu of, any recommendation that the tax control board may make under this section, the tax control board may recommend that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year under this subsection. The recommendation may not be put into effect until a majority of the individuals who vote in a referendum that is conducted in accordance with the following requirements approves the appellant school corporation's making a referendum tax levy for the ensuing calendar year:

- (1) Whenever:
 - (A) the tax control board recommends to the department of local government finance that the appellant school corporation be permitted to make a referendum tax levy for the ensuing calendar year if a majority of the individuals voting in a referendum held in the appellant school corporation approves the appellant school corporation's making a referendum tax levy;
 - (B) the department of local government finance gives the board's written approval of the recommendation; and
 - (C) the appellant school corporation requests that the tax control board take the steps necessary to cause a referendum to be conducted;

the tax control board shall proceed in accordance with this

subsection.

(2) The question to be submitted to the voters in the referendum must read as follows:

"For the __ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed _____ (insert amount) cents (\$0.__) (insert amount) on each one hundred dollars (\$100) of assessed valuation and that is in addition to the school corporation's normal tax rate?".

The voters in a referendum may not approve a referendum tax levy that is imposed for more than seven (7) years. However, a referendum tax levy may be reimposed or extended under this subsection.

(3) The tax control board shall act under IC 3-10-9-3 to certify the question to be voted on at the referendum to the county election board of each county in which any part of the appellant school corporation lies. Each county clerk shall, upon receiving the question certified by the tax control board, call a meeting of the county election board to make arrangements for the referendum. The referendum shall be held in the next primary or general election in which the residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. However, if the referendum would be held at a primary or general election more than six (6) months after certification by the tax control board, the referendum shall be held at a special election to be conducted not less than ~~sixty (60)~~ **ninety (90)** days after the question is certified to the circuit court clerk or clerks by the tax control board. The appellant school corporation shall advise each affected county election board of the date on which the appellant school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the appellant school corporation. The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum. Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1. If the

referendum is not conducted at a primary or general election, the appellant school corporation in which the referendum is to be held shall pay all of the costs of holding the referendum.

(4) Each county election board shall cause the question certified to the circuit court clerk by the tax control board to be placed on the ballot in the form prescribed by IC 3-10-9-4. The county election board shall also cause an adequate supply of ballots and voting equipment to be delivered to the precinct election board of each precinct in which the referendum is to be held.

(5) The individuals entitled to vote in the referendum are all of the registered voters resident in the appellant school corporation.

(6) Each precinct election board shall count the affirmative votes and the negative votes cast in the referendum and shall certify those two (2) totals to the county election board of each county in which the referendum is held. The circuit court clerk of each county shall, immediately after the votes cast in the referendum have been counted, certify the results of the referendum to the tax control board. Upon receiving the certification of all of the votes cast in the referendum, the tax control board shall promptly certify the result of the referendum to the department of local government finance. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the department of local government finance, upon being notified in the manner described in this subsection of the result of the referendum, shall take prompt and appropriate steps to notify the appellant school corporation that the appellant school corporation is authorized to collect, for the calendar year that next follows the calendar year in which the referendum is held, a referendum tax levy not greater than the amount approved in the referendum. The referendum tax levy may be imposed for the number of calendar years approved by the voters following the referendum for the school corporation in which the referendum is held. If a majority of the individuals who voted in the referendum voted "yes" on the referendum question, the school corporation shall establish a referendum tax levy fund under IC 21-2-11.6. A school corporation's referendum tax levy may not be considered in the determination of the school corporation's state tuition support under IC 21-3-1.7 or the determination of the school corporation's

maximum general fund tax levy under this chapter and IC 21-3-1.7. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question, the appellant school corporation may not make any tax levy for its general fund other than a normal tax levy, and another referendum under this subsection may not be held for a period of one (1) year after the date of the referendum.

(d) With respect to any school corporation to which a loan or advance of state funds is made under this section, or for which such a loan or an advance is recommended, for purposes other than the purpose specified in section 4.7 of this chapter, the tax control board may recommend to the department of local government finance that the school corporation be authorized, for a specified calendar year, and solely for the purpose of enabling the school corporation to repay the loan or advance, to collect an excessive tax levy. A recommendation under this subsection must specify the amount of the recommended excessive tax levy. Upon receiving the recommendation from the tax control board, and without any other proceeding, the department of local government finance may authorize the school corporation, for a specified calendar year, to make an excessive tax levy in accordance with the recommendation of the tax control board or in accordance with a modification of the recommendation that the department of local government finance determines is proper. Whenever the department of local government finance exercises the power given to the department of local government finance under this subsection, the department of local government finance shall, in the department's order to the affected school corporation, specify the amount of the authorized excessive tax levy and take appropriate steps to ensure that so much of the proceeds of the excessive tax levy as should be used for loan repayment purposes is not used for any other purpose. The department of local government finance may not exercise the power described in this subsection to authorize any school corporation to collect an excessive tax levy for more than one (1) calendar year in any period of four (4) consecutive calendar years.

SECTION 55. IC 3-11-13-4 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 56. [EFFECTIVE JULY 1, 2003] **IC 3-8-1-2, IC 3-8-6-12, and IC 3-8-6-14, all as amended by this act, apply to**

all elections held after December 31, 2003.

SECTION 57. [EFFECTIVE UPON PASSAGE] (a) A primary election may not be held to nominate a candidate of a political party for a municipal office if the party has only one (1) candidate for nomination for the office.

(b) Notwithstanding IC 3-8-2-20, a person who files a declaration of candidacy under IC 3-8-2 may at any time not later than noon, April 7, 2003, file a statement with the same office where the person filed the declaration of candidacy, stating that the person is no longer a candidate and does not wish the person's name to appear on the primary election ballot as a candidate.

(c) This SECTION expires July 1, 2003.

SECTION 58. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 3-11-15-13, this SECTION applies until July 1, 2003, instead of IC 3-11-15-13.

(b) Except as provided in IC 3-11-15, to be approved for use in Indiana, a voting system shall meet the standards established by the System Standards issued by the Federal Election Commission on April 30, 2002.

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

(d) This SECTION expires July 1, 2003.

SECTION 59. An emergency is declared for this act.

P.L.67-2003

[S.211. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-2-14-20, AS ADDED BY P.L.271-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) Except as provided in subsection (b) and IC 4-24-4-1, if

(1) an individual who is a resident of Indiana dies in an Indiana county:

(A) in which at least one (1) air ambulance provider is located; and

(B) of which the individual is not a resident; and

(2) an autopsy is performed on the individual:

(A) in the county in which the individual died; and

(B) under the authority of the county coroner in the discharge of the coroner's duties;

an Indiana resident:

(1) dies in an Indiana county as a result of an incident that occurred in another Indiana county; and

(2) is the subject of an autopsy performed under the authority and duties of the county coroner of the county where the death occurred;

the county coroner shall bill the county in which the incident occurred that caused the death of the individual on whom the autopsy was performed for the cost of the autopsy, including the physician fee under section 6(d) of this chapter.

(b) Except as provided in subsection (a) and IC 4-24-4-1, payment for the costs of an autopsy requested by a party other than the:

(1) county prosecutor; or

(2) county coroner;

of the county in which the individual died must be made by the party requesting the autopsy.

(c) This section does not preclude the coroner of a county in which a death occurs from attempting to recover autopsy costs from the jurisdiction outside Indiana where the incident that caused the death occurred.

P.L.68-2003

[S.289. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. If a town has a population of more than two thousand (2,000), it may change into a city in the following manner:

(1) The town legislative body may adopt a resolution submitting to the town's voters the question of whether the town should change into a city. The legislative body shall adopt such a resolution if at least the number of the registered voters of the town required under ~~IC 3-8-6-3~~ to ~~place a candidate on the ballot~~ **section 4.1 of this chapter** petition it to do so. The legislative body shall file a copy of the resolution with the clerk of the circuit court for each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(2) The resolution must fix a date for an election on the question. If the election is to be a special election, the date must be not less than thirty (30) nor more than sixty (60) days after the notice of the election. If the election is to be on the same date as a general election, the resolution must state that fact and be certified in accordance with IC 3-10-9-3.

(3) Notice of the election must be given by the clerk of the circuit court in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(4) The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ change into a city?".

(5) If a majority of those voting on the question vote "yes", the town changes into a city when its officers are elected and qualified; otherwise the town remains a town.

SECTION 2. IC 36-4-1-4.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.1. (a) A petition for a resolution under section 4 of this chapter must be signed by the number of registered voters of the town equal to at least ten percent (10%) of the total vote cast at the last election for secretary of state.**

(b) In determining the number of signatures required under this section, any fraction that exceeds a whole number must be disregarded.

P.L.69-2003

[S.318. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. "Chute" means the area or pathway that extends fifty (50) feet in length, measured from the position where the poll worker closest to the door or entrance to the polls is stationed by the inspector. If the property line of the polling place is less than fifty (50) feet from the door or entrance to the polling place, the chute is measured from the exterior door or entrance to the polling place to one-half (1/2) the distance to the property line of the polling place.** Whenever there are two (2) or more doors or entrances to the polls, ~~the chute shall be measured from the inspector of the precinct shall designate one (1) door or entrance that the inspector of the precinct designates as the door for voters to~~

enter for the purpose of voting.

SECTION 2. IC 3-8-2-7, AS AMENDED BY P.L.199-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The declaration of each candidate required by this chapter must be signed before a person authorized to administer oaths and contain the following information:

- (1) The candidate's name, printed or typewritten as:
 - (A) the candidate wants the candidate's name to appear on the ballot; and
 - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
- (2) A statement that the candidate is a registered voter and the location of the candidate's precinct and township (or ward and city or town), county, and state.
- (3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.
- (4) A statement of the candidate's party affiliation. For purposes of this subdivision, a candidate is considered to be affiliated with a political party only if any of the following applies:
 - (A) The most recent primary election in which the candidate voted was a primary election held by the party with which the candidate claims affiliation.
 - (B) The candidate has never voted in a primary election and claims a party affiliation.
 - (C) The county chairman of:
 - (i) the political party with which the candidate claims affiliation; and
 - (ii) the county in which the candidate resides;

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

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

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

(6) A request that the candidate's name be placed on the official primary ballot of that party to be voted on, the office for which the candidate is declaring, and the date of the primary election.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has been a candidate for state or local office in a previous primary or general election and whether the candidate has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of candidacy under section 11 of this chapter.

(10) The candidate's signature.

(b) The commission shall provide that the form of a declaration of candidacy includes the following information near the separate signature required by subsection (a)(7):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(c) A declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's

declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

SECTION 3. IC 3-11-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. The inspector of each precinct shall have the cards required by section 22 of this chapter posted as follows:

- (1) One (1) of each card in each place or compartment provided for the preparation of ballots.
- (2) One (1) of each card at or close to the outer end of the chute. ~~but not closer than fifty (50) feet from the polls.~~
- (3) At least three (3) of each card in and about the polls.

SECTION 4. IC 3-11-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. In preparing the polls for an election, the county executive shall:

- (1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the voting machines, ballot card voting systems, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;
- (2) ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and
- (3) provide a chute with a railing, rope, or wire on each side, beginning ~~fifty (50) feet~~ **a distance equal to the length of the chute (as defined in IC 3-5-2-10)** away from and leading to the door for challenge and to the room in which the election is held.

SECTION 5. IC 3-11-8-16, AS AMENDED BY P.L.38-1999, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. Challengers appointed under IC 3-6-7 are entitled to stand at the sides of the chute next to the entrance to the polls, as provided in IC 3-6-7-2. No other person may remain within ~~fifty (50) feet~~ **a distance equal to the length of the chute (as defined**

in **IC 3-5-2-10**) of the entrance to the polls except for the purpose of offering to vote.

SECTION 6. IC 3-11-10-26.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 26.2. (a) A:**

(1) county election board; or

(2) board of elections and registration;

may adopt a resolution to authorize the circuit court clerk to use an electronic voting system for voting by absentee ballot in the office of the circuit court clerk.

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

(c) A resolution adopted under this section must provide procedures to secure absentee votes cast on an electronic voting system that provide protection comparable to the protection provided to absentee votes cast by paper ballot.

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

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

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

(g) If a resolution is adopted under this section, the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk under section 26 of this chapter.

P.L.70-2003

[S.375. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning trade regulations.

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

SECTION 1. IC 24-4-9-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. A rental company and renter may agree that the renter will be responsible for no more than all of the following:

(1) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle resulting from collision regardless of the cause of damage.

(2) Loss due to theft of the rental vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle. However, the renter shall be presumed to have no liability for any loss due to theft if the renter or authorized driver:

(A) has possession of the ignition key furnished by the rental company or establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft; and

(B) files an official report of the theft with the police or other law enforcement agency within twenty-four (24) hours of learning of the theft and reasonably cooperates with the rental company, police, and other law enforcement agency in providing information concerning the theft.

The presumption set forth in this subdivision is a presumption affecting the burden of proof, which the rental company may rebut by establishing that a renter or other authorized driver committed or aided and abetted in the commission of the theft.

(3) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the

renter is presumed to have no liability for any loss due to vandalism if the renter or authorized driver:

(A) has possession of the ignition key furnished by the rental company or establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the vandalism; and

(B) files an official report of the vandalism with the police or other law enforcement agency within twenty-four (24) hours of learning of the vandalism and reasonably cooperates with the rental company, police, and other law enforcement agency in providing information concerning the vandalism.

The presumption set forth in this subdivision is a presumption affecting the burden of proof, which the rental company may rebut by establishing that a renter or other authorized driver committed or aided and abetted in the commission of the vandalism.

(4) Physical damage to the rented vehicle and loss of use of the rented vehicle up to its fair market value, determined in the customary market for the sale of that vehicle, resulting from vandalism unrelated to the theft of the rented vehicle.

(5) Physical damage resulting from collision to the rented vehicle and loss of use of the rented vehicle resulting from collision, up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from the use of the rental vehicle by an unauthorized driver.

(6) Loss of use of the rented vehicle, if the renter is liable for damage.

~~(7)~~ (7) Actual charges for towing, storage, and impoundment fees paid by the rental company, if the renter is liable for damage.

~~(8)~~ **(8) Reasonable attorney's fees related to the enforcement of the rental agreement.**

(9) An administrative charge, including the cost of appraisal and all other costs and expenses incident to the damage, loss, loss of use, repair, or replacement of the rented vehicle.

SECTION 2. IC 24-4-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The total amount of the renter's liability to the rental company resulting from damage to the rented vehicle may not exceed the sum of the following:

(1) The estimated cost of replacement parts that the rental company would have to pay to replace damaged vehicle parts, less all discounts and price reductions or adjustments that will be received by the rental company.

(2) The estimated cost of labor to replace damaged vehicle parts, which may not exceed the product of:

(A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged; and

(B) the estimated time for replacement;

less all discounts and price reductions or adjustments that will be received by the rental company.

(3) The estimated cost of labor to repair damaged vehicle parts, which may not exceed the lesser of the following:

(A) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(B) The sum of the estimated labor and parts costs determined under subdivisions (1) and (2) to replace the same vehicle parts.

All discounts and price reductions or adjustments that will be received by the rental company must be taken into account in determining the figure under this subdivision.

(4) Except as otherwise provided for, the loss of the use of the rented vehicle, which may not exceed the product of:

(A) the rental rate stated in the rental agreement for the particular vehicle rented, excluding optional charges; and

(B) the total of the estimated time for replacement and estimated time for repair.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(b) Under any circumstances described in this chapter, liability for the rental company's loss of use of the rented vehicle may not exceed the product of:

(1) the rental rate stated in the rental agreement for the particular vehicle rented, excluding all optional charges; and

(2) eighty percent (80%) of the period from the date of the accident to the date the vehicle is ready to be returned to rental service.

However, a renter is not liable to a rental company for the loss of use of a damaged vehicle unless the ~~rentor~~ **renter** uses its best efforts to effect repairs and return the vehicle to rental service.

(c) The administrative charge described in section ~~13(7)~~ **13(9)** of this chapter may not exceed:

- (1) ten percent (10%) of the total estimated cost for parts and labor, if the damage is one thousand five hundred dollars (\$1,500) or less; or
- (2) the amount specified in subdivision (1) plus seven and one-half percent (7 1/2%) of the amount in excess of one thousand five hundred dollars (\$1,500), if the total estimated cost for parts and labor exceeds one thousand five hundred dollars (\$1,500).

P.L.71-2003

[S.396. Approved April 28, 2003.]

AN ACT concerning health.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "health facility" refers to a comprehensive care health facility licensed under IC 16-28. The term does not include a health facility that is certified as an intermediate care facility for the mentally retarded (ICF/MR) under 42 CFR 440.150.

(b) As used in this SECTION "program" refers to the informal dispute resolution program created under subsection (d).

(c) As used in this SECTION, "state department" refers to the state department of health.

(d) The state department shall contract with an independent organization that has experience in conducting informal dispute resolution for a state survey agency to create and operate a voluntary informal dispute resolution pilot program for health facilities. The program must comply with the requirements under

42 CFR 488.331.

(e) A contract entered into under subsection (d) must expire before July 1, 2005, and establish fees to be paid to the independent organization by health facilities that voluntarily use the program. The fees must cover the full cost of the program, including any training costs by the independent organization.

(f) Every six (6) months after the effective date of the contract with the independent organization described in subsection (d), the state department and the independent organization shall submit a written report to the select joint commission on Medicaid oversight (IC 2-5-26) that includes information on the effectiveness of the informal dispute resolution program and contains comparative statistics.

(g) This SECTION expires July 1, 2005.

SECTION 2. An emergency is declared for this act.

P.L.72-2003

[S.412. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.3-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The custodians must be banks or trust companies ~~located in~~ **that are domiciled in the United States and approved by the Indiana department of financial institutions under IC 28-1-2-39 to:**

- (1) act in a fiduciary capacity; and**
- (2) manage custodial accounts;**

in Indiana.

(b) The board is authorized to accept safekeeping receipts for securities held by the custodians. Each custodian must have a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last published report of condition for

the bank or trust company and have physical custody of such securities. The state board of accounts is authorized to rely on safekeeping receipts from the custodian. The custodian may be authorized by the agreement to:

- (1) hold securities and other investments in the name of the fund, in the name of a nominee of the custodian, or in bearer form;
- (2) collect and receive income, interest, proceeds of sale, maturities, redemptions, and all other receipts from the securities and other investments; deposit all these receipts in a custodian account or checking account as instructed by the board; and reinvest these receipts as directed by the board;
- (3) maintain accounting records and prepare reports which are required by the board and the state board of accounts; and
- (4) perform other services for the board as are customary and appropriate for custodians.

~~(b)~~ (c) The custodian is responsible for all securities held in the name of its nominee for the fund.

SECTION 2. IC 21-6.1-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The board may enter into a custodial agreement ~~with a bank or trust company located in Indiana~~ on terms the board considers in the best interest of the fund ~~That with a bank or trust company that is domiciled in the United States and approved by the Indiana department of financial institutions under IC 28-1-2-39 to:~~

- (1) **act in a fiduciary capacity; and**
- (2) **manage custodial accounts;**

in Indiana.

(b) The agreement **described in subsection (a)** may authorize the custodian to:

- (1) hold the fund's securities and other investments in the name of the fund or a nominee, or in bearer form;
- (2) collect the income and other receipts from the securities and other investments and deposit them subject to the instructions of the board or its representative;
- (3) reinvest the receipts on the direction of the board or its representative;
- (4) maintain accounting records and prepare reports as may be required for use by the fund and the state board of accounts; and

(5) perform other services for the board which are appropriate and customary for the custodian.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.

SECTION 3. IC 28-1-2-39 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 39. (a) A bank or trust company organized under the laws of any state or the United States may not act in a fiduciary capacity and manage a custodial account under IC 5-10.3-5-5 or IC 21-6.1-3-13 unless the director or the director's designee has approved an application requesting authorization to manage a custodial account.**

(b) The director or the director's designee shall:

(1) create an application form; and

(2) issue a written determination of approval or denial not more than thirty (30) days after receiving a completed application.

The period for approval or denial of an application set forth in subdivision (2) may be extended in the discretion of the director or the director's designee for an additional thirty (30) days.

(c) The director or the director's designee shall issue a written determination of approval if the director or the director's designee is satisfied that the bank or trust company organized under the laws of any state or the United States is operated in a safe and sound condition and that the management is experienced and competent.

P.L.73-2003

[S.461. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning Medicaid.

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

SECTION 1. IC 4-6-10-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. The state Medicaid fraud control unit has the authority to:**

(1) investigate, in accordance with federal law (42 U.S.C. 1396 et seq.):

(A) Medicaid fraud;

(B) misappropriation of a Medicaid patient's private funds;

(C) abuse of Medicaid patients; and

(D) neglect of Medicaid patients; and

(2) investigate, in accordance with federal law (42 U.S.C. 1396 et seq.) and as allowed under 42 U.S.C. 1396b(q)(4)(A)(ii), abuse or neglect of patients in board and care facilities.

SECTION 2. IC 4-6-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.** The attorney general and an investigator of the Medicaid fraud control unit, when engaged in:

(1) an investigation of an alleged offense ~~involving Medicaid fraud;~~ **under section 1.5 of this chapter;** or

(2) the prosecution of an alleged offense ~~involving Medicaid fraud;~~ that has been referred to the attorney general under IC 12-15-23-6;

may issue, serve, and apply to a court to enforce, a subpoena for a witness to appear before the attorney general in person to produce books, papers, or other records, including records stored in electronic data processing systems, for inspection and examination.

SECTION 3. IC 12-15-23-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a)** If the state Medicaid fraud control unit determines that an action based on the state Medicaid fraud control unit's investigations **under the unit's authority**

under IC 4-6-10-1.5 is meritorious, the unit shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed.

(b) The state Medicaid fraud control unit shall assist the prosecuting attorney in prosecuting an action under this section.

(c) A prosecuting attorney to whom facts concerning alleged Medicaid fraud are certified under subsection (a) may refer the matter to the attorney general.

(d) If a matter has been referred to the attorney general under subsection (c), the attorney general may:

(1) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(2) prosecute the alleged offense.

SECTION 4. IC 12-15-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Subject to subsection (b), if the court finds in favor of the attorney general in a civil action brought by the attorney general under section 7 of this chapter, the court may do the following:

(1) Award damages against the provider of not more than three (3) times the amount paid to the provider in excess of the amount that was legally due.

(2) Assess a civil penalty against the provider of not more than five hundred dollars (\$500) for each instance of overpayment found by the court.

(3) Order the provider to reimburse the attorney general for the reasonable costs of the attorney general's investigation ~~of not more than five hundred dollars (\$500):~~ **and enforcement action.**

(4) Take any combination of the actions described in subdivisions (1), (2), and (3).

(b) The court may only take action under subsection (a)(2) and (a)(3) if the provider knew or had reason to know that an item or a service was not provided as claimed.

P.L.74-2003

[S.505. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-3-1, AS AMENDED BY P.L.90-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. (a) Except as provided in subsection (c) **and section 11 of this chapter**, personal property which is owned by a person who is a resident of this state shall be assessed at the place where the owner resides on the assessment date of the year for which the assessment is made.

(b) Except as provided in subsection (c) **and section 11 of this chapter**, personal property which is owned by a person who is not a resident of this state shall be assessed at the place where the owner's principal office within this state is located on the assessment date of the year for which the assessment is made.

(c) Personal property shall be assessed at the place where it is situated on the assessment date of the year for which the assessment is made if the property is:

- (1) regularly used or permanently located where it is situated; or
- (2) owned by a nonresident who does not have a principal office within this state.

(d) If a personal property return is filed pursuant to subsection (c), the owner of the property shall provide, within forty-five (45) days after the filing deadline, a copy or other written evidence of the filing of the return to the assessor of the township in which the owner resides. If such evidence is not filed within forty-five (45) days after the filing deadline, the assessor of the township in which the owner resides shall determine if the owner filed a personal property return in the township where the property is situated. If such a return was filed, the property shall be assessed where it is situated. If such a return was not filed, the assessor of the township where the owner resides shall notify the assessor of the township where the property is situated, and the

property shall be assessed where it is situated. This subsection does not apply to a taxpayer who:

- (1) is required to file duplicate personal property returns under section 7(c) of this chapter and under regulations promulgated by the department of local government finance with respect to that section; or
- (2) is required by the department of local government finance to file a summary of the taxpayer's business tangible personal property returns.

SECTION 2. IC 6-1.1-3-11, AS AMENDED BY P.L.90-2002, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 11. (a) For purposes of this section, "inventory" means:

- (1) materials held for processing or for use in production;
- (2) finished or partially finished goods of a manufacturer or processor; and
- (3) property held for sale in the ordinary course of trade or business.

(b) For purposes of this section, "dealer" has the meaning set forth in IC 9-13-2-42.

(c) For purposes of this section, "established place of business" refers to a place of business that meets the minimum standards prescribed by the bureau of motor vehicles under rules adopted under IC 4-22-2.

(d) If the inventory owned or held by a taxpayer on the assessment date of a year does not, in ~~his~~ **the taxpayer's** opinion, fairly represent the average inventory carried by ~~him~~, **the taxpayer**, the taxpayer may elect to list ~~his~~ **the taxpayer's** inventory for assessment on the basis of the average true tax value of the inventory owned or held by the taxpayer during the preceding calendar year, or during the portion of the preceding calendar year that the taxpayer was engaged in business.

~~(e)~~ **(e)** If a taxpayer elects to use the average method, ~~he~~ **the taxpayer** shall notify the township assessor of the election at the time ~~he~~ **the taxpayer** files ~~his~~ **the taxpayer's** personal property return. The election, once made, is binding on the taxpayer for the tax year in question and for each year thereafter unless permission to change is granted by the department of local government finance.

~~(f)~~ **(f)** If a taxpayer elects to use the average method, ~~he~~ **the**

taxpayer shall use that method for reporting the value of all ~~his~~ **the taxpayer's** inventories which are located in this state.

(g) Inventory owned by a dealer shall be assessed at the dealer's established place of business.

SECTION 3. IC 6-1.1-10-43 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 43. (a) As used in this section, "inventory" has the meaning set forth in IC 6-1.1-3-11.**

(b) As used in this section, "dealer" has the meaning set forth in IC 6-1.1-3-11.

(c) Inventory that is:

(1) owned by an out-of-state dealer; and

(2) located in Indiana for sale on the wholesale automobile market;

is exempt from property taxation.

SECTION 4. [EFFECTIVE JANUARY 1, 2004] **(a) IC 6-1.1-3-1 and IC 6-1.1-3-11, both as amended by this act, apply to taxes first due and payable after December 31, 2004.**

(b) IC 6-1.1-10-43, as added by this act, applies to taxes first due and payable after December 31, 2004.

P.L.75-2003

[S.508. Approved April 28, 2003.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-2.1-24-18, AS AMENDED BY P.L.92-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) 49 CFR Parts 382, 385 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of

persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination

of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) ~~Subpart 391.41 as it applies to physical qualifications of drivers hired before September 1, 1985:~~

(2) **(1)** Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who **has held has applied for or holds** a commercial driver's license (as defined in IC 9-13-2-29), ~~before April 1, 1992;~~ diagnosed as an insulin dependent diabetic, if the driver has ~~filed an annual statement with~~ **applied for and been granted an intrastate medical waiver** by the bureau of motor vehicles completed and signed by a certified endocrinologist **or the driver's treating physician** attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's **or treating physician's** knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist **or treating physician** at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist **or treating physician** with the bureau of motor vehicles for review by the driver licensing advisory committee established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

(3) **(2)** Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(4) **(3)** Subpart 396.11 as it applies to driver vehicle inspection reports.

(5) **(4)** Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

P.L.76-2003

[S.528. Approved April 28, 2003.]

AN ACT concerning courts and court officers.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "food stamp eligible individual" refers to an individual who meets all the following requirements:

- (1) The individual is a resident of a county having a reentry court program.**
- (2) The individual was convicted of an offense under IC 35-48 (controlled substances) for conduct occurring after August 22, 1996.**
- (3) Except for 21 U.S.C. 862a(a), the individual meets the federal and Indiana food stamp program requirements.**
- (4) The individual is successfully participating in a reentry court program.**

(b) As used in this SECTION, "reentry court program" refers to a program that meets the following requirements:

- (1) A circuit or superior court has established and administers the program.**
- (2) The program is designed to supervise and provide services to an individual who was previously incarcerated by the department of correction in an adult correctional facility.**
- (3) The goal of the program is to increase the likelihood that the individual will:**
 - (A) become self-sufficient; and**
 - (B) not commit additional crimes.**
- (4) The program provides intensive supervision, which may include twenty-four (24) hour electronic monitoring supervision of the individual.**
- (5) The program provides regular and direct judicial intervention that is supported and advised by a transition team that consists of at least the following:**

- (A) A professional from a community corrections program.
- (B) A parole officer.
- (C) A professional from a victim assistance program.
- (D) A professional from the treatment community.
- (E) An employment trainer.
- (F) A community volunteer.

(c) As used in this SECTION, "TANF" refers to the federal Temporary Assistance for Needy Families program.

(d) As used in this SECTION, "TANF eligible individual" refers to an individual who meets all the following requirements:

- (1) The individual is a resident of a county having a reentry court program.
- (2) The individual was convicted of an offense under IC 35-48 (controlled substances) for conduct occurring after August 22, 1996.
- (3) Except for 21 U.S.C. 862a(a), the individual meets the federal and Indiana TANF program requirements.
- (4) The individual is successfully participating in a reentry court program.

(e) Until June 30, 2005, and in accordance with 21 U.S.C. 862a(d)(1) and this SECTION, the state elects to opt out of the application of 21 U.S.C. 862a(a) for individuals participating in a reentry court program.

(f) If referred by a court, a food stamp eligible individual may receive food stamps for not more than twelve (12) months.

(g) If referred by a court, a TANF eligible individual may receive TANF benefits for not more than twelve (12) months.

(h) Notwithstanding subsections (f) and (g), a food stamp eligible individual and a TANF eligible individual may not receive food stamp or TANF benefits after June 30, 2005.

(i) A court may modify or revoke an order issued under this SECTION concerning a food stamp eligible individual or a TANF eligible individual at any time.

(j) A court shall immediately notify the local office of family and children upon the court's finding of probable cause that an individual has committed a felony offense during the period in which the individual is eligible for TANF or food stamps.

(k) A court shall immediately notify the local office of family

and children when an individual has been terminated from a reentry court program during the period in which the individual is eligible for TANF or food stamps.

(l) This SECTION expires July 1, 2005.

P.L.77-2003

[H.1018. Approved April 29, 2003.]

AN ACT to repeal a provision of the Indiana Code concerning taxation.

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

SECTION 1. IC 6-9-5 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 2. [EFFECTIVE JULY 1, 2003] **(a) This SECTION applies to a county that imposed an innkeeper's tax under the authority of any statute other than IC 6-9-18 before January 1, 2003.**

(b) If a statute authorizing a county's innkeeper's tax is repealed by this act, the county shall continue to impose an innkeeper's tax under the authority of IC 6-9-18.

(c) Beginning July 1, 2003, IC 6-9-18 applies to the imposition, collection, and remittance of innkeeper's taxes in a county described in subsection (b).

(d) Beginning July 1, 2003, the maximum permitted rate of the innkeeper's tax in a county described in subsection (b) is the rate set forth in IC 6-9-18-3. An ordinance increasing the rate of the county's innkeeper's tax must specify the date on which the new tax rate will take effect, as required under IC 6-9-29-1.5.

(e) Beginning July 1, 2003, a tourism commission established in a county described in subsection (b) shall operate under the authority of IC 6-9-18. A member of the commission serving on July 1, 2003, is authorized to serve the remainder of the member's term. Upon the completion of the member's term, the position must be filled as provided in IC 6-9-18.

(f) Beginning July 1, 2003, a tourism promotion fund or other fund established for the deposit of county innkeeper's taxes in a county described in subsection (b):

(1) must be administered under IC 6-9-18; and

(2) may be used only for the purposes authorized in IC 6-9-18.

(g) This SECTION expires January 1, 2005.

P.L.78-2003

[H.1026. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-22-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Within seventy-two (72) hours after removal of an abandoned vehicle to a storage area under section 13, 14, or 16 of this chapter, the public agency or ~~storage lot~~ **towing operator** shall prepare and forward to the bureau an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

- (1) The make.
- (2) The model.
- (3) The identification number.
- (4) The number of the license plate.

(b) The public agency or ~~storage lot~~ **towing operator** shall request that the bureau advise the public agency or ~~storage lot~~ **towing operator** of the name and most recent address of the person who owns or holds a lien on the vehicle.

(c) Notwithstanding section 4 of this chapter, if the public agency or towing operator fails to notify the bureau of the removal of an abandoned vehicle within seventy-two (72) hours after the vehicle is removed as required by subsection (a), the public agency or towing operator:

- (1) may not initially collect more in reimbursement for the**

costs of storing the vehicle than the cost incurred for storage for seventy-two (72) hours; and

(2) may collect further reimbursement under this chapter only for additional storage costs incurred after notifying the bureau of the removal of the abandoned vehicle.

SECTION 2. An emergency is declared for this act.

P.L.79-2003

[H.1085. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-29-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. ~~(a)~~ This chapter applies to the release of a mortgage after June 30, 2001, ~~and before July 1, 2002~~; regardless of when the mortgage was created or assigned.

~~(b) This chapter expires July 1, 2003.~~

P.L.80-2003

[H.1104. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-12, AS AMENDED BY P.L.168-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. "Alcohol and drug services program", for purposes of IC 12-23, means a service for ~~persons~~: **a person:**

(1) charged with or convicted of a misdemeanor or felony; or

(2) against whom a:**(A) complaint for an infraction is filed; or****(B) judgment for an infraction is entered;**

which provides intervention, education, referral, treatment, or rehabilitation, under the operation of a court or under private contract.

P.L.81-2003

[H.1120. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-1-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a)** Not earlier than ~~September~~ **± January 15** or later than ~~September~~ **± January 31** of each year, the governing body of a school corporation shall publish an annual performance report of the school corporation, in compliance with the procedures identified in section 8 of this chapter. The report must be published one (1) time annually under IC 5-3-1.

(b) The department shall make each school corporation's annual performance report available on the department's Internet web site. The governing body of a school corporation may make the school corporation's annual performance report available on the school corporation's Internet web site.

(c) The governing body of a school corporation shall provide a copy of the annual performance report to any person who requests a copy. The governing body may not charge a fee for providing the copy.

SECTION 2. IC 20-1-21-7, AS AMENDED BY P.L.221-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. A report must contain the following:

- (1) The ~~benchmarks and indicators of performance information~~ listed in section 9 of this chapter for each of the preceding three (3) years.

(2) Additional components determined under section 8(4) of this chapter.

(3) ~~A comparison of the benchmarks described in section 9(1) through 9(3) of this chapter to performance based accreditation goals developed under IC 20-1-1.2.~~

(4) **(3)** Additional information or explanation that the governing body wishes to include, including **the following:**

(A) Results of assessments of students under programs other than the ISTEP program that a school corporation uses to determine if students are meeting or exceeding academic standards in grades that are not tested under the ISTEP program.

(B) The number and types of staff professional development programs.

(C) The number and types of partnerships with the community, business, or higher education.

(D) Levels of parental participation.

SECTION 3. IC 20-1-21-8, AS AMENDED BY P.L.221-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The state superintendent and the Indiana state board of education, in consultation with school corporations, educational organizations, appropriate state agencies, and other organizations and individuals having an interest in education, shall develop and periodically revise the following for the benchmarks and indicators of performance under section 9 of this chapter and the additional components of the performance report:

(1) Reporting procedures, including the following:

(A) A determination of the information that a school corporation must compile and the information that the department must compile.

(B) A determination of the information required on a school by school basis and the information required on a school corporation basis.

(C) A common format suitable for publication, including tables, graphics, and explanatory text.

(2) Operational definitions.

(3) Standards for implementation.

(4) Additional components for the report that may be benchmarks,

indicators of performance, or other information.

~~(5) Targets identified in performance based accreditation goals developed under IC 20-1-1.2 for certain benchmarks and a reporting system that measures schools and school corporations against the targets:~~

SECTION 4. IC 20-1-21-9, AS AMENDED BY P.L.237-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~Beginning with the report published in 2002,~~ The report must include the following ~~benchmarks or indicators of performance:~~ **information:**

(1) **Student enrollment.**

(2) **Graduation rate (as defined in IC 20-8.1-15-6).**

~~(3)~~ (3) Attendance rate.

~~(4)~~ (4) The following test scores, including the number and percentage of students meeting academic standards:

(A) ISTEP test scores.

(B) Scores for assessments under IC 20-10.1-16-15, if appropriate.

(C) For a freeway school, scores on a locally adopted assessment program, if appropriate.

~~(4)~~ ~~Actual~~ (5) **Average** class size.

~~(5)~~ (6) The number and percentage of students in the following groups or programs:

(A) ~~At risk.~~ **Alternative education, if offered.**

(B) Vocational education.

(C) Special education.

(D) Gifted or talented, **if offered.**

(E) Remediation. ~~and preventive remediation.~~

(F) **Limited English language proficiency.**

(G) **Students receiving free or reduced price lunch under the national school lunch program.**

~~(6)~~ (7) Advanced placement, including the following:

(A) For advanced placement tests, the ~~number and~~ percentage of students:

(i) scoring three (3), four (4), and five (5); and

(ii) ~~participating.~~ **taking the test.**

(B) For the Scholastic Aptitude Test:

(i) test scores for all students taking the test;

- (ii) test scores for students completing the academic honors diploma program; and
 - (iii) the ~~number and~~ percentage of students ~~participating~~.
taking the test.
- (7) **(8)** Course completion, including the number and percentage of students completing the following programs:
- (A) Academic honors diploma.
 - (B) Core 40 curriculum.
 - (C) Vocational programs.
- (9) The percentage of grade 8 students enrolled in algebra I.**
- (8) **(10)** The percentage of graduates who pursue higher education.
- (9) **(11)** School safety, including the number ~~and percentage~~ of students receiving suspension or expulsion for the possession of alcohol, drugs, or weapons.
- (10) **(12)** Financial information and various school cost factors, ~~relevant to performance~~, **including the following:**
- (A) Expenditures per pupil.**
 - (B) Average teacher salary.**
 - (C) Remediation funding.**
- (11) **(13)** Technology accessibility and use of technology in instruction.
- (12) ~~Staff professional development, including the type and extent of opportunities available.~~
- (13) **(14) Interdistrict and intradistrict student mobility rates, if that information is available.**
- (14) ~~Number and types of partnerships with the community, business, or higher education.~~
- (15) ~~Teacher licensing, certification, and preparation, including~~ The number ~~and percentage~~ of teachers with national board certification. **each of the following within the school corporation:**
- (A) Teachers who are certificated employees (as defined in IC 20-7.5-1-2).**
 - (B) Teachers who teach the subject area for which the teacher is certified and holds a license.**
 - (C) Teachers with national board certification.**
- (16) The percentage of grade 3 students reading at ~~or above~~ grade

3 level.

(17) **A comparison of ISTEP scores and the dropout rate. The number of students expelled, including the number participating in other recognized education programs during their expulsion.**

(18) **Chronic absenteeism, which includes the number of students who have been absent more than ten (10) days from school within a school year without being excused.**

(19) Other indicators of performance as recommended by the education roundtable (IC 20-1-20.5-3).

SECTION 5. IC 20-8.1-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 15. Graduation Rate Determination

Sec. 1. This chapter applies to:

- (1) a public high school; and
- (2) an accredited nonpublic high school.

Sec. 2. As used in this chapter, "cohort" refers to a class of students within a high school who have the same expected graduation year.

Sec. 3. As used in this chapter, "enrollment" means the total number of students within a grade that is reported to the department annually on:

- (1) October 1; or
- (2) a date specified by the department.

Sec. 4. As used in this chapter, "expected graduation year" means the reporting year beginning three (3) years after the reporting year in which a student is first considered by a school corporation to have entered grade 9.

Sec. 5. (a) As used in this chapter, "graduation" means the successful completion by a student of:

- (1) a sufficient number of academic credits, or the equivalent of academic credits; and
- (2) the graduation examination or waiver process required under IC 20-10.1-16;

resulting in the awarding of a high school diploma or an academic honors diploma.

(b) The term does not include the granting of a general

educational development diploma under IC 20-10.1-12.1.

Sec. 6. As used in this chapter, "graduation rate" means the percentage of students within a cohort who graduate during their expected graduation year.

Sec. 7. As used in this chapter, "reporting year" refers to the period beginning October 1 of a year and ending September 30 of the following year.

Sec. 8. As used in this chapter, "retention" refers to the reclassification by a school corporation of a student that places the student into a cohort that has an expected graduation year after the expected graduation year of the student's initial cohort.

Sec. 9. Beginning with the class of students who expect to graduate in the 2005-2006 school year, the department shall determine the graduation rate of high school students under this chapter.

Sec. 10. The graduation rate for a cohort in a high school is the percentage determined under STEP SEVEN of the following formula:

STEP ONE: Determine the grade 9 enrollment at the beginning of the reporting year three (3) years before the reporting year for which the graduation rate is being determined.

STEP TWO: Add:

- (A) the number determined under STEP ONE; and
- (B) the number of students who:
 - (i) have enrolled in the high school after the date on which the number determined under STEP ONE was determined; and
 - (ii) have the same expected graduation year as the cohort.

STEP THREE: Add:

- (A) the sum determined under STEP TWO; and
- (B) the number of retained students from earlier cohorts who became members of the cohort for whom the graduation rate is being determined.

STEP FOUR: Add:

- (A) the sum determined under STEP THREE; and
- (B) the number of students who:
 - (i) began the reporting year in a cohort that expects to

- graduate during a future reporting year; and
- (ii) graduate during the current reporting year.

STEP FIVE: Subtract from the sum determined under STEP FOUR the number of students who have left the cohort for any of the following reasons:

- (A) Transfer to another public or nonpublic school.
- (B) Removal by the student's parents under IC 20-8.1-3-34 to provide instruction equivalent to that given in the public schools.
- (C) Withdrawal because of a long term medical condition or death.
- (D) Detention by a law enforcement agency or the department of correction.
- (E) Placement by a court order or the division of family and children.
- (F) Enrollment in a virtual school.
- (G) Graduation before the beginning of the reporting year.
- (H) Students who have left school and whose location cannot be determined.

STEP SIX: Determine the total number of students who have graduated during the current reporting year.

STEP SEVEN: Divide:

- (A) the number determined under STEP SIX; by
- (B) the remainder determined under STEP FIVE.

SECTION 6. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 20-1-21-4, as amended by this act, the governing body of a school corporation is not required to publish an annual performance report of the school corporation in calendar year 2003. However, the annual performance report of a school corporation that is published in January 2004 must include the information that would have been included in the annual performance report published in 2003 if IC 20-1-21-4 had not been amended by this act.

- (b) This SECTION expires February 1, 2004.

P.L.82-2003
[H.1137. Approved April 29, 2003.]

AN ACT concerning health.

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

SECTION 1. P.L.137-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 5. (a) As used in this SECTION, "commission" refers to the Indiana commission on excellence in health care established by subsection (d).

(b) As used in this SECTION, "health care professional" has the meaning set forth in IC 16-27-1-1.

(c) As used in this SECTION, "health care provider" includes the following:

- (1) A hospital or an ambulatory outpatient surgical center licensed under IC 16-21.
- (2) A hospice program (as defined in IC 16-25-1.1-4).
- (3) A home health agency licensed under IC 16-27-1.
- (4) A health facility licensed under IC 16-28.

(d) There is established the Indiana commission on excellence in health care.

(e) The commission consists of the following members:

- (1) Four (4) members appointed from the house of representatives by the speaker of the house of representatives. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.
- (2) Four (4) members appointed from the senate by the president pro tempore of the senate. Not more than two (2) of the members appointed under this subdivision may be members of the same political party.
- (3) The governor or the governor's designee.
- (4) The state health commissioner appointed under IC 16-19-4-2 or the commissioner's designee.
- (5) One (1) member appointed by the governor who is a former dean or former faculty member of the Indiana University School

of Medicine.

(6) One (1) member appointed by the governor who is a former dean or former faculty member of an Indiana school of nursing.

(7) One (1) member appointed by the governor who is a health care provider or a representative for individuals who have both a mental illness and a developmental disability.

(f) The commission shall operate under the rules of the legislative council. The commission shall meet upon the call of the chairperson.

(g) The affirmative votes of at least seven (7) voting members of the commission are required for the commission to take any action, including the approval of a final report.

(h) The speaker of the house of representatives shall appoint the chairperson of the commission during odd-numbered years beginning January 1. The president pro tempore of the senate shall appoint the chairperson of the commission during even-numbered years beginning January 1.

(i) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on interim study committees established by the legislative council.

(l) The legislative services agency shall provide staff to support the commission. The legislative services agency is not required to provide staff assistance to the subcommittees of the commission except to the extent the subcommittees require copying services.

(m) The expenses of the commission shall be paid from funds appropriated to the legislative services agency.

(n) The commission shall study the quality of health care, including mental health, and develop a comprehensive statewide strategy for improving the health care delivery system. The commission shall do the following:

- (1) Identify existing data sources that evaluate quality of health care in Indiana and collect, analyze, and evaluate this data.
- (2) Establish guidelines for data sharing and coordination.
- (3) Identify core sets of quality measures for standardized reporting by appropriate components of the health care continuum.
- (4) Recommend a framework for quality measurement and outcome reporting.
- (5) Develop quality measures that enhance and improve the ability to evaluate and improve care.
- (6) Make recommendations regarding research and development needed to advance quality measurement and reporting.
- (7) Evaluate regulatory issues relating to the pharmacy profession and recommend changes necessary to optimize patient safety.
- (8) Facilitate open discussion of a process to ensure that comparative information on health care quality is valid, reliable, comprehensive, understandable, and widely available in the public domain.
- (9) Sponsor public hearings to share information and expertise, identify best practices, and recommend methods to promote their acceptance.
- (10) Evaluate current regulatory programs to determine what changes, if any, need to be made to facilitate patient safety.
- (11) Review public and private health care purchasing systems to determine if there are sufficient mandates and incentives to facilitate continuous improvement in patient safety.
- (12) Analyze how effective existing regulatory systems are in ensuring continuous competence and knowledge of effective safety practices.
- (13) Develop a framework for organizations that license, accredit, or credential health care professionals and health care providers to more quickly and effectively identify unsafe providers and

professionals and to take action necessary to remove an unsafe provider or professional from practice or operation until the professional or provider has proven safe to practice or operate.

(14) Recommend procedures for development of a curriculum on patient safety and methods of incorporating the curriculum into training, licensure, and certification requirements.

(15) Develop a framework for regulatory bodies to disseminate information on patient safety to health care professionals, health care providers, and consumers through conferences, journal articles and editorials, newsletters, publications, and Internet websites.

(16) Recommend procedures to incorporate recognized patient safety considerations into practice guidelines and into standards related to the introduction and diffusion of new technologies, therapies, and drugs.

(17) Recommend a framework for development of community based collaborative initiatives for error reporting and analysis and implementation of patient safety improvements.

(18) Evaluate the role of advertising in promoting or adversely affecting patient safety.

(19) Evaluate and make recommendations regarding the need for licensure of additional persons who participate in the delivery of health care to Indiana residents.

(20) Evaluate the benefits and problems of the current disciplinary systems and make recommendations regarding alternatives and improvements.

(21) Study and make recommendations concerning the long term care system, including self-directed care plans and the regulation and reimbursement of public and private facilities that provide long term care.

(22) Study and make recommendations concerning increasing the number of:

- (1) nurses;
- (2) respiratory care practitioners;
- (3) speech pathologists; and
- (4) dental hygienists.

(23) Study any other topic required by the chairperson.

(o) The commission may create subcommittees to study topics,

receive testimony, and prepare reports on topics assigned by the commission. The chairperson shall select from the topics listed under subsection (n) the topics to be studied by the commission and subcommittees each year. The chairperson shall appoint persons to act as chairperson and secretary of each subcommittee. The commission shall by majority vote appoint initial members to each subcommittee. Each subcommittee may by a majority vote of the members appointed to the subcommittee make a recommendation to the commission to appoint additional members to the subcommittee. The commission may by a majority vote of the members appointed to the commission appoint or remove members of a subcommittee. A member of a subcommittee, including a commission member while serving on a subcommittee, is not entitled to per diem, mileage, or travel allowances.

(p) The commission shall submit:

(1) interim reports not later than October 1, 2001, and October 1, 2002; and

(2) a final report not later than October ~~1, 2003~~; **31, 2004**;

to the governor, members of the health finance commission, and the legislative council. With the consent of the chairperson of the commission and the chairperson of the health finance commission, the commission and the health finance commission may conduct joint meetings.

(q) This SECTION expires ~~July~~ **November** 1, 2004.

P.L.83-2003

[H.1216. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-13-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The commissioner shall require a health maintenance organization to have a plan for handling receivership that allows for the continuation of benefits after

the date of receivership: ~~for the longer of:~~

(1) **for** the duration of the contract period for which premiums have been paid; or

(2) ~~sixty (60) days:~~ **if an enrollee is hospitalized on the date of receivership for the longer of:**

(A) the period ending when the enrollee is discharged from hospitalization; or

(B) the duration of the contract period for which premiums have been paid.

P.L.84-2003

[H.1271. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-30-12-1, AS AMENDED BY P.L.1-1999, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section does not apply to services rendered by a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) to a patient in a health care facility (as defined in IC 27-8-10-1).

(b) Except as provided in subsection (c), a person who comes upon the scene of an emergency or accident or is summoned to the scene of an emergency or accident and, in good faith, gratuitously renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from:

(1) any act or omission by the person in rendering the emergency care; or

(2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person;

except for acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) This subsection applies to a person to whom IC 16-31-6.5

applies. A person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission not amounting to gross negligence or willful or wanton misconduct if the person fulfills the requirements set forth in IC 16-31-6.5.

(d) This subsection applies to an individual, business, or organization to which IC 16-31-6.5 applies. An individual, business, or organization that allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission not amounting to gross negligence or willful or wanton misconduct by the user or for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.

(e) The licensed physician who gives medical direction in the use of a defibrillator under IC 16-31-6.5-4 or a national or state approved defibrillator instructor of a person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from civil liability for any act or omission of the licensed physician or instructor if:

- (1) the act or omission of the licensed physician or instructor:**
 - (A) involves the training for or use of an automatic external defibrillator; and**
 - (B) does not amount to gross negligence or willful or wanton misconduct; and**
- (2) the licensed physician or instructor fulfills the requirements of IC 16-31-6.5.**

P.L.85-2003

[H.1425. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-43-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person who knowingly or intentionally issues or delivers a check, a draft, or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is a Class D felony if the amount of the check, draft, or order is at least two thousand five hundred dollars (\$2,500) and the property acquired by the person was a motor vehicle.

(b) An unpaid and dishonored check, a draft, or an order that has the drawee's refusal to pay and reason printed, stamped, or written on or attached to it constitutes prima facie evidence:

- (1) that due presentment of it was made to the drawee for payment and dishonor thereof; and
- (2) that it properly was dishonored for the reason stated.

(c) The fact that a person issued or delivered a check, a draft, or an order, payment of which was refused by the drawee, constitutes prima facie evidence that the person knew that it would not be paid or honored. In addition, evidence that a person had insufficient funds in or no account with a drawee credit institution constitutes prima facie evidence that the person knew that the check, draft, or order would not be paid or honored.

(d) The following two (2) items constitute prima facie evidence of the identity of the maker of a check, draft, or order if at the time of its acceptance they are obtained and recorded, either on the check, draft, or order itself or on file, by the payee:

- (1) Name and residence, business, or mailing address of the

maker.

(2) Motor vehicle operator's license number, Social Security number, home telephone number, or place of employment of the maker.

(e) It is a defense under subsection (a) if a person who:

(1) has an account with a credit institution but does not have sufficient funds in that account; and

(2) issues or delivers a check, a draft, or an order for payment on that credit institution;

pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of ~~twenty~~ **twenty-seven dollars and fifty cents (\$27.50)** or five percent (5%) (but not more than two hundred fifty dollars (\$250)) of the amount due, that may be charged by the payee or holder, within ten (10) days after the date of mailing by the payee or holder of notice to the person that the check, draft, or order has not been paid by the credit institution. Notice sent in the manner set forth in IC 26-2-7-3 constitutes notice to the person that the check, draft, or order has not been paid by the credit institution. The payee or holder of a check, draft, or order that has been dishonored incurs no civil or criminal liability for sending notice under this subsection.

(f) A person does not commit a crime under subsection (a) when:

(1) the payee or holder knows that the person has insufficient funds to ensure payment or that the check, draft, or order is postdated; or

(2) insufficiency of funds or credit results from an adjustment to the person's account by the credit institution without notice to the person.

P.L.86-2003

[H.1465. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning public employees.

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

SECTION 1. IC 5-10-8-2.2, AS AMENDED BY P.L.286-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.2. (a) As used in this section, "dependent" means a natural child, stepchild, or adopted child of a public safety employee who:

- (1) is less than eighteen (18) years of age;
- (2) is eighteen (18) years of age or older and physically or mentally disabled (using disability guidelines established by the Social Security Administration); or
- (3) is at least eighteen (18) and less than twenty-three (23) years of age and is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university.

(b) As used in this section, "public safety employee" means a full-time firefighter, police officer, county police officer, or sheriff.

(c) This section applies only to local unit public employers and their public safety employees.

(d) A local unit public employer may provide programs of group health insurance for its active and retired public safety employees through one (1) of the following methods:

- (1) By purchasing policies of group insurance.
- (2) By establishing self-insurance programs.
- (3) By electing to participate in the local unit group of local units that offer the state employee health plan under section 6.6 of this chapter.

A local unit public employer may provide programs of group insurance other than group health insurance for the local unit public employer's

active and retired public safety employees by purchasing policies of group insurance and by establishing self-insurance programs. However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(e) A local unit public employer may pay a part of the cost of group insurance for its active and retired public safety employees. However, a local unit public employer that provides group life insurance for its active and retired public safety employees shall pay a part of the cost of that insurance.

(f) A local unit public employer may not cancel an insurance contract under this section during the policy term of the contract.

(g) After June 30, 1989, a local unit public employer that provides a group health insurance program for its active public safety employees shall also provide a group health insurance program to the following persons:

- (1) Retired public safety employees.
- (2) Public safety employees who are receiving disability benefits under IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-8, or IC 36-8-10.
- (3) Surviving spouses and dependents of public safety employees who die while in active service or after retirement.

(h) A retired or disabled public safety employee who is eligible for group health insurance coverage under subsection (g)(1) or (g)(2):

- (1) may elect to have the person's spouse, dependents, or spouse and dependents covered under the group health insurance program at the time the person retires or becomes disabled;
- (2) must file a written request for insurance coverage with the employer within ninety (90) days after the person retires or begins receiving disability benefits; and
- (3) must pay an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active public safety employee (however, the employer may elect to pay any part of the person's premiums).

(i) **Except as provided in IC 36-8-6-9.7(f), IC 36-8-6-10.1(h), IC 36-8-7-12.3(g), IC 36-8-7-12.4(j), IC 36-8-7.5-13.7(h), IC 36-8-7.5-14.1(i), IC 36-8-8-13.9(d), IC 38-8-8-14.1(h), and IC 36-8-10-16.5 for a surviving spouse or dependent of a public safety employee who dies in the line of duty,** a surviving spouse or dependent who is eligible for group health insurance under subsection

(g)(3):

(1) may elect to continue coverage under the group health insurance program after the death of the public safety employee;

(2) must file a written request for insurance coverage with the employer within ninety (90) days after the death of the public safety employee; and

(3) must pay the amount that the public safety employee would have been required to pay under this section for coverage selected by the surviving spouse or dependent (however, the employer may elect to pay any part of the surviving spouse's or dependents' premiums).

(j) A retired or disabled public safety employee's eligibility for group health insurance under this section ends on the earlier of the following:

(1) When the public safety employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program for active public safety employees.

(k) A surviving spouse's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the surviving spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) The date of the surviving spouse's remarriage.

(4) When health insurance becomes available to the surviving spouse through employment.

(l) A dependent's eligibility for group health insurance under this section ends on the earliest of the following:

(1) When the dependent becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the unit providing the insurance terminates the health insurance program for active public safety employees.

(3) When the dependent no longer meets the criteria set forth in subsection (a).

(4) When health insurance becomes available to the dependent through employment.

(m) A public safety employee who is on leave without pay is entitled

to participate for ninety (90) days in any group health insurance program maintained by the local unit public employer for active public safety employees if the public safety employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(n) A local unit public employer may provide group health insurance for retired public safety employees or their spouses not covered by subsections (g) through (l) and may provide group health insurance that contains provisions more favorable to retired public safety employees and their spouses than required by subsections (g) through (l). A local unit public employer may provide group health insurance to a public safety employee who is on leave without pay for a longer period than required by subsection (m), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 2. IC 36-8-6-9.7, AS ADDED BY P.L.118-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.7. (a) This section applies to a member who died in the line of duty (as defined in section 10.1 of this chapter) before September 1, 1982.

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the

member:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 3. IC 36-8-6-10.1, AS AMENDED BY P.L.185-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.1. (a) This section applies to a member who dies in the line of duty after August 31, 1982.

(b) The surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the surviving spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) A payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member in the member's capacity as a police officer:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay

for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 4. IC 36-8-7-12.3, AS ADDED BY P.L.118-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.3. (a) This section applies to a member who died in the line of duty (as defined in section 12.4 of this chapter) before September 1, 1982.

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

- (1) a surviving spouse;
- (2) a child or children less than eighteen (18) years of age;
- (3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or
- (4) a child or children less than twenty-three (23) years of age who are:

(A) enrolled in and regularly attending a secondary school; or

(B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children of the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on

July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service:

(1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if

alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(g) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 5. IC 36-8-7-12.4, AS AMENDED BY P.L.185-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.4. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first class firefighter. If the spouse remarried before September 1, 1983, and

benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a member dies while in active service, the member's children who are:

- (1) less than eighteen (18) years of age; or
- (2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class firefighter. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a firefighter:

- (1) is obligated or authorized by rule, regulation, condition of

employment or service, or law to perform; or

(2) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subsection (c)(2), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(h) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(j) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child,

stepchild, or adopted child of the member is eligible for the coverage under subdivision (1), (2), or (3).

SECTION 6. IC 36-8-7.5-13.7, AS AMENDED BY P.L.1-2001, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.7. (a) This section applies to a member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable

monthly to the dependent parent or parents of a member of the police department. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(e) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) The annuity payable under subsection (b) equals thirty percent (30%) of the salary of a first class patrolman. The amount provided in this subsection is subject to adjustment as provided in subsection (f).

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage

under subdivision (1), (2), or (3).

SECTION 7. IC 36-8-7.5-14.1, AS AMENDED BY P.L.185-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.1. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longest. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(h) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from any action that the member, in the member's capacity as a police officer:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
- (2) performs in the course of controlling or reducing crime or enforcing the criminal law.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(i) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the

member:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 8. IC 36-8-8-13.9, AS ADDED BY P.L.118-2000, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.9. (a) This section applies to an active member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) Except as otherwise provided in this subsection, if a fund member dies in the line of duty, the following apply:

- (1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

- (A) until the child becomes eighteen (18) years of age; or
- (B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five

percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit under subsection (b) is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

(d) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longest. If health insurance coverage is offered

by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 9. IC 36-8-8-14.1, AS AMENDED BY P.L.185-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or

physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

- (1) any action that the member, in the member's capacity as a police officer:
 - (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
 - (B) performs in the course of controlling or reducing crime or enforcing the criminal law; or
- (2) any action that the member, in the member's capacity as a firefighter:
 - (A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or
 - (B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 10. IC 36-8-10-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) After December 31, 2003, the department that employed the eligible employee who died in the line of duty shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longest. If health insurance coverage is offered by the unit to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance cover shall remain open for as long as there is a surviving spouse or as long as a natural child,

stepchild, or adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

P.L.87-2003

[H.1482. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-6-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 15. Abandoned and Unused Crossings

Sec. 1. The department shall determine whether a railroad grade crossing is abandoned or unused after receiving a request for the determination from:

- (1) the railroad; or
- (2) the state highway district or local road authority that has jurisdiction over the roadway.

Sec. 2. The department shall designate an abandoned or unused railroad grade crossing under IC 9-21-12-5.

Sec. 3. An abandoned or unused railroad grade crossing designated under section 2 of this chapter must be marked with signs reading "tracks out of service". The signs must:

- (1) be posted and maintained by the department or the local road authority having jurisdiction over the roadway; and
- (2) be in conformance with the Indiana Manual on Uniform Traffic Control Devices for Streets and Highways as adopted under IC 9-21-2-1.

Sec. 4. (a) The railroad shall provide the department and the local road authority having jurisdiction over a roadway with written notice at least thirty (30) days prior to resuming operation over an abandoned or unused railroad crossing. The notice must

include a request that the signs posted under section 3 of this chapter be removed from the crossing.

(b) After removal of the signs under subsection (a), the railroad shall mark the railroad grade crossing for six (6) months with signs reading "train traffic resumed -- tracks in service".

SECTION 2. IC 9-21-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section does not apply to the following:

(1) A street railway grade crossing within a business or residence district.

(2) Abandoned or unused ~~tracks~~: **railroad grade crossings that are:**

(A) designated by the Indiana department of transportation under IC 8-6-15-2; and

(B) marked with a "tracks out of service" sign that complies with the requirements of IC 8-6-15-3.

(b) A person who drives:

(1) a motor vehicle carrying passengers for hire;

(2) a school or private bus that is carrying passengers; or

(3) a vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo;

shall, before crossing at grade a track of a railroad, stop the vehicle not more than fifty (50) feet and not less than fifteen (15) feet from the nearest rail of the railroad.

(c) While stopped in accordance with subsection (b), the person shall do the following:

(1) Listen through an open window or door.

(2) Look in both directions along the track for an approaching train and for signals indicating the approach of a train.

(3) Not proceed until the person can proceed safely.

After stopping the person shall cross only in a gear of the vehicle so there will be no necessity for changing gears while traversing the crossing. The person who drives the vehicle may not shift gears while crossing the track or tracks.

(d) If a police officer or traffic control signal directs traffic to proceed at a railroad crossing, the person who drives a vehicle subject to this section shall proceed in accordance with the instructions of the police officer or traffic control signal.

P.L.88-2003

[H.1511. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-33-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. **(a)** If the court orders a district established, the court shall in the order establishing the district determine the following:

- (1) The number of directors to serve on the board **and the procedures for the election of the directors.**
- (2) The division of the district into areas.
- (3) The time of the annual meeting of the district, which must be before March 1 each year.

(b) After the district is established, the board of directors of the conservancy district may petition the court to modify its order to change the procedures for election of the directors as provided in IC 14-33-5-2.

SECTION 2. IC 14-33-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) At each annual meeting of the district, directors shall be elected to fill vacancies on the board due to expiration of terms, resignation, or otherwise. The election shall be conducted by written ballots. **Except as provided in subsection (c),** to be elected an individual must receive a majority of the votes of the freeholders of the district who are:

- (1) present and voting in person; or
- (2) absent but have mailed or delivered a written ballot vote.

(b) A written ballot vote must be signed and mailed or delivered to the district office. A ballot is valid if delivered or received before the scheduled date of the annual meeting.

(c) Upon receipt of a petition from the board of directors of a conservancy district, the circuit court may modify the order establishing the district under IC 14-33-2-27 to provide that each

director representing an area established under IC 14-33-2-27 shall be elected by a majority of the votes of the freeholders of the respective areas.

P.L.89-2003

[H.1700. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning civil rights.

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

SECTION 1. IC 22-9.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) As used in this section, "housing for older persons" means housing that the commission determines is:

- (1) specifically designed and operated to assist elderly persons under a federal or state program;
- (2) intended for and solely occupied by persons at least sixty-two (62) years of age; or
- (3) intended and operated for occupancy by **at least one (1) person persons** at least fifty-five (55) years of age **in each unit. if the provisions of subsection (c) are met.**

(b) ~~Housing that includes units that are unoccupied or that are occupied by persons who do not meet the age requirements of subsection (a)(2) or (a)(3)~~ does not fail to meet the requirements for housing for older persons if:

- (1) the unoccupied units are reserved for persons who meet the age requirements of subsection (a)(2) or (a)(3); or
- (2) the occupants who do not meet the age requirements of subsection (a)(2) or (a)(3) have resided in the housing since September 13, 1988, or an earlier date, and the persons who became occupants after September 13, 1988, meet the age requirements of subsection (a)(2) or (a)(3).

(c) ~~The civil rights commission shall adopt rules under IC 4-22-2 to establish criteria for making determinations under subsection (a):~~

These rules To be considered housing for older persons under subsection (a)(3), a housing facility or community must include at least meet the following provisions:

(1) Except as provided in subdivision (2), the housing must provide significant facilities and services specifically designed to meet the physical or social needs of older persons:

(2) If the provision of the facilities and services described in subdivision (1) is not practicable, the housing must be necessary to provide important housing opportunities for older persons:

(3) (1) At least eighty percent (80%) of the occupied units must be are occupied by at least one (1) person who is at least fifty-five (55) years of age.

(4) (2) The owner or manager of the housing must publish facility or community publishes and adhere adheres to policies and procedures that demonstrate an intent by the owner or manager to provide operate housing for persons who are at least fifty-five (55) years of age.

(3) The housing facility or community complies with rules adopted by the civil rights commission under IC 4-22-2 for verification of occupancy that:

(A) provide for verification by reliable surveys and affidavits; and

(B) include examples of the types of policies and procedures relevant to determine compliance with subdivision (2).

(d) The surveys and affidavits used to verify occupancy under subsection (c)(3)(A) are admissible in an administrative or a judicial proceeding to verify occupancy.

(e) The provisions of IC 22-9.5-1-2 relating to familial status do not apply to housing for older persons.

SECTION 2. [EFFECTIVE JULY 1, 2003] 910 IAC 2-4-5 is void. The publisher of the Indiana Administrative Code and Indiana Register shall remove this section from the Indiana Administrative Code.

SECTION 3. [EFFECTIVE JULY 1, 2003] (a) Before December 31, 2003, the civil rights commission shall adopt rules under IC 4-22-2 to implement IC 22-9.5-3-4, as amended by this act.

(b) This SECTION expires January 1, 2004.

P.L.90-2003

[H.1741. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-2-12-13, AS AMENDED BY P.L.276-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A person may, for excavation, mineral extraction, or other purposes related to the person's business, temporarily remove a monument marking a corner. The person must notify in writing the county surveyor at least thirty (30) days before removing the monument. The person must replace the monument within a reasonable time at the person's expense under the supervision of the county surveyor or, if the county surveyor is not registered under IC 25-21.5 or IC 25-31, the registered person who is selected under section 11 of this chapter. The surveyor shall file a copy of the notice in the corner record book.

(b) Only a county surveyor or a designee may change the location of any monument. A person who wishes to have the location of a monument changed must make a request to the surveyor in writing and furnish written approval of all landowners whose property is affected by the proposed change. The surveyor may approve, reject, or modify the request and shall file a copy of the notice and the landowners' consents in the corner record book.

(c) When, in the construction or maintenance of a **state**, county, or municipal road or street, it is necessary to remove or bury a monument marking a corner, the owner of the public right-of-way shall notify the county surveyor in writing at least fifteen (15) days before commencing the work.

(d) A county legislative body may adopt an ordinance:

- (1) prohibiting a person from moving, changing, or otherwise altering a monument marking a corner without complying with this section; and
- (2) prescribing a monetary penalty for a violation of the

ordinance.

Any money collected shall be deposited in the county surveyor's corner perpetuation fund.

(e) A person who damages or removes a monument marking a corner or high accuracy reference network (HARN) point shall reimburse the county for the cost of repairing or replacing the monument.

(f) If a person who damages or removes a monument marking a corner violates an ordinance under subsection (d), the person is liable for:

- (1) the amount of reimbursement under subsection (e); and**
- (2) any monetary penalty prescribed by the county legislative body for violation of the ordinance under subsection (d).**



P.L.91-2003

[S.363. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning civil law and procedure.

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

SECTION 1. IC 34-30-12-1, AS AMENDED BY P.L.1-1999, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section does not apply to services rendered by a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) to a patient in a health care facility (as defined in IC 27-8-10-1).

(b) Except as provided in subsection (c), a person who comes upon the scene of an emergency or accident or is summoned to the scene of an emergency or accident and, in good faith, gratuitously renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from:

- (1) any act or omission by the person in rendering the emergency care; or

(2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person; except for acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) This subsection applies to a person to whom IC 16-31-6.5 applies. A person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission not amounting to gross negligence or willful or wanton misconduct if the person fulfills the requirements set forth in IC 16-31-6.5.

(d) This subsection applies to an individual, business, or organization to which IC 16-31-6.5 applies. An individual, business, or organization that allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission not amounting to gross negligence or willful or wanton misconduct by the user or for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.

(e) The licensed physician who gives medical direction in the use of a defibrillator under IC 16-31-6.5-4 or a national or state approved defibrillator instructor of a person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from civil liability for any act or omission of the licensed physician or instructor if:

- (1) the act or omission of the licensed physician or instructor:**
 - (A) involves the training for or use of an automatic external defibrillator; and**
 - (B) does not amount to gross negligence or willful or wanton misconduct; and**
- (2) the licensed physician or instructor fulfills the requirements of IC 16-31-6.5.**

P.L.92-2003

[H.1902. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning gaming.

Whereas the West Baden Springs Hotel is an architectural jewel of Indiana;

Whereas the General Assembly wants to preserve this historic hotel but is unable to devote sufficient state resources due to the fiscal problems facing our government;

Whereas the General Assembly has repeatedly attempted to find nongaming solutions to the economic malaise in Orange County;

Whereas the General Assembly authorized a riverboat gaming license for Patoka Lake that was never issued; and

Whereas many citizens of Orange County have demonstrated to the General Assembly an uncommon determination to improve the economic opportunities available in their county: Therefore,

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

SECTION 1. IC 4-33-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This article applies only to the following:

- (1) Counties contiguous to Lake Michigan.
- (2) Counties contiguous to the Ohio River.
- (3) ~~Counties contiguous to Patoka Lake.~~

(3) A county that contains a historic hotel district.

SECTION 2. IC 4-33-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. All shipments of gambling devices, including slot machines, to **an operating agent or a licensed riverboats riverboat in this state, Indiana,** the registering, recording, and labeling of which have been completed by the manufacturer or dealer thereof in accordance with 15 U.S.C. 1171 through 1178, are legal shipments of gambling devices into ~~the state of~~ Indiana.

SECTION 3. IC 4-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. "Adjusted gross receipts" means:

- (1) the total of all cash and property (including checks received by a licensee **or an operating agent**) whether collected or not, received by a licensee **or an operating agent** from gaming operations; minus
- (2) the total of:
 - (A) all cash paid out as winnings to patrons; and
 - (B) uncollectible gaming receivables, not to exceed the lesser of:
 - (i) a reasonable provision for uncollectible patron checks received from gaming operations; or
 - (ii) two percent (2%) of the total of all sums, including checks, whether collected or not, less the amount paid out as winnings to patrons.

For purposes of this section, a counter or personal check that is invalid or unenforceable under this article is considered cash received by the licensee **or operating agent** from gaming operations.

SECTION 4. IC 4-33-2-11.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11.1. "Historic hotel" means a structure originally built as a hotel that:**

- (1) contained at least three hundred (300) sleeping rooms on or before January 1, 1930;**
- (2) is listed in, or is seeking listing in, the National Register of Historic Places; and**
- (3) was regionally recognized for the mineral springs located on the property that were thought to have significant health benefits for the hotel's guests.**

SECTION 5. IC 4-33-2-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11.5. "Historic hotel district" means a historic hotel district that is established under IC 36-7-11.5.**

SECTION 6. IC 4-33-2-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.5. "Operating agent" means a person with whom the commission has entered into a contract under IC 4-33-6.5 to operate a riverboat in a historic hotel district.**

SECTION 7. IC 4-33-2-14.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2003]: **Sec. 14.6. "Operating agent contract" refers to the contract entered into by the commission under IC 4-33-6.5 with respect to the operation of a riverboat in a historic hotel district.**

SECTION 8. IC 4-33-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. "Riverboat" means **either of the following on which lawful gambling is authorized under this article:**

(1) A self-propelled excursion boat located in a county described in ~~IC 4-33-1-1~~ **on which lawful gambling is authorized and licensed under this article: IC 4-33-1-1(1) or IC 4-33-1-1(2) that complies with IC 4-33-6-6(a).**

(2) **A vessel located in a historic hotel district.**

SECTION 9. IC 4-33-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) A person may not be employed to serve the commission if:

(1) the person or the person's spouse, parent, or child is:

(A) an official of an operator **or operating agent** engaged in gambling operations in Indiana; or

(B) a person with:

(i) a financial interest in; or

(ii) a financial relation with;

an operator **or operating agent** engaged in gambling operations in Indiana; or

(2) the person is a spouse, parent, or child of a commission member.

(b) The employment of a person employed in violation of subsection (a) shall be terminated.

SECTION 10. IC 4-33-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The commission has the following powers and duties for the purpose of administering, regulating, and enforcing the system of riverboat gambling established under this article:

(1) All powers and duties specified in this article.

(2) All powers necessary and proper to fully and effectively execute this article.

(3) Jurisdiction and supervision over the following:

(A) All riverboat gambling operations in Indiana.

(B) All persons on riverboats where gambling operations are

conducted.

(4) Investigate and reinvestigate applicants and license holders and determine the eligibility of applicants for licenses **or operating agent contracts.**

(5) Select among competing applicants the applicants that promote the most economic development in a home dock area and that best serve the interests of the citizens of Indiana.

(6) Take appropriate administrative enforcement or disciplinary action against a licensee **or an operating agent.**

(7) Investigate alleged violations of this article.

(8) Establish fees for licenses issued under this article.

(9) Adopt appropriate standards for the design, appearance, aesthetics, and construction for riverboats and facilities.

(10) Conduct hearings.

(11) Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, and other relevant documents.

(12) Administer oaths and affirmations to the witnesses.

(13) Prescribe a form to be used by **an operating agent or** a licensee involved in the ownership or management of gambling operations as an application for employment by potential employees.

(14) Revoke, suspend, or renew licenses issued under this article.

(15) Hire employees to gather information, conduct investigations, and carry out other tasks under this article.

(16) Take any reasonable or appropriate action to enforce this article.

(b) Applicants and license holders shall reimburse the commission for costs related to investigations and reinvestigations conducted under subsection (a)(4).

SECTION 11. IC 4-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The commission shall adopt rules under IC 4-22-2 for the following purposes:

(1) Administering this article.

(2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.

(3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat

gambling.

~~(4)~~ With respect to riverboats that operate on Patoka Lake, ensuring:

~~(A)~~ the prevention of practices detrimental to the natural environment and scenic beauty of Patoka Lake; and

~~(B)~~ compliance by licensees and riverboat patrons with the requirements of IC 14-26-2-5 and IC 14-28-1.

~~(5)~~ **(4)** Establishing rules concerning inspection of riverboats and the review of the permits or licenses necessary to operate a riverboat.

~~(6)~~ **(5)** Imposing penalties for noncriminal violations of this article.

SECTION 12. IC 4-33-4-3, AS AMENDED BY P.L.14-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

~~(C) The natural environment and scenic beauty of Patoka Lake.~~

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's inspectors and agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that

the commission considers necessary and proper.

~~(D) With respect to riverboats that operate on Patoka Lake, ensure compliance with the following:~~

~~(i) IC 14-26-2-6.~~

~~(ii) IC 14-26-2-7.~~

~~(iii) IC 14-28-1.~~

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

SECTION 13. IC 4-33-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. The commission may employ or contract for inspectors and agents required under section 3(7) of this chapter. The licensed owners **and operating agents** shall, in the manner prescribed by the rules of the commission, reimburse the commission for the salaries and other expenses of the inspectors and agents required to be present during the time gambling operations are conducted on a riverboat.

SECTION 14. IC 4-33-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The commission may enter an office, a riverboat, a facility, or other premises of **an operating agent or** a person holding an owner's, or supplier's license where evidence of the compliance or noncompliance with this article is likely to be found.

SECTION 15. IC 4-33-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The commission shall require that the records, including financial statements, of **an operating agent or** a person holding an owner's, or supplier's license must be maintained in the manner prescribed by the commission.

SECTION 16. IC 4-33-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If a licensee, **an operating agent**, or an employee of a licensee **or an operating agent**

violates this article or engages in a fraudulent act, the commission may do any combination of the following:

- (1) Suspend, revoke, or restrict the license of the licensee, **or suspend, revoke, or restrict the gambling operations of an operating agent.**
- (2) Require the removal of a licensee or an employee of a licensee.
- (3) Impose a civil penalty of not more than five thousand dollars (\$5,000) against an individual who has been issued an occupational license or a person who has been issued a supplier's license for each violation of this article.
- (4) Impose a civil penalty of not more than the greater of:
 - (A) ten thousand dollars (\$10,000); or
 - (B) an amount equal to the licensee's **or operating agent's** daily gross receipts for the day of the violation;
 against an owner **or operating agent** for each violation of this article.

SECTION 17. IC 4-33-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. The commission shall require an owner **or operating agent** conducting gambling games to use a cashless wagering system in which a player's money is converted to tokens, electronic cards, or chips that may be used only for wagering on the riverboat.

SECTION 18. IC 4-33-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission shall establish the minimum amount of insurance that must be maintained by:

- (1) **an operating agent; or**
- (2) owner and supplier licensees.

SECTION 19. IC 4-33-4-12, AS AMENDED BY P.L.204-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. Except as provided by IC 7.1-3-17.5, IC 7.1 and the rules adopted by the alcohol and tobacco commission apply to:

- (1) **an operating agent; and**
- (2) a person holding an owner's license.

SECTION 20. IC 4-33-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) **This section does not apply to a riverboat located in a historic hotel district.**

(b) After consulting with the United States Army Corps of Engineers, the commission may do the following:

- (1) Determine the waterways that are navigable waterways for purposes of this article.
- (2) Determine the navigable waterways that are suitable for the operation of riverboats under this article.

~~(b)~~ (c) In determining the navigable waterways on which riverboats may operate, the commission shall do the following:

- (1) Obtain any required approvals from the United States Army Corps of Engineers for the operation of riverboats on those waterways.
- (2) Consider the economic benefit that riverboat gambling provides to Indiana.
- (3) Seek to ensure that all regions of Indiana share in the economic benefits of riverboat gambling.
- (4) ~~Considering IC 14-26-2-6, IC 14-26-2-7, and IC 14-28-1, conduct a feasibility study concerning:~~

- ~~(A) the environmental impact of the navigation and docking of riverboats upon Patoka Lake; and~~
- ~~(B) the impact of the navigation and docking of riverboats upon the scenic beauty of Patoka Lake.~~

SECTION 21. IC 4-33-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission shall annually do the following:

- (1) Review the patterns of wagering and wins and losses by persons on riverboat gambling operations under this article.
- (2) Make recommendations to the governor and the general assembly concerning whether limits on wagering losses should be imposed.
- ~~(3) Examine the impact on the natural environment and scenic beauty of Patoka Lake made by the navigation and docking of riverboats.~~

SECTION 22. IC 4-33-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) The commission shall review and make a determination on a complaint by **an operating agent or** a person who has been issued an owner's license concerning an investigative procedure that the licensee alleges is unnecessarily disruptive of gambling operations.

(b) A licensee **or an operating agent** filing a complaint under this section must prove all of the following by clear and convincing evidence:

- (1) The investigative procedure had no reasonable law enforcement purpose.
- (2) The investigative procedure was so disruptive as to unreasonably inhibit gambling operations.

(c) For purposes of this section, the need to inspect and investigate a licensee **or an operating agent** shall be presumed at all times.

SECTION 23. IC 4-33-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) The commission shall decide promptly and in reasonable order all license applications.

(b) Notwithstanding any provision of this article, no owner's license may be granted for any riverboat that is not to be docked in the city described under IC 4-33-6-1(a)(1) until the earlier of:

- (1) the issuance of an owner's license for a riverboat that is to be docked in the city described under IC 4-33-6-1(a)(1); or
- (2) September 1, 1994.

~~(c) Notwithstanding any provision of this article, no owner's license may be granted for any riverboat that is to be docked in a county described in IC 4-33-1-1(3) until July 1, 1995.~~

~~(d)~~ (c) A party aggrieved by an action of the commission denying, suspending, revoking, restricting, or refusing the renewal of a license may request a hearing before the commission. A request for a hearing must be made to the commission in writing not more than ten (10) days after service of notice of the action of the commission.

~~(e)~~ (d) The commission shall serve notice of the commission's actions to a party by personal delivery or by certified mail. Notice served by certified mail is considered complete on the business day following the date of the mailing.

~~(f)~~ (e) The commission shall conduct all requested hearings promptly and in reasonable order.

SECTION 24. IC 4-33-4-21.2, AS AMENDED BY P.L.92-2002(ss), SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21.2. (a) The Indiana gaming commission shall require a licensed owner **or an operating agent** to conspicuously display the number of the toll free telephone line described in IC 4-33-12-6 in the following locations:

- (1) On each admission ticket to a riverboat if tickets are issued.
 - (2) On a poster or placard that is on display in a public area of each riverboat where gambling games are conducted.
- (b) The toll free telephone line described in IC 4-33-12-6 must be:
- (1) maintained by the division of mental health and addiction under IC 12-23-1-6; and
 - (2) funded by the addiction services fund established by IC 12-23-2-2.
- (c) The commission may adopt rules under IC 4-22-2 necessary to carry out this section.

SECTION 25. IC 4-33-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. An applicant for a license **or an operator agent contract** under this article must provide the following information to the commission:

- (1) The name, business address, and business telephone number of the applicant.
- (2) An identification of the applicant.
- (3) The following information for an applicant that is not an individual:
 - (A) The state of incorporation or registration.
 - (B) The names of all corporate officers.
 - (C) The identity of the following:
 - (i) Any person in which the applicant has an equity interest of at least one percent (1%) of all shares. The identification must include the state of incorporation or registration if applicable. However, an applicant that has a pending registration statement filed with the Securities and Exchange Commission is not required to provide information under this item.
 - (ii) The shareholders or participants of the applicant. An applicant that has a pending registration statement filed with the Securities and Exchange Commission is required to provide only the names of persons holding an interest of more than one percent (1%) of all shares.
- (4) An identification of any business, including the state of incorporation or registration if applicable, in which an applicant or the spouse or children of an applicant has an equity interest of more than one percent (1%) of all shares.

(5) If the applicant has been indicted, been convicted, pleaded guilty or nolo contendere, or forfeited bail concerning a criminal offense other than a traffic violation under the laws of any jurisdiction. The applicant must include the following information under this subdivision:

(A) The name and location of the following:

- (i) The court.
- (ii) The arresting agency.
- (iii) The prosecuting agency.

(B) The case number.

(C) The date and type of offense.

(D) The disposition of the case.

(E) The location and length of incarceration.

(6) If the applicant has had a license or certificate issued by a licensing authority in Indiana or any other jurisdiction denied, restricted, suspended, revoked, or not renewed. An applicant must provide the following information under this subdivision:

(A) A statement describing the facts and circumstances concerning the denial, restriction, suspension, revocation, or nonrenewal.

(B) The date each action described in clause (A) was taken.

(C) The reason each action described in clause (A) was taken.

(7) If the applicant has:

(A) filed or had filed against the applicant a proceeding in bankruptcy; or

(B) been involved in a formal process to adjust, defer, suspend, or work out the payment of a debt;

including the date of filing, the name and location of the court, and the case and number of the disposition.

(8) If the applicant has filed or been served with a complaint or notice filed with a public body concerning:

(A) a delinquency in the payment of; or

(B) a dispute over a filing concerning the payment of;

a tax required under federal, state, or local law, including the amount, type of tax, the taxing agency, and times involved.

(9) A statement listing the names and titles of public officials or officers of units of government and relatives of the public officials or officers who directly or indirectly:

- (A) have a financial interest in;
- (B) have a beneficial interest in;
- (C) are the creditors of;
- (D) hold a debt instrument issued by; or
- (E) have an interest in a contractual or service relationship with;

an applicant.

(10) If an applicant for **an operating agent contract** or an owner's or a supplier's license has directly or indirectly made a political contribution, loan, donation, or other payment to a candidate or an office holder in Indiana not more than five (5) years before the date the applicant filed the application. An applicant must provide information concerning the amount and method of a payment described in this subdivision.

(11) The name and business telephone number of the attorney who will represent the applicant in matters before the commission.

(12) A description of a proposed or an approved riverboat gaming operation, including the following information:

- (A) The type of boat.
- (B) The home dock location.
- (C) The expected economic benefit to local communities.
- (D) The anticipated or actual number of employees.
- (E) Any statements from the applicant concerning compliance with federal and state affirmative action guidelines.
- (F) Anticipated or actual admissions.
- (G) Anticipated or actual adjusted gross gaming receipts.

(13) A description of the product or service to be supplied by the applicant if the applicant has applied for a supplier's license.

(14) The following information from each licensee **or operator agent** involved in the ownership or management of gambling operations:

- (A) An annual balance sheet.
- (B) An annual income statement.
- (C) A list of the stockholders or other persons having at least a one percent (1%) beneficial interest in the gambling activities of the person who has been issued the owner's license **or operator agent contract**.

(D) Any other information the commission considers necessary for the effective administration of this article.

SECTION 26. IC 4-33-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Notwithstanding any other law, upon written request from a person, the commission shall provide the following information to the person:

- (1) The information provided under section 1 of this chapter concerning a licensee or an applicant.
- (2) The amount of the wagering tax and admission tax paid daily to the state by a licensed owner **or an operating agent**.
- (3) A copy of a letter providing the reasons for the denial of an owner's license **or an operating agent's contract**.
- (4) A copy of a letter providing the reasons for the commission's refusal to allow an applicant to withdraw the applicant's application.

SECTION 27. IC 4-33-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The commission may issue to a person a license to own one (1) riverboat subject to the numerical and geographical limitation of owner's licenses under this section, and IC 4-33-4-17. However, not more than ~~eleven (11)~~ **ten (10)** owner's licenses may be in effect at any time. Except as provided in subsection (b), those ~~eleven (11)~~ **ten (10)** licenses are as follows:

- (1) Two (2) licenses for a riverboat that operates from the largest city located in the counties described under IC 4-33-1-1(1).
- (2) One (1) license for a riverboat that operates from the second largest city located in the counties described under IC 4-33-1-1(1).
- (3) One (1) license for a riverboat that operates from the third largest city located in the counties described under IC 4-33-1-1(1).
- (4) One (1) license for a city located in the counties described under IC 4-33-1-1(1). This license may not be issued to a city described in subdivisions (1) through (3).
- (5) A total of five (5) licenses for riverboats that operate upon the Ohio River from counties described under IC 4-33-1-1(2). The commission may not issue a license to an applicant if the issuance of the license would result in more than one (1) riverboat operating from a county described in IC 4-33-1-1(2).

~~(6) One (1) license for a riverboat that operates upon Patoka Lake from a county described under IC 4-33-1-1(3):~~

(b) If a city described in subsection (a)(2) or (a)(3) conducts two (2) elections under section 20 of this chapter and the voters of the city do not vote in favor of permitting riverboat gambling at either of those elections, the license assigned to that city under subsection (a)(2) or (a)(3) may be issued to any city that:

- (1) does not already have a riverboat operating from the city; and
- (2) is located in a county described in IC 4-33-1-1(1).

(c) In addition to its power to issue owner's licenses under subsection (a), the commission may also enter into a contract under IC 4-33-6.5 with respect to the operation of one (1) riverboat on behalf of the commission in a historic hotel district.

SECTION 28. IC 4-33-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A riverboat that operates in a county described in IC 4-33-1-1(1) or IC 4-33-1-1(2) must:

- (1) have a valid certificate of inspection from the United States Coast Guard for the carrying of at least five hundred (500) passengers; and
- (2) be at least one hundred fifty (150) feet in length.

~~(b) A riverboat that operates on Patoka Lake must:~~

- ~~(1) have the capacity to carry at least five hundred (500) passengers;~~
- ~~(2) be at least one hundred fifty (150) feet in length; and~~
- ~~(3) meet safety standards required by the commission:~~

~~(c) (b) This subsection applies only to a riverboat that operates on the Ohio River. A riverboat must replicate, as nearly as possible, historic Indiana steamboat passenger vessels of the nineteenth century. However, steam propulsion or overnight lodging facilities are not required under this subsection.~~

SECTION 29. IC 4-33-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) This subsection applies to cities described in section 1(a)(1) through 1(a)(4) or section 1(b) of this chapter. The commission may not issue a license authorizing a riverboat to dock in a city unless the legislative body of the city has approved an ordinance permitting the docking of riverboats in the city.

(b) This subsection applies to a county described in section 1(a)(5) of this chapter if the largest city in the county is contiguous to the Ohio River. The commission may not issue a license authorizing a riverboat to dock in the county unless an ordinance permitting the docking of riverboats in the county has been approved by the legislative body of the largest city in the county. The license must specify that the home dock of the riverboat is to be located in the largest city in the county.

(c) This subsection applies to a county described in section 1(a)(5) of this chapter if the largest city in the county is not contiguous to the Ohio River. The commission may not issue a license authorizing a riverboat to dock in the county unless an ordinance permitting the docking of riverboats in the county has been approved by the county fiscal body.

(d) This subsection applies to a county ~~described in section 1(a)(6) of this chapter~~; **in which a historic hotel district is located**. The commission may not ~~issue a license authorizing a riverboat to dock~~ **enter into a contract under IC 4-33-6.5 for the operation of a riverboat** in the county unless an ordinance permitting the docking of riverboats in the county has been approved by the county fiscal body.

SECTION 30. IC 4-33-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) This section applies to:

- (1) a county contiguous to the Ohio River;
- (2) a county ~~contiguous to Patoka Lake~~; **containing a historic hotel district**; and
- (3) a county contiguous to Lake Michigan that has a population of less than four hundred thousand (400,000).

(b) Notwithstanding any other provision of this article, the commission may not:

- (1) issue a license under this article to allow a riverboat to operate in the county; **or**
- (2) **enter into a contract with an operating agent under IC 4-33-6.5;**

unless the voters of the county have approved the conducting of gambling games on riverboats in the county.

(c) If the docking of a riverboat in the county is approved by an ordinance adopted under section 18 of this chapter, or if at least the number of the registered voters of the county required under IC 3-8-6-3

for a petition to place a candidate on the ballot sign a petition submitted to the circuit court clerk requesting that a local public question concerning riverboat gaming be placed on the ballot, the county election board shall place the following question on the ballot in the county during the next **primary or** general election:

"~~Shall licenses be issued to permit~~ riverboat gambling **be permitted** in ____ County?"

(d) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9 and must be certified in accordance with IC 3-10-9-3.

(e) The clerk of the circuit court of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question under this section is placed on the ballot in a county and the voters of the county do not vote in favor of permitting riverboat gambling under this article, a second public question under this section may not be held in that county for at least two (2) years. If the voters of the county vote to reject riverboat gambling a second time, a third or subsequent public question under this section may not be held in that county until the general election held during the tenth year following the year that the previous public question was placed on the ballot.

SECTION 31. IC 4-33-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6.5. Riverboat Operating Agent Contract

Sec. 1. The commission may enter into one (1) operating agent contract with a person to operate one (1) riverboat on behalf of the commission in a historic hotel district. The commission shall issue a request for proposals and award the contract under IC 5-22-9.

Sec. 2. (a) A person, including a person who holds or has an interest in an owner's license issued under this article, may file an application with the commission to serve as an operating agent under this chapter. An applicant must pay a nonrefundable application fee to the commission in an amount to be determined by the commission.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) The commission shall review the applications filed under this chapter and shall inform each applicant of the commission's decision.

(d) The costs of investigating an applicant to serve as an operating agent under this chapter shall be paid from the application fee paid by the applicant.

(e) An applicant to serve as an operating agent under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

Sec. 3. The commission may not enter into an operating agent contract with a person under this chapter if:

(1) the person has been convicted of a felony under Indiana law, the laws of any other state, or the laws of the United States;

(2) the person has knowingly or intentionally submitted an application under this chapter that contains false information;

(3) the person is a member of the commission;

(4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);

(5) the person employs an individual who is described in subdivision (1), (2), or (3); or

(6) a license issued to the person to own or operate gambling facilities in another jurisdiction has been revoked.

Sec. 4. In determining whether to grant an operating agent contract to an applicant, the commission shall consider the following:

(1) The character, reputation, experience, and financial integrity of the following:

(A) The applicant.

(B) A person that:

(i) directly or indirectly controls the applicant; or

(ii) is directly or indirectly controlled by the applicant or by a person that directly or indirectly controls the

applicant.

- (2) The facilities or proposed facilities for the conduct of riverboat gambling in a historic hotel district. The applicant must submit to the commission a proposed design of the riverboat.
- (3) The highest prospective total revenue to be collected by the state from the conduct of riverboat gambling.
- (4) The good faith affirmative action plan of each applicant to recruit, train, and upgrade minorities in all employment classifications.
- (5) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
- (6) Whether the applicant has adequate capitalization to operate a riverboat for the duration of the contract.
- (7) The extent to which the applicant provides assurances that the applicant will participate in the funding of:
 - (A) specific economic development programs; or
 - (B) infrastructure improvements;
 in the county where the riverboat is located.
- (8) The extent to which the applicant exceeds or meets other standards adopted by the commission.

Sec. 5. After selecting the most appropriate operating agent applicant, the commission may enter into an operating agent contract with the person. The operating agent contract must comply with this article and include the following terms and conditions:

- (1) The operating agent must pay a nonrefundable initial fee of one million dollars (\$1,000,000) to the commission. The fee must be deposited by the commission into the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).
- (2) The operating agent must post a bond as required in section 6 of this chapter.
- (3) The operating agent must implement flexible scheduling.
- (4) The operating agent must locate the riverboat in a historic hotel district at a location approved by both the commission and the historic hotel preservation commission established under IC 36-7-11.5.
- (5) The operating agent must comply with any requirements

concerning the exterior design of the riverboat that are approved by both the commission and the historic hotel preservation commission established under IC 36-7-11.5.

(6) Notwithstanding any law limiting the maximum length of contracts:

(A) the initial term of the contract may not exceed twenty (20) years; and

(B) any renewal or extension period permitted under the contract may not exceed twenty (20) years.

(7) The operating agent must collect and remit all taxes under IC 4-33-12 and IC 4-33-13.

(8) The operating agent must comply with the restrictions on the transferability of the operating agent contract under section 12 of this chapter.

Sec. 6. (a) An operating agent must post a bond with the commission at least sixty (60) days before the commencement of regular riverboat operations in the historic hotel district.

(b) The bond must be furnished in:

(1) cash or negotiable securities;

(2) a surety bond:

(A) with a surety company approved by the commission; and

(B) guaranteed by a satisfactory guarantor; or

(3) an irrevocable letter of credit issued by a banking institution of Indiana acceptable to the commission.

(c) If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but income inures to the benefit of the operating agent.

(d) The bond:

(1) is subject to the approval of the commission;

(2) must be in an amount that the commission determines will adequately reflect the amount that a local community will expend for infrastructure and other facilities associated with a riverboat operation; and

(3) must be payable to the commission as obligee for use in payment of the riverboat's financial obligations to the local community, the state, and other aggrieved parties, as determined by the rules of the commission.

Any bond proceeds remaining after the payments shall be deposited in the community trust fund established by IC 36-7-11.5-8.

(e) If after a hearing (after at least five (5) days written notice) the commission determines that the amount of an operating agent's bond is insufficient, the operating agent shall, upon written demand of the commission, file a new bond.

(f) The commission may require an operating agent to file a new bond with a satisfactory surety in the same form and amount if:

- (1) liability on the old bond is discharged or reduced by judgment rendered, payment made, or otherwise; or
- (2) in the opinion of the commission any surety on the old bond becomes unsatisfactory.

(g) If a new bond obtained under subsection (e) or (f) is unsatisfactory, the commission shall cancel the operating agent's contract. If the new bond is satisfactorily furnished, the commission shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(h) A bond is released on the condition that the operating agent remains at the site of the riverboat operating within the historic hotel district:

- (1) for five (5) years; or
- (2) until the date the commission enters into a contract with another operating agent to operate from the site for which the bond was posted;

whichever occurs first.

(i) An operating agent who does not meet the requirements of subsection (h) forfeits a bond filed under this section. The proceeds of a bond that is in default under this subsection are paid to the commission and used in the same manner as specified in subsection (d).

(j) The total liability of the surety on a bond is limited to the amount specified in the bond, and the continuous nature of the bond may not be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(k) A bond filed under this section is released sixty (60) days after:

- (1) the time specified under subsection (h); and

(2) a written request is submitted by the operating agent.

Sec. 7. (a) An operating agent shall undergo a complete investigation at least once every three (3) years to ensure that the operating agent remains in compliance with this article.

(b) Notwithstanding subsection (a), the commission may investigate an operating agent at any time the commission determines it is necessary to ensure that the operating agent remains in compliance with this article.

(c) An operating agent shall bear the cost of an investigation or a reinvestigation under this section.

Sec. 8. An operating agent contract under this chapter permits the operating agent to operate one (1) riverboat on behalf of the commission.

Sec. 9. An operating agent may apply to the commission for and may hold licenses that are necessary for the operation of a riverboat, including the following:

(1) A license to prepare and serve food for human consumption.

(2) Any other necessary license.

Sec. 10. An operating agent may own gambling equipment, devices, and supplies. Each operating agent must file an annual report listing the operating agent's inventories of gambling equipment, devices, and supplies.

Sec. 11. This article does not prohibit an operating agent from operating a school for the training of occupational licensees.

Sec. 12. (a) An operating agent must apply for and receive the commission's approval before:

(1) an operating agent's contract is:

(A) transferred;

(B) sold; or

(C) purchased; or

(2) a voting trust agreement or other similar agreement is established with respect to the operating agent.

(b) The commission shall adopt rules governing the procedure an operating agent or other person must follow to take an action under subsection (a). The rules must specify that a person who obtains an ownership interest in an operating agent contract must meet the criteria of this article and any rules adopted by the commission. An operating agent may transfer an interest in an

operating agent contract only in accordance with this article and rules adopted by the commission.

(c) An operating agent or any other person may not:

- (1) lease;**
- (2) hypothecate; or**
- (3) borrow or loan money against;**

an operating agent contract.

Sec. 13. A contract entered into under this chapter may not include any terms under which the operating agent is required to pay any amount to the state or the gaming commission other than the fees and taxes specifically authorized or required under this article.

Sec. 14. Except as otherwise specifically provided by this article, an operating agent is charged with all the duties imposed upon a licensed owner under this article.

Sec. 15. A riverboat operated under an operating agent contract under this article is not exempt from property taxes imposed under IC 6-1.1.

SECTION 32. IC 4-33-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person holding a supplier's license may sell, lease, and contract to sell or lease gambling equipment and supplies to a licensee **or an operating agent** involved in the ownership or management of riverboat gambling operations.

(b) Gambling supplies and equipment may not be distributed unless the gambling supplies and equipment conform to standards adopted by the commission.

SECTION 33. IC 4-33-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A person may not receive a supplier's license if:

- (1) the person has been convicted of a felony under Indiana law, the laws of any other state, or laws of the United States;
- (2) the person has knowingly or intentionally submitted an application for a license under this chapter that contains false information;
- (3) the person is a member of the commission;
- (4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);

- (5) the person employs an individual who:
 - (A) is described in subdivision (1), (2), or (3); and
 - (B) participates in the management or operation of gambling operations authorized under this article;
- (6) the person owns more than a ten percent (10%) ownership interest in:
 - (A) any other person holding an owner's license; **or**
 - (B) **an operating agent contract;**
 issued under this ~~chapter~~; **article**; or
- (7) a license issued to the person:
 - (A) under this article; or
 - (B) to supply gaming supplies in another jurisdiction;
 has been revoked.

SECTION 34. IC 4-33-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Gambling equipment, devices, and supplies that are provided by a supplier may be:

- (1) repaired on a riverboat; or
- (2) removed for repair from the riverboat to a facility owned by a licensed owner **or an operating agent.**

SECTION 35. IC 4-33-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The commission may issue an occupational license to an individual if:

- (1) the individual has applied for the occupational license;
- (2) a nonrefundable application fee set by the commission has been paid on behalf of the applicant in accordance with subsection (b);
- (3) the commission has determined that the applicant is eligible for an occupational license; and
- (4) an annual license fee in an amount established by the commission has been paid on behalf of the applicant in accordance with subsection (b).

(b) A licensed owner, an applicant for a riverboat owner's license, **an operating agent, an applicant for an operating agent contract,** or a holder of a supplier's license shall pay the application fee of an individual applying for an occupational license to work:

- (1) at the licensed owner's **or operating agent's** riverboat gambling operation; or

(2) for the holder of a supplier's license.

The licensed owner, applicant for a riverboat owner's license, **operating agent, applicant for an operating agent contract**, or ~~the~~ holder of a supplier's license shall pay the annual occupational license fee on behalf of an employee or potential employee. The licensed owner, applicant for a riverboat owner's license, **operating agent, applicant for an operating agent contract**, or ~~the~~ holder of a supplier's license may seek reimbursement of the application fee or annual license fee from an employee who is issued an occupational license.

(c) A license issued under this chapter is valid for one (1) year after the date of issuance.

(d) Unless an occupational license is suspended, expires, or is revoked, the occupational license may be renewed annually upon:

- (1) the payment of an annual license fee by the licensed owner, **operating agent**, or holder of a supplier's license on behalf of the licensee in an amount established by the commission; and
- (2) a determination by the commission that the licensee is in compliance with this article.

(e) The commission may investigate the holder of an occupational license at any time the commission determines it is necessary to ensure that the licensee is in compliance with this article.

(f) A licensed owner, an applicant for a riverboat owner's license, **an operating agent, an applicant for an operating agent contract**, or a holder of a supplier's license shall pay the cost of an investigation or reinvestigation of a holder of an occupational license who is employed by the licensed owner, **operating agent**, or licensed supplier. The licensed owner, applicant for a riverboat owner's license, **operating agent, applicant for an operating agent contract**, or holder of a supplier's license may seek reimbursement of the cost of an investigation or reinvestigation from an employee who holds an occupational license.

SECTION 36. IC 4-33-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The commission shall adopt rules under IC 4-22-2 providing the following:

- (1) That an individual applying for an occupational license to manage riverboat gambling operations under this article is subject to background inquiries and requirements similar to those

required for an applicant for an owner's license under IC 4-33-6.

(2) That each individual applying for an occupational license may manage gambling operations for only one (1) licensed owner **or operating agent**.

SECTION 37. IC 4-33-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) This article does not prohibit a licensed owner **or an operating agent** from entering into an agreement with a school approved by the commission for the training of an occupational licensee.

(b) Training offered by a school described in subsection (a) must be:

(1) in accordance with a written agreement between the licensed owner **or operating agent** and the school; and

(2) approved by the commission.

SECTION 38. IC 4-33-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. Training provided for occupational licensees may be conducted:

(1) on a riverboat; or

(2) at a school with which a licensed owner **or an operating agent** has entered into an agreement under section 9 of this chapter.

SECTION 39. IC 4-33-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Gambling may be conducted by licensed owners **or an operating agent** on riverboats.

SECTION 40. IC 4-33-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. Minimum and maximum wagers on gambling games shall be determined by the person who has been issued an owner's license **or an operating agent contract**.

SECTION 41. IC 4-33-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Employees of the commission and conservation officers of the department of natural resources have the right to be present on a riverboat or adjacent facilities under the control of a person who has been issued an owner's license **or operating agent contract**.

SECTION 42. IC 4-33-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. A person who has been issued an owner's license **or an operating agent contract** may not permit any form of wagering on gambling games except as

permitted under this article.

SECTION 43. IC 4-33-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. Wagers may be received only from a person present on a ~~licensed~~ riverboat. A person present on a ~~licensed~~ riverboat may not place or attempt to place a wager on behalf of another person who is not present on the riverboat.

SECTION 44. IC 4-33-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) All tokens, chips, or electronic cards that are used to make wagers must be purchased from the owner **or operating agent** of the riverboat:

- (1) while on board the riverboat; or
- (2) at an on-shore facility that:
 - (A) has been approved by the commission; and
 - (B) is located where the riverboat docks.

(b) The tokens, chips, or electronic cards may be purchased by means of an agreement under which the owner **or operating agent** extends credit to the patron.

SECTION 45. IC 4-33-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A person who knowingly or intentionally does any of the following commits a Class D felony:

- (1) Offers, promises, or gives anything of value or benefit:
 - (A) to a person who is connected with the owner **or operating agent** of a riverboat, including an officer or an employee of a riverboat owner, **an operating agent**, or a holder of an occupational license; and
 - (B) under an agreement to influence or with the intent to influence:
 - (i) the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game; or
 - (ii) an official action of a commission member.

(2) Solicits, accepts, or receives a promise of anything of value or benefit:

- (A) while the person is connected with a riverboat, including an officer or employee of a licensed owner, **an operating agent**, or a holder of an occupational license; and
- (B) under an agreement to influence or with the intent to

influence:

- (i) the actions of the person to affect or attempt to affect the outcome of a gambling game; or
 - (ii) an official action of a commission member.
- (3) Uses or possesses with the intent to use a device to assist in:
- (A) projecting the outcome of the game;
 - (B) keeping track of the cards played;
 - (C) analyzing the probability of the occurrence of an event relating to the gambling game; or
 - (D) analyzing the strategy for playing or betting to be used in the game, except as permitted by the commission.
- (4) Cheats at a gambling game.
- (5) Manufactures, sells, or distributes any cards, chips, dice, game, or device that is intended to be used to violate this article.
- (6) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players.
- (7) Places a bet on the outcome of a gambling game after acquiring knowledge that:
- (A) is not available to all players; and
 - (B) concerns the outcome of the gambling game that is the subject of the bet.
- (8) Aids a person in acquiring the knowledge described in subdivision (7) for the purpose of placing a bet contingent on the outcome of a gambling game.
- (9) Claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a gambling game:
- (A) with the intent to defraud; or
 - (B) without having made a wager contingent on winning a gambling game.
- (10) Claims, collects, or takes an amount of money or thing of value of greater value than the amount won in a gambling game.
- (11) Uses or possesses counterfeit chips or tokens in or for use in a gambling game.
- (12) Possesses a key or device designed for:
- (A) opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or a mechanical device connected with the gambling game; or

(B) removing coins, tokens, chips, or other contents of a gambling game.

This subdivision does not apply to a licensee **or an operating agent** or an employee of a licensee **or an operating agent** acting in the course of the employee's employment.

(13) Possesses materials used to manufacture a slug or device intended to be used in a manner that violates this article.

SECTION 46. IC 4-33-10-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) This section applies only to contributions made after June 30, 1996.

(b) The definitions in IC 3-5-2 apply to this section to the extent they do not conflict with the definitions in this article.

(c) As used in this section, "candidate" refers to any of the following:

- (1) A candidate for a state office.
- (2) A candidate for a legislative office.
- (3) A candidate for a local office.

(d) As used in this section, "committee" refers to any of the following:

- (1) A candidate's committee.
- (2) A regular party committee.
- (3) A committee organized by a legislative caucus of the house of the general assembly.
- (4) A committee organized by a legislative caucus of the senate of the general assembly.

(e) As used in this section, "license" means:

- (1) an owner's license issued under this article; ~~or~~
- (2) a supplier's license issued under this article to a supplier of gaming supplies or equipment, including electronic gaming equipment; **or**

(3) an operating agent contract issued under this article.

(f) As used in this section, "licensee" means a person who holds a license. **The term includes an operating agent.**

(g) As used in this section, "officer" refers only to either of the following:

- (1) An individual listed as an officer of a corporation in the corporation's most recent annual report.
- (2) An individual who is a successor to an individual described in

subdivision (1).

(h) For purposes of this section, a person is considered to have an interest in a licensee if the person satisfies any of the following:

(1) The person holds at least a one percent (1%) interest in the licensee.

(2) The person is an officer of the licensee.

(3) The person is an officer of a person that holds at least a one percent (1%) interest in the licensee.

(4) The person is a political action committee of the licensee.

(i) A licensee is considered to have made a contribution if a contribution is made by a person who has an interest in the licensee.

(j) A licensee or a person who has an interest in a licensee may not make a contribution to a candidate or a committee during the following periods:

(1) The term during which the licensee holds a license.

(2) The three (3) years following the final expiration or termination of the licensee's license.

(k) A person who knowingly or intentionally violates this section commits a Class D felony.

SECTION 47. IC 4-33-10-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) This section applies only to property given after June 30, 1996.

(b) The definitions in IC 3-5-2 apply to this section to the extent they do not conflict with the definitions in this article.

(c) As used in this section, "license" means:

(1) an owner's license issued under this article; ~~or~~

(2) a supplier's license issued under this article to a supplier of gaming supplies or equipment, including electronic gaming equipment; **or**

(3) an operating agent contract entered into under this article.

(d) As used in this section, "licensee" means a person who holds a license. **The term includes an operating agent.**

(e) As used in this section, "officer" refers only to either of the following:

(1) An individual listed as an officer of a corporation in the corporation's most recent annual report.

(2) An individual who is a successor to an individual described in subdivision (1).

(f) For purposes of this section, a person is considered to have an interest in a licensee if the person satisfies any of the following:

- (1) The person holds at least a one percent (1%) interest in the licensee.
- (2) The person is an officer of the licensee.
- (3) The person is an officer of a person that holds at least a one percent (1%) interest in the licensee.
- (4) The person is a political action committee of the licensee.

(g) A licensee or a person with an interest in a licensee may not give any property (as defined in IC 35-41-1-23) to a member of a precinct committee to induce the member of the precinct committee to do any act or refrain from doing any act with respect to the approval of a local public question under IC 4-33-6-19.

(h) A person who knowingly or intentionally violates this section commits a Class D felony.

SECTION 48. IC 4-33-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The commission may:

- (1) suspend a license issued to the owner of a riverboat; **or**
- (2) **require an operating agent to suspend operations;**

without notice or hearing if the commission determines that the safety or health of patrons or employees would be threatened by the continued operation of the riverboat.

(b) The suspension of **a an owner's license or an operating agent's operations** under this section may remain in effect until the commission determines that the cause for suspension has been abated. The commission may revoke the license if the commission determines that the owner **or operating agent** has not made satisfactory progress toward abating the hazard.

SECTION 49. IC 4-33-12-1, AS AMENDED BY P.L.192-2002(ss), SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This subsection does not apply to a riverboat that has implemented flexible scheduling under IC 4-33-6-21. A tax is imposed on admissions to gambling excursions authorized under this article at a rate of three dollars (\$3) for each person admitted to the gambling excursion. This admission tax is imposed upon the licensed owner conducting the gambling excursion.

(b) This subsection applies only to a riverboat that has implemented

flexible scheduling under IC 4-33-6-21 **or IC 4-33-6.5**. A tax is imposed on the admissions to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 **or IC 4-33-6.5** at **a the following** rate:
of:

(1) Four dollars (\$4) for each person admitted to a riverboat that docks in a county described in IC 4-33-1-1(3). This admission tax is imposed upon the operating agent of the riverboat.

(2) Three dollars (\$3) for each person admitted to the a riverboat that docks in any other county. This admission tax is imposed upon the licensed owner operating the riverboat.

SECTION 50. IC 4-33-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A licensed owner **or an operating agent** may issue tax-free passes to the following persons:

(1) Actual and necessary officials and employees of the licensee **or operating agent**.

(2) Other persons actually working on the riverboat.

(b) The number and issuance of tax-free passes is subject to the rules of the commission. A list of all persons to whom the tax-free passes are issued must be filed with the commission.

SECTION 51. IC 4-33-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A licensed owner **or an operating agent** must pay the admissions taxes collected to the department. The licensed owner **or operating agent** must make the tax payments each day for the preceding day's admissions.

(b) The payment of the tax under this section must be on a form prescribed by the department.

(c) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).

(d) If the department requires taxes to be paid under this section through electronic funds transfer, the department may allow the licensed owner **or operating agent** to file a monthly report to reconcile the amount of taxes paid to the department.

SECTION 52. IC 4-33-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may suspend or revoke the license of a licensed owner **or order the suspension of gaming operations of an operating agent** that does not

submit the payment or the tax return form within the required time.

SECTION 53. IC 4-33-12-6, AS AMENDED BY P.L.1-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.

(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:

(A) the city in which the riverboat is docked, if the city:

(i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or

(ii) is contiguous to the Ohio River and is the largest city in the county; and

(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar (\$1) is in addition to the one dollar (\$1) received under subdivision (1)(B).

(3) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), fifteen cents (\$0.15) of the admissions tax collected by the licensed owner for each

person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(5) Except as provided in subsection (k), ten cents (\$0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(6) Except as provided in subsection (k), sixty-five cents (\$0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) With respect to tax revenue collected from a riverboat ~~that operates on Patoka Lake, located in a historic hotel district~~, the treasurer of state shall quarterly pay the following amounts:

~~(1) The counties described in IC 4-33-1-1(3) shall receive one dollar (\$1) of the admissions tax collected for each person:~~

~~(A) embarking on a gambling excursion during the quarter; or~~

(B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling):

This amount shall be divided equally among the counties described in IC 4-33-1-1(3):

(2) The Patoka Lake development account established under IC 4-33-15 shall receive one dollar (\$1) of the admissions tax collected for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling):

(3) The resource conservation and development program that:

(A) is established under 16 U.S.C. 3451 et seq.; and

(B) serves the Patoka Lake area;

shall receive forty cents (\$0.40) of the admissions tax collected for each person embarking on a gambling excursion during the quarter or admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling):

(4) The state general fund shall receive fifty cents (\$0.50) of the admissions tax collected for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling):

(5) The division of mental health and addiction shall receive ten cents (\$0.10) of the admissions tax collected for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to the riverboat during the quarter (if the riverboat has implemented flexible scheduling):

The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling:

(1) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but

less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(2) Sixteen percent (16%) of the admissions tax collected during the quarter shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks;
and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(3) Nine percent (9%) of the admissions tax collected during the quarter shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

(5) Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the department of commerce to be used by the department for the development and implementation of a regional economic development strategy to assist the residents of the county in which the riverboat is located and residents of contiguous counties in improving their quality of life and to help promote successful and sustainable communities. The regional economic development strategy must include goals concerning the following issues:

(A) Job creation and retention.

(B) Infrastructure, including water, wastewater, and storm water infrastructure needs.

(C) Housing.

(D) Workforce training.

(E) Health care.

(F) Local planning.

(G) Land use.

(H) Assistance to regional economic development groups.

(I) Other regional development issues as determined by the department.

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21; shall be paid to the city in which the riverboat is docked.

(2) Except as provided in subsection (k), one dollar (\$1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents (\$.09) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), one cent (\$.01) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents (\$.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-1.5-3.

(6) Except as provided in subsection (k), ten cents (\$.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the

funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in subsection (k), sixty-five cents (\$0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(e) Money paid to a unit of local government under subsection (b)(1) through (b)(2), (c)(1) **through (c)(2)**, or (d)(1) through (d)(2):

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum levy under IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or

(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and

economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) ~~(c)(5)~~, and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;

(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:

(1) Each entity receiving money under subsection (b).

(2) Each entity receiving money under subsection (d)(1) through (d)(2).

(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this

subsection.

(j) **This subsection does not apply to an entity receiving money under subsection (c).** For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under ~~IC 4-33-13-5(f)~~ **IC 4-33-13-5(g)**.

(k) **This subsection does not apply to an entity receiving money under subsection (c).** For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

- (1) exceed a particular entity's base year revenue; and
- (2) would otherwise be due to the entity under this section; to the property tax replacement fund instead of to the entity.

SECTION 54. IC 4-33-13-1.5, AS ADDED BY P.L.192-2002(ss), SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) This section applies only to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 **or IC 4-33-6.5.**

(b) A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

- (1) Fifteen percent (15%) of the first twenty-five million dollars (\$25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.
- (2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars (\$25,000,000) but not exceeding fifty million dollars (\$50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.
- (3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars (\$50,000,000) but not exceeding seventy-five million dollars (\$75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars (\$75,000,000) but not exceeding one hundred fifty million dollars (\$150,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars (\$150,000,000).

The tax rates imposed under this section apply to adjusted gross receipts received beginning the date flexible scheduling is implemented under IC 4-33-6-21.

(c) The licensed owner **or operating agent** shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner **or operating agent** to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

SECTION 55. IC 4-33-13-5, AS AMENDED BY P.L. 192-2002(ss), SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) **This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district.** After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection ~~(d)~~ **(e)**.

(2) Subject to subsection ~~(b)~~ **(c)**, twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

- (i) a city described in IC 4-33-12-6(b)(1)(A); or
- (ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); **or**

~~(B)~~ in equal shares to the counties described in IC 4-33-1-1(3); in the case of a riverboat whose home dock is on Patoka Lake; **or**

~~(C)~~ **(B)** to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A). **or a county described in clause (B):**

(3) Subject to subsection ~~(c)~~; **(d)**, the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars (\$20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of

the town's tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

- (1) exceeds a particular city or county's base year revenue; and
- (2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

~~(c)~~ **(d)** Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars (\$250,000,000):

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.
- (3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

~~(d)~~ **(e)** Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each

county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. The county treasurer shall distribute the money received by the county under this subsection as follows:

- (1) To each city located in the county according to the ratio the city's population bears to the total population of the county.
- (2) To each town located in the county according to the ratio the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

~~(e)~~ **(f)** Money received by a city, town, or county under subsection ~~(d)~~ **(e)** may be used only:

- (1) to reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);
- (2) for deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas;
- (3) to fund sewer and water projects, including storm water management projects; or
- (4) for police and fire pensions.

However, not more than twenty percent (20%) of the money received under subsection ~~(d)~~ **(e)** may be used for the purpose described in subdivision (4).

~~(f)~~ **(g)** **This subsection does not apply to an entity receiving money under IC 4-33-12-6(c).** Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined

under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

SECTION 56. IC 4-33-14-5, AS AMENDED BY P.L.195-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) As used in this section, "goods and services" does not include the following:

- (1) Utilities and taxes.
- (2) Financing costs, mortgages, loans, or other debt.
- (3) Medical insurance.
- (4) Fees and payments to a parent or an affiliated company of **an operating agent or** the person holding an owner's license, other than fees and payments for goods and services supplied by nonaffiliated persons through an affiliated company for the use or benefit of **the operating agent or** the person holding the owner's license.
- (5) Rents paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(b) Notwithstanding any law or rule to the contrary, the commission shall establish annual goals for **an operating agent or** a person issued an owner's license:

- (1) for the use of minority and women's business enterprises; and
- (2) derived from a statistical analysis of utilization study of licensee **and operating agent** contracts for goods and services that are required to be updated every five (5) years.

An operating agent or a person holding an owner's license shall submit annually to the commission a report that includes the total dollar value of contracts awarded for goods or services and the percentage awarded to minority and women's business enterprises.

(c) **An operating agent or** a person holding an owner's license shall make a good faith effort to meet the requirements of this section and shall annually demonstrate to the commission that an effort was made to meet the requirements.

(d) **An operating agent or** a person holding an owner's license may fulfill not more than seventy percent (70%) of an obligation under this chapter by requiring a vendor to set aside a part of a contract for minority or women's business enterprises. Upon request, the licensee **or operating agent** shall provide the commission with proof of the

amount of the set aside.

SECTION 57. IC 4-33-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. If the commission determines that the provisions of this chapter relating to expenditures and assignments to minority and women's business enterprises have not been met, ~~by a licensee~~, the commission may suspend, limit, or revoke the owner's license **or operating agent's gaming operations**, or may fine or impose appropriate conditions on the licensee **or operating agent** to ensure that the goals for expenditures and assignments to minority and women's business enterprises are met. However, if a determination is made that a person holding an owner's license **or an operating agent** has failed to demonstrate compliance with this chapter, the person has ninety (90) days from the date of the determination of noncompliance to comply.

SECTION 58. IC 4-33-14-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The commission shall supply persons holding owner's licenses **and the operating agent** with a list of the minority and women's business enterprises the commission has certified under section 7 of this chapter. The commission shall review the list annually to determine the minority and women's business enterprises that should continue to be certified. The commission shall establish a procedure for challenging the designation of a certified minority and women's business enterprise. The procedure must include proper notice and a hearing for all parties concerned.

SECTION 59. IC 4-33-18-8, AS ADDED BY P.L.192-2002(ss), SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The department shall impose an annual fee of twenty-five thousand dollars (\$25,000) upon the following:

- (1) Each licensed owner **or operating agent** operating a riverboat in Indiana.
- (2) Each permit holder (as defined in IC 4-31-2-14) operating a live pari-mutuel horse racing facility in Indiana.

SECTION 60. IC 6-1.1-1-15, AS AMENDED BY P.L.90-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. "Real property" means:

- (1) land located within this state;
- (2) a building or fixture situated on land located within this state;
- (3) an appurtenance to land located within this state;

(4) an estate in land located within this state, or an estate, right, or privilege in mines located on or minerals, including but not limited to oil or gas, located in the land, if the estate, right, or privilege is distinct from the ownership of the surface of the land; and

(5) notwithstanding IC 6-6-6-7, a riverboat:

(A) licensed under ~~the provisions of~~ IC 4-33; or

(B) operated under an operating agent contract under IC 4-33-6.5;

for which the department of local government finance shall prescribe standards to be used by township assessors.

SECTION 61. IC 7.1-3-17.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The commission may issue an excursion and adjacent landsite permit to a person who has been issued a riverboat owner's license under IC 4-33-6 **or an operating agent (as defined in IC 4-33-2-14.5)** to sell alcoholic beverages for on-premises consumption only. The permit may be a single permit even though more than one (1) area constitutes the licensed premises of the permit.

(b) A permit issued under this chapter may be used:

(1) on the riverboat; and

(2) in a restaurant owned by the person who has been issued a riverboat owner's license **or an operating agent contract (as defined in IC 4-33-2-14.6)** if the restaurant is located on property adjacent to the property used by the riverboat for docking purposes.

SECTION 62. IC 36-7-11.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 11.5. Historic Hotel Preservation

Sec. 1. (a) As used in this chapter, "commission" refers to the historic hotel preservation commission established by an interlocal agreement under section 3 of this chapter.

(b) Except as provided in section 11 of this chapter, "fund" refers to the community trust fund established by section 8 of this chapter.

(c) As used in this chapter, "historic hotel" has the meaning set forth in IC 4-33-2-11.1.

(d) As used in this chapter, "qualified historic hotel" refers to a historic hotel that has an atrium that includes a dome that is at least two hundred (200) feet in diameter.

Sec. 2. (a) This chapter applies to a town that satisfies either of the following criteria:

- (1) The town contains a qualified historic hotel.**
- (2) The town contains a historic hotel and is adjacent to another town containing a qualified historic hotel.**

(b) The towns described in subsection (a) may enter into an interlocal agreement under IC 36-1-7 to establish a historic hotel district under this chapter. The historic hotel district:

- (1) may not include any area outside the county of the towns that enter into the interlocal agreement; and**
- (2) consists solely of the real property that is:**
 - (A) owned by the historic hotels; and**
 - (B) part of the tract of land (as defined in IC 6-1.1-1-22.5) that includes the parcel or parcels of land upon which the historic hotel building is located.**

Sec. 3. (a) An ordinance establishing an interlocal agreement under section 2 of this chapter:

- (1) must provide for the establishment of a historic hotel preservation commission in the same manner as IC 36-7-11;**
- (2) shall specify which powers under IC 36-7-11 the commission may exercise in administering the historic hotel district; and**
- (3) may not conflict with a requirement of this chapter.**

If any provision in IC 36-7-11 conflicts with this chapter, the provisions of this chapter control.

(b) The ordinance must provide for the following membership on the historic hotel preservation commission:

- (1) An individual appointed by the legislative body of the county in which the towns are located.**
- (2) An individual appointed by the convention and visitor's bureau of the county in which the towns are located.**
- (3) An individual appointed by the town council of a town meeting the criteria set forth in section 2(a)(1) of this chapter.**
- (4) An individual appointed by the town council of a town meeting the criteria set forth in section 2(a)(2) of this chapter.**
- (5) An individual appointed by the Historic Landmarks**

Foundation of Indiana.

(6) The owner of a qualified historic hotel or the owner's designee.

(7) The owner of a historic hotel located in a town meeting the criteria set forth in section 2(a)(2) of this chapter or the owner's designee.

(8) A nonvoting member appointed by the governor.

(c) The members described in subsection (b)(1) through (b)(5) shall each serve for a term of three (3) years. However, the terms of the original voting members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered, as provided by the ordinance. A vacancy shall be filled for the duration of the term by the original appointing authority.

(d) The ordinance may provide qualifications for members of the commission described in subsection (b)(1) through (b)(4). In addition, the members appointed under subsection (b)(1) through (b)(4) must be residents of the county who are interested in the preservation and development of historic areas. The commission should include professionals in the tourism industry and professionals in the disciplines of architectural history, planning, and other disciplines related to historic preservation, to the extent that those professionals are available in the community. The ordinance may also provide for the appointment of advisory members that the legislative body considers appropriate.

(e) Each member of the commission must, before beginning the discharge of the duties of the member's office, do the following:

(1) Take an oath that the member will faithfully execute the duties of the member's office according to Indiana law and rules adopted under Indiana law.

(2) Provide a bond to the state that:

(A) is for twenty-five thousand dollars (\$25,000); and

(B) is, after being executed and approved, recorded in the office of the secretary of state.

(f) A member of the commission is not entitled to a salary per diem or reimbursement for traveling expenses or other expenses incurred in connection with the member's duties.

Sec. 4. The ordinance adopted under this chapter may:

(1) designate an officer or employee of a town to which this chapter applies to act as administrator;

- (2) permit the commission to appoint an administrator who shall serve without compensation except reasonable expenses incurred in the performance of the administrator's duties; or
- (3) provide that the commission act without the services of an administrator.

Sec. 5. (a) The commission shall elect from its membership a chairperson and vice chairperson, who shall serve for one (1) year and may be reelected.

(b) The commission shall adopt rules consistent with this chapter for the transaction of its business. The rules must include the time and place of regular meetings and a procedure for the calling of special meetings. Four (4) voting members constitute a quorum of the commission. No action may be taken by the commission unless a majority of the voting members appointed to the commission vote in favor of taking the action.

(c) All meetings of the commission must be open to the public, and a public record of the commission's resolutions, proceedings, and actions must be kept.

(d) If the commission has an administrator, the administrator shall act as the commission's secretary. If the commission does not have an administrator, the commission shall elect a secretary from its membership.

(e) The commission shall hold regular meetings, at least monthly, except when it has no business pending.

Sec. 6. (a) Money acquired by the commission is subject to the laws concerning the deposit and safekeeping of public money.

(b) The money of the commission and the accounts of each officer, employee, or other person entrusted by law with the raising, disposition, or expenditure of the money or part of the money are subject to examination by the state board of accounts.

Sec. 7. (a) Except as otherwise specified in this chapter, the commission has all of the powers and responsibilities of a historic preservation commission established under IC 36-7-11.

(b) The commission shall do the following:

- (1) Designate a fiscal agent who must be the fiscal officer of one (1) of the towns to which this chapter applies.
- (2) Employ professional staff to necessary assist the commission in carrying out its duties.
- (3) Engage consultants, attorneys, accountants, and other

professionals necessary to carry out the commission's duties.

(4) Jointly approve, with the Indiana gaming commission, the location and exterior design of a riverboat to be operated in the historic hotel district.

(5) Make recommendations to the Indiana gaming commission concerning the selection of an operating agent (as defined in IC 4-33-2-14.5) that the commission believes will:

(A) promote the most economic development in the area surrounding the historic hotel district; and

(B) best serve the interests of the residents of the county in which the historic hotel district is located and all other citizens of Indiana.

(6) Make recommendations to the Indiana gaming commission concerning the operation and management of the riverboat to be operated in the county.

(c) This section does not limit the powers of the Indiana gaming commission with respect to the administration and regulation of riverboat gaming under IC 4-33.

Sec. 8. (a) The community trust fund is established.

(b) The fund consists of the following:

(1) Money disbursed from the commission.

(2) Donations.

(3) Interest and dividends on assets of the fund.

(4) Money transferred to the fund from other funds.

(5) Money from any other source.

(c) The commission shall manage and develop the fund and the assets of the fund.

(d) The commission shall do the following:

(1) Establish a policy in accordance with subsection (g) for the investment of the fund's assets.

(2) Perform other tasks consistent with prudent management and development of the fund.

(e) Subject to the investment policy of the commission, the fiscal agent appointed by the commission shall administer the fund and invest the money in the fund.

(f) The expenses of administering the fund and implementing this chapter shall be paid from the fund.

(g) Money in the fund that is not currently needed to meet the obligations of the fund may be invested in the same manner as

other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 9. The commission has the sole authority to allocate money from the fund. Money allocated from the fund may be used only for the following purposes:

- (1) Infrastructure projects in the county.
- (2) Historic preservation or restoration projects in the community.
- (3) Other projects designed to enhance the historic character of the surrounding community, including projects in areas of the county that are not within the district.

Sec. 10. (a) The commission shall prepare an annual report concerning the fund and submit the report to the legislative council before October 1 of each year.

(b) The annual report must include the following:

- (1) A list of the projects completed during the preceding calendar year for which funds were distributed under section 9 of this chapter.
- (2) If applicable, evidence of compliance with the United States Secretary of the Interior's standards for historic rehabilitation.
- (3) A list of the projects related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic hotels located in the historic hotel district.
- (4) A list of the projects that may be initiated in the ensuing calendar year related to the restoration, repair, or maintenance of the exterior, interior, and landscape features of the historic hotels located in the historic hotel district.

Sec. 11. (a) As used in this section, "fund" refers to the West Baden Springs historic hotel preservation and maintenance fund established by subsection (b).

(b) The West Baden Springs historic hotel preservation and maintenance fund is established. The fund consists of the following:

- (1) Amounts deposited in the fund under IC 4-33-12-6(c) and IC 4-33-13-5(b).
- (2) Grants and gifts that the department of natural resources receives for the fund under terms, obligations, and liabilities that the department considers appropriate.
- (3) The one million dollar (\$1,000,000) initial fee paid to the

gaming commission IC 4-33-6.5.

The fund shall be administered by the department of natural resources. The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

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

(e) No money may be appropriated from the fund except as provided in this subsection. The general assembly may appropriate interest accruing to the fund to the department of natural resources only for the following purposes:

(1) To maintain the parts of a qualified historic hotel that were restored before July 1, 2003.

(2) To maintain the grounds surrounding a qualified historic hotel.

No money may be appropriated from the fund for restoration purposes if the restoration is to occur after July 1, 2003.

SECTION 63. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 4-33-4-3.6; IC 4-33-15.

SECTION 64. [EFFECTIVE JULY 1, 2003] (a) This SECTION applies to a county containing a qualified historic hotel (as defined in IC 36-7-11.5-1, as added by this act).

(b) Notwithstanding IC 4-33-6-19, if:

(1) the legislative body of the county adopts an ordinance under IC 4-33-6-18; or

(2) at least five percent (5%) of the registered voters of the county sign a petition submitted to the circuit court clerk requesting that a local public question concerning riverboat gambling be placed on the ballot;

the county election board shall place the question described in subsection (c) on the ballot in the county during a special election held in 2003 that meets the conditions set forth in subsection (d).

(c) The following is the form of the question that shall be placed on the ballot:

"Shall riverboat gambling be permitted in the county of

_____?".

(d) A special election may be held in 2003 in conjunction with municipal elections held in the county if an applicant for an operating agent contract pays in advance of the election the amount that is the difference between the cost to hold a special election and the sum of the costs to hold municipal elections in the county, as determined by the county election board.

(e) A public question under this SECTION shall be placed on the ballot in accordance with IC 3-10-9.

(f) The clerk of the circuit court of a county holding an election under this SECTION shall certify the results determined under IC 3-12-4-9 to the Indiana gaming commission and the department of state revenue. The results shall be treated as if the election had been held under IC 4-33-6-19.

(g) If a public question is placed on the ballot under this SECTION in a county and the voters of the county do not vote in favor of permitting riverboat gambling in the county, another public question under IC 4-33-6-19, as amended by this act, may not be held in the county for at least two (2) years.

(h) In a special election held under this SECTION:

(1) IC 3 applies except as otherwise provided in this SECTION; and

(2) at least as many precinct polling places that were used in the county during the most recent general election must be used for the special election.

(i) IC 4-33-10-2.5(g) applies to the special election held under this SECTION to the same extent as if the election had been held under IC 4-33-6-19.

(j) This SECTION expires January 1, 2004.

P.L.93-2003

[H.1022. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning human services and to make an appropriation.

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

SECTION 1. IC 12-13-12-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13. (a) The commission on the social status of black males special fund is established to provide money for special projects of the commission.**

(b) The fund shall be administered by the treasurer of state.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of gifts, contributions, and money donated to the commission.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(f) Interest accrues to the fund.

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

(h) Money in the fund is appropriated continuously for the purpose stated in subsection (a).

SECTION 2. IC 12-13-12-12 IS REPEALED [EFFECTIVE JUNE 30, 2003].

P.L.94-2003

[H.1034. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-4-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A senior judge:

- (1) exercises the jurisdiction granted to the court served by the senior judge;
- (2) **may serve as a domestic relations mediator, subject to the code of judicial conduct;**
- (3) serves at the pleasure of the supreme court; and
- (4) serves in accordance with rules adopted by the supreme court under IC 33-2-1-8.

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under IC 33-4-8-5. A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-4-13, in accordance with the county domestic relations alternative dispute resolution plan.

SECTION 2. IC 33-4-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 13. Alternative Dispute Resolution in Domestic Relations Cases

Sec. 1. (a) In addition to the fees required under IC 33-19-5-4, if a county meets the requirements of this chapter, the clerk of the court shall collect from the party filing a petition for legal separation, paternity, or dissolution of marriage under IC 31 an alternative dispute resolution fee of twenty dollars (\$20).

(b) Not later than thirty (30) days after the clerk collects a fee under subsection (a), the clerk shall forward to the county auditor the alternative dispute resolution fee. The county auditor shall

deposit the fee forwarded by the clerk under this section into the alternative dispute resolution fund.

Sec. 2. (a) There is established an alternative dispute resolution fund for the circuit court and an alternative dispute resolution fund for the superior court. The exclusive source of money for each fund is the alternative dispute resolution fee collected under section 1 of this chapter for the circuit or superior court, respectively.

(b) The funds shall be used to foster domestic relations alternative dispute resolution, including mediation, reconciliation, nonbinding arbitration, and parental counseling. Litigants referred by the court to services covered by the fund shall make a copayment for the services in an amount determined by the court based on the litigants' ability to pay. The fund shall be administered by the circuit or superior court that exercises jurisdiction over domestic relations and paternity cases in the county. Money in each fund at the end of a fiscal year does not revert to the county general fund but remains in the fund for the uses specified in this section.

(c) The circuit or superior court that administers the alternative dispute resolution fund shall ensure that money in the fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay, in accordance with the plan adopted by the county under section 3 of this chapter.

(d) A court may not order parties into mediation or refer parties to mediation if a party is currently charged with or has been convicted of a crime:

(1) under IC 35-42; or

(2) in another jurisdiction that is substantially similar to the elements of a crime described in IC 35-42.

Sec. 3. A county desiring to participate in the program under this chapter must:

(1) develop a plan to carry out the purposes of section 2 of this chapter that have been approved by a majority of the judges in the county exercising jurisdiction over domestic relations and paternity cases; and

(2) submit the plan to the judicial conference of Indiana.

The plan must include information concerning how the county proposes to carry out the purposes of the domestic relations alternative dispute resolution fund as set out in section 2 of this

chapter. The plan must include a method of ensuring that the money in the alternative dispute resolution fund is disbursed in a manner that primarily benefits those litigants who have the least ability to pay. The plan may include the use of senior judges as mediators in domestic relations cases as assigned by the supreme court. The judicial conference of Indiana may request additional information from the county as necessary.

Sec. 4. A county that participates in the program under this chapter shall submit a report to the judicial conference of Indiana not later than December 31 of each year, summarizing the results of the program.

P.L.95-2003

[H.1089. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-8-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. **(a) Subject to subsection (b), the board or persons having the authority to employ members of the fire or police department shall give a preference for employment according to the following priority:**

(1) A war veterans veteran who have has been honorably discharged from the United States armed forces. preference for employment if those persons apply

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) A person described in subsection (a) may not receive a preference for employment unless the person:

(1) applies; and

(2) if the applicants meet the physical and age requirements prescribed meets all employment requirements prescribed:

- (A) by law, including physical and age requirements; and**
- (B) by the fire or police department.**

SECTION 2. IC 36-8-10-10.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10.4. (a) Subject to subsection (b), the board shall give a preference for employment according to the following priority:**

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

- (A) firefighter of a unit;**
- (B) municipal police officer; or**
- (C) county police officer;**

who died in the line of duty (as defined in IC 5-10-10-2).

(b) A person described in subsection (a) may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

- (A) by law, including physical and age requirements; and**
- (B) by the department.**

SECTION 3. IC 36-8-13-3, AS AMENDED BY P.L.90-2002, SECTION 494, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:**

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from the United States armed forces.

(B) A person whose mother or father was a:

- (i) firefighter of a unit;**

(ii) municipal police officer; or

(iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have all municipal territory completely within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance

to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.

P.L.96-2003

[H.1131. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 35-47-7-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) The:**

- (1) practitioner (as defined in IC 25-1-9-2) who initially treats a person for an injury that the practitioner has identified as resulting from fireworks or pyrotechnics; or**
- (2) administrator or the administrator's designee of the hospital or outpatient surgical center if a person is initially treated in a hospital or an outpatient surgical center for an injury that the administrator has identified as resulting from fireworks or pyrotechnics;**

shall report the case to the state health data center of the state department of health not more than five (5) business days after the time the person is treated. The report may be made in writing on a form prescribed by the state department of health.

(b) A person submitting a report under subsection (a) shall make a reasonable attempt to include the following information:

- (1) The name, address, and age of the injured person.**
- (2) The date and time of the injury and the location where the injury occurred.**
- (3) If the injured person was less than eighteen (18) years of age, whether an adult was present when the injury occurred.**
- (4) Whether the injured person consumed alcoholic beverages within three (3) hours before the injury occurred.**
- (5) A description of the firework or pyrotechnic that caused the injury.**
- (6) The nature and extent of the injury.**

(c) A report made under this section is considered confidential for purposes of IC 5-14-3-4(a)(1).

(d) The state department of health shall compile the data collected under this section and submit a report of the compiled data to the legislative council not later than December 31, 2004.

(e) This section expires January 1, 2005.

SECTION 2. An emergency is declared for this act.

P.L.97-2003

[H.1212. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

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

SECTION 1. IC 24-4-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 13. Used Jewelry Sales

Sec. 1. For purposes of this chapter:

- (1) "jewelry" means personal ornaments made of precious metals that may or may not contain precious, semiprecious, or imitation stones;**
- (2) "used jewelry" means jewelry previously purchased at retail, acquired by gift, or obtained in some other fashion by a consumer that is later sold to a jeweler by a consumer or a person who has acquired jewelry from a consumer;**
- (3) "jeweler" means a person engaged in the purchase and resale of jewelry;**
- (4) "person" means an individual, a firm, an association, a limited liability company, a partnership, a joint stock association, a trust, or a corporation; and**
- (5) "seller" means a consumer or other person who sells used jewelry to a jeweler.**

Sec. 2. A jeweler who purchases or resells used jewelry must comply with this chapter. However, this chapter does not apply to

jewelry used by a customer as a trade-in toward the purchase of a new piece of jewelry.

Sec. 3. (a) A jeweler shall keep and use in the jeweler's business the books, accounts, and records necessary to determine whether the jeweler is complying with this chapter.

(b) A jeweler shall preserve the books, accounts, and records, including cards used in the card system, for at least two (2) years after making the final entry on any purchase recorded.

(c) The jeweler shall keep the books and records so that the business of purchasing for resale of used jewelry may be readily separated and distinguished from any other business in which the jeweler is engaged.

(d) If a jeweler, in the conduct of the business, purchases an article of used jewelry from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must list the following separate items:

(1) Date of sale.

(2) Amount of consideration.

(3) Name of jeweler.

(4) Description of each article of used jewelry sold. However, if multiple articles of used jewelry of a similar nature are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any unique identifying marks, numbers, names, letters, or special features.

(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification and the identification number present on the government issued identification.

(e) The original copy of the bill of sale shall be retained by the jeweler. The second copy shall be delivered to the seller by the jeweler at the time of sale. The heading on all bill of sale forms must be in boldface type.

Sec. 4. (a) The jeweler shall make the records and information

under section 3 of this chapter available for examination upon the request of a law enforcement agency (as defined in IC 5-2-5-1).

(b) The law enforcement agency under subsection (a) shall determine if:

- (1) the records are sufficient; and
- (2) the jeweler has made the information reasonably available.

Sec. 5. A jeweler may not purchase used jewelry:

- (1) from an individual less than eighteen (18) years of age; or
- (2) that the jeweler believes or should have reason to believe is stolen property acquired as a result of a crime.

Sec. 6. A person who violates this chapter commits a Class A misdemeanor.

Sec. 7. (a) Records and information generated by a jeweler in the course of business are confidential under IC 5-14-3-4.

(b) A law enforcement officer (as defined in IC 3-6-6-36(a)) may obtain or receive records and information described in subsection (a) relating to the purchase of used jewelry for use in investigating crime.

(c) Law enforcement officials may disclose the name and address of the jeweler to an adverse claimant in the case of a dispute over ownership of property in possession of the jeweler.

P.L.98-2003

[H.1260. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-38-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **Except as provided in section 1.5 of this chapter**, after a verdict, finding, or plea of guilty, if a new trial is not granted, the court shall enter a judgment

of conviction.

(b) When the court pronounces the sentence, the court shall advise the person that the person is sentenced for not less than the earliest release date and for not more than the maximum possible release date.

SECTION 2. IC 35-38-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. (a) A court may enter judgment of conviction as a Class D felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor within three (3) years if the person fulfills certain conditions. A court may enter a judgment of conviction as a Class D felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor only if the person pleads guilty to a Class D felony that qualifies for consideration as a Class A misdemeanor under IC 35-50-2-7, and the following conditions are met:**

(1) The prosecuting attorney consents.

(2) The person agrees to the conditions set by the court.

(b) For a judgment of conviction to be entered under subsection (a), the court, the prosecuting attorney, and the person must all agree to the conditions set by the court under subsection (a).

(c) The court is not required to convert a judgment of conviction entered as a Class D felony to a Class A misdemeanor if, after a hearing, the court finds:

(1) the person has violated a condition set by the court under subsection (a); or

(2) the period that the conditions set by the court under subsection (a) are in effect expires before the person successfully completes each condition.

However, the court may not convert a judgment of conviction entered as a Class D felony to a Class A misdemeanor if the person commits a new offense before the conditions set by the court under subsection (a) expire.

(d) The court shall enter judgment of conviction as a Class A misdemeanor if the person fulfills the conditions set by the court under subsection (a).

(e) The entry of a judgment of conviction under this section does not affect the application of any statute requiring the suspension of a person's driving privileges.

(f) This section may not be construed to diminish or alter the rights of a victim (as defined in IC 35-40-4-8) in a sentencing proceeding under this chapter.

SECTION 3. IC 35-50-2-7, AS AMENDED BY P.L.188-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who commits a Class D felony shall be imprisoned for a fixed term of one and one-half (1 1/2) years, with not more than one and one-half (1 1/2) years added for aggravating circumstances or not more than one (1) year subtracted for mitigating circumstances. In addition, he may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

(1) the court finds that:

(A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and

(B) the prior felony was committed less than three (3) years before the second felony was committed;

(2) the offense is domestic battery as a Class D felony under IC 35-42-2-1.3; **or**

(3) the offense is ~~auto theft (IC 35-43-4-2.5)~~; **or possession of child pornography (IC 35-42-4-4(c)).**

~~(4) the offense is receiving stolen auto parts (IC 35-43-4-2.5).~~

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

P.L.99-2003

[H.1276. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section applies to the state and its political subdivisions. However, this section does not apply to the following:

- (1) The state universities.
- (2) Ivy Tech State College.
- (3) A municipality (as defined in IC 36-1-2-11).
- (4) A county.
- (5) An airport authority operating in a consolidated city.
- (6) A capital improvements board of managers operating in a consolidated city.
- (7) A board of directors of a public transportation corporation operating in a consolidated city.
- (8) A municipal corporation organized under IC 16-22-8-6.
- (9) A public library.
- (10) A library services authority.
- (11) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.
- (12) A school corporation (as defined in IC 36-1-2-17).
- (13) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
- (14) A municipally owned utility (as defined in IC 8-1-2-1).
- (15) A board of an airport authority under IC 8-22-3.
- (16) A conservancy district.
- (17) A board of aviation commissioners under IC 8-22-2.
- (18) A public transportation corporation under IC 36-9-4.
- (19) A commuter transportation district under IC 8-5-15.
- (20) A solid waste management district established under

IC 13-21 or IC 13-9.5 (before its repeal).

(21) A county building authority under IC 36-9-13.

(22) A soil and water conservation district established under IC 14-32.

(b) No warrant or check shall be drawn by a disbursing officer in payment of any claim unless the same has been fully itemized and its correctness properly certified to by the claimant or some authorized person in the claimant's behalf, and filed and allowed as provided by law.

(c) The certificate provided for in subsection (b) is not required for:

- (1) claims rendered by a public utility for electric, gas, steam, water, or telephone services, the charges for which are regulated by a governmental body;
- (2) a warrant issued by the auditor of state under IC 4-13-2-7(b);
- (3) a check issued by a special disbursing officer under IC 4-13-2-20(g); or
- (4) a payment of fees under IC 36-7-11.2-49(b) or IC 36-7-11.3-43(b).

(d) The disbursing officer shall issue checks or warrants for all claims which meet all of the requirements of this section. The disbursing officer does not incur personal liability for disbursements:

- (1) processed in accordance with this section; and
- (2) for which funds are appropriated and available.

(e) The certificate provided for in subsection (b) must be in the following form:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

SECTION 2. IC 5-11-10-1.6, AS AMENDED BY P.L.68-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

- (1) A municipality (as defined in IC 36-1-2-11).
- (2) A school corporation (as defined in IC 36-1-2-17), including a school extracurricular account.
- (3) A county.
- (4) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

- (5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.
- (6) A board of an airport authority under IC 8-22-3.
- (7) A board of aviation commissioners under IC 8-22-2.
- (8) A conservancy district.
- (9) A public transportation corporation under IC 36-9-4.
- (10) A commuter transportation district under IC 8-5-15.
- (11) The state.
- (12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
- (13) A levee authority established under IC 14-27-6.
- (14) A county building authority under IC 36-9-13.**
- (15) A soil and water conservation district established under IC 14-32.**

(b) As used in this section, "claim" means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-10.1-25-3.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

- (1) processed in accordance with this section; and
- (2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

P.L.100-2003

[H.1353. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-2-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to IC 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

- (1) the county executive proclaims the urgent necessity; and
- (2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) In addition to the other requirements of this section, an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 is considered adopted only if it is:

- (1) approved by signature of a majority of the county executive;
- (2) neither approved nor vetoed by a majority of the executive, within ten (10) days after passage by the legislative body; or
- (3) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 has been signed by the presiding

officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

- (1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or
- (2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

SECTION 2. IC 36-4-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) either approved by the city executive or passed over his veto by the legislative body, under section 16 of this chapter.

If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under subsection (c); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places

in each of the districts from which members are elected to the legislative body.

(c) **Except as provided in subsection (e)**, if a city publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

(d) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(e) An ordinance increasing a building permit fee on new development must:

- (1) be published:**
 - (A) one (1) time in accordance with IC 5-3-1; and**
 - (B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and**
- (2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).**

SECTION 3. IC 36-5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An ordinance, order, or resolution passed by the legislative body is considered adopted when it is signed by the executive. If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under IC 36-1-5; or
- (2) it declares an emergency requiring its immediate effectiveness and is posted in:

- (A) one (1) public place in each district in the town; or
- (B) a number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts under section 4.1 of this chapter.

(c) This section does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(d) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

P.L.101-2003

[H.1492. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-26-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) At any time after the creation of a district, the district, after motion by the district's board, may file a petition with the department requesting the approval of the department permitting the district to:

(1) increase or add to the district's purposes or modify the district plan approved by the department; **or**

(2) abandon or surrender all or part of a purpose or plan approved by the department; **or**

(3) subject to IC 13-26-4-1, increase the number of persons

serving on the board of trustees.

(b) The department may:

- (1) approve;
- (2) modify and approve; or
- (3) reject;

a request received under this section.

SECTION 2. IC 13-26-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The board of trustees of a district is the governing body of the district. A board may consist of:

- (1) three (3);
- (2) five (5);
- (3) seven (7); ~~or~~
- (4) nine (9);
- (5) eleven (11); or**
- (6) thirteen (13);**

trustees.

SECTION 3. IC 13-26-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a)** If:

- (1) a district will include territory in more than one (1) county;
- (2) a county executive has filed a petition for a district including territory owned, leased, or controlled by the department of natural resources; or
- (3) the department of natural resources has filed a petition;

the order establishing the district may provide that the governor appoints any number of trustees, but less than one-half (1/2) of the total.

(b) If a district contains or a proposed district will contain a state correctional facility, the department, when:

- (1) issuing an order establishing the district under IC 13-26-2-10; or**
- (2) approving or modifying a petition filed by the district's board of trustees under IC 13-26-1-2;**

may allow for the appointment of one (1) member of the board of trustees of the district by the commissioner of the department of correction.

P.L.102-2003

[H.1571. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-4-13-3, AS ADDED BY P.L.175-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "farmer" refers to a person who is engaged in commercial farming and who plants seed in Indiana under a seed contract for purposes of growing a commercial **grain** crop.

SECTION 2. IC 15-4-13-11, AS ADDED BY P.L.175-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) As used in this section, "commissioner" refers to the state seed commissioner designated under IC 15-4-1-2.

(b) A seed contract may not give or be interpreted to give a seed supplier or an agent of a seed supplier the right to enter real property owned or occupied by the farmer to acquire samples of the crop grown from the seed or any other plant growing on the real property unless all of the following apply:

(1) The seed supplier gives written notice to the farmer and the commissioner of the seed supplier's intent to enter the real property. The notice must be given not later than five (5) business days before the day the seed supplier or the seed supplier's agent enters the real property. The notice must include the following information:

(A) The date and time of the entry upon the land.

(B) The purpose for the entry upon the land.

(2) The seed supplier must permit the farmer, the commissioner, or the agents of the farmer or the commissioner to accompany the seed supplier or the seed supplier's agent while samples are taken.

(3) The seed supplier must permit the farmer, the commissioner, or the agents of the farmer or the commissioner to take matching

samples or receive split samples of any samples taken by the seed supplier.

(c) The seed supplier must provide reasonable cooperation to the farmer, the commissioner, or the agents of the farmer or the commissioner during the course of activities described in subsection ~~(a)(2)~~ **(b)(2)** and ~~(a)(3)~~ **(b)(3)**.

(d) If the commissioner or an agent of the commissioner accompanies the seed supplier on the real property to take samples under this section, the seed supplier and the farmer shall each pay fifty percent (50%) of the reasonable costs incurred by the commissioner or the commissioner's agent, as determined by the commissioner, in connection with such activities.

(e) In an action on the seed contract between the seed supplier and the farmer, the prevailing party may recover the costs that the prevailing party paid under subsection (d) in addition to any other damages to which the prevailing party is entitled.

(f) A seed supplier may obtain an order from a court with jurisdiction authorizing the seed supplier or the seed supplier's agent to enter real estate owned or occupied by a farmer where seed that is the subject of a seed contract is growing. If the court issues such an order, the order ~~may~~ **must** require that if any samples are taken, matching or split samples must be taken by a person who is independent from the seed supplier.

(g) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 3. IC 15-4-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 14. Seed Contracts

Sec. 1. (a) Except as provided in section 2 of this chapter, this chapter applies to a seed contract for seed that is planted in Indiana.

(b) Other applicable Indiana law not in conflict with this chapter applies to a seed contract.

Sec. 2. This chapter does not apply to either of the following:

(1) A seed contract entered into before January 1, 2004.

(2) A production contract.

Sec. 3. The definitions set forth in IC 15-4-13 apply throughout

this chapter.

Sec. 4. (a) The provisions of this chapter are considered to be a part of every seed contract.

(b) A seed contract is not required to contain or restate any provision of this chapter.

(c) A bag or other container used by the seed supplier to deliver the seed to the farmer is not required to bear a label or any other writing containing or restating any provision of this chapter. A provision found on a label or any other writing on a seed bag or container inconsistent with this chapter is not enforceable against a farmer.

(d) The failure of a seed supplier to state any provision of this chapter in a seed contract, on a label, or in any other writing on a seed bag or container is not considered a violation of this chapter.

Sec. 5. A provision of a seed contract in conflict with this chapter is void.

Sec. 6. A provision of a seed contract that purports to waive a provision of this chapter is void.

Sec. 7. A seed contract is governed by the laws of Indiana.

Sec. 8. If a seed contract purports to choose the laws of a jurisdiction other than Indiana to govern the contract, the choice is not enforceable.

Sec. 9. (a) This section applies only if a seed contract purports to choose a forum that would not otherwise have jurisdiction over the farmer.

(b) The forum selection provision must be printed conspicuously in immediate proximity to the space reserved for the signature of the farmer. For purposes of this subsection, a forum selection provision is printed conspicuously if any of the following apply:

(1) The provision is printed all in capitals, when other text is printed in capitals and lower case.

(2) The provision is printed in a larger, boldface, or other typeface different from other text.

(3) The provision is printed in a color that contrasts with other text.

(4) The provision is underlined.

(5) The provision is printed in any other way that highlights the provision in relation to the other text of the contract.

(c) A forum selection provision that violates this section is not

enforceable.

Sec. 10. Communications:

(1) between a farmer and:

- (A) a member of the farmer's immediate family;**
- (B) an attorney;**
- (C) an accountant;**
- (D) a professional advisor; or**
- (E) a partner, an associate, or another individual engaged with the farmer in the farming enterprise for which the seed was purchased;**

(2) regarding the terms of a seed contract; and

(3) made for the purpose of giving advice to the farmer;

are not a breach of a confidentiality provision in a seed contract.

Sec. 11. If:

(1) a product in which the seed supplier has rights is possessed by the farmer or found on real property owned or occupied by the farmer; and

(2) the presence of the product is de minimus or not intended by the farmer;

the farmer is not liable for breach of the seed contract.

SECTION 4. IC 15-4-13-10 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 5. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "seed contract" has the meaning set forth in IC 15-4-13-6.

(b) IC 15-4-13, as amended by this act, and IC 15-4-14, as added by this act, apply only to seed contracts entered into after June 30, 2003.

(c) This SECTION expires July 1, 2004.

P.L.103-2003
[H.1623. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning agriculture.

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

SECTION 1. IC 15-1.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The commission consists of ~~seven (7)~~ **eight (8)** members as follows:

- (1) Five (5) members appointed by the governor.
- (2) The presiding officer of the board.
- (3) The commissioner of agriculture or the commissioner's designee.
- (4) The presiding officer of the board of trustees of the center for agricultural science and heritage or the presiding officer's designee who must be selected from the membership of the board of trustees of the center for agricultural science and heritage.**

(b) Not more than one (1) member appointed under subsection (a)(1) may reside in the same district. Each district is not required to have a member of the commission represent it.

(c) Not more than three (3) members appointed under subsection (a)(1) may be affiliated with the same political party.

(d) Two (2) members appointed under subsection (a)(1) must have a recognized interest in agriculture or agribusiness.

SECTION 2. IC 15-1.5-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13. A majority of the members of the commission constitutes a quorum for the transaction of business.**

SECTION 3. IC 15-1.5-10.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The barn is governed by a board of trustees. The trustees include the following ~~twenty-five (25)~~ **seventeen (17)** individuals:

- (1) The governor or the governor's designee.
- (2) The commissioner of agriculture or the commissioner's

designee.

(3) The **state** superintendent of public instruction or the **state** superintendent's designee.

(4) The dean of agriculture of Purdue University or the dean's designee.

(5) The president of the Purdue University Agriculture Alumni Association or the president's designee.

(6) The state veterinarian or the state veterinarian's designee.

(7) The presiding officer of the state fair commission or the presiding officer's designee selected from the membership of the state fair commission.

(8) The presiding officer of the state fair board or the presiding officer's designee selected from the membership of the state fair board.

(9) One (1) member appointed by the largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(10) One (1) member appointed by the second largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(11) ~~Fifteen (15)~~ **Seven (7)** members appointed by the governor.

(b) Of the members appointed under subsection (a)(11), not more than ~~eight (8)~~ **four (4)** may be affiliated with the same political party.

(c) Each member appointed under subsection (a)(11) must have a recognized interest in the barn.

SECTION 4. IC 15-1.5-10.5-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.5. A majority of the trustees constitutes a quorum for the transaction of business.**

SECTION 5. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 15-1.5-10.5-4(a)(11), as amended by this act, an individual serving on the board of trustees of the center for agricultural science and heritage on July 1, 2003, may serve the remainder of the individual's term. However, the number of positions on the board that the governor may fill under IC 15-1.5-10.5-4(a)(11) upon the expiration of the members' terms is set forth in the**

following table:

YEAR	POSITIONS FILLED
2003	2
2004	2
2005	3

(b) This SECTION expires January 1, 2006.

P.L.104-2003

[H.1704. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-12-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 9. Reporting of Blind or Visually Impaired Persons

Sec. 1. Each:

- (1) physician holding an unlimited license to practice medicine; or
- (2) optometrist licensed under IC 25-24-1;

shall report in writing, on forms prescribed by the office of the secretary, not more than ten (10) days after diagnosis, to the office of the secretary, the name, age, and address of each person diagnosed by the physician or optometrist as being blind (as defined under 42 U.S.C. 416(i)) or having visual impairment of a degree to interfere with the person's functioning in school, employment, or other activities of daily living.

Sec. 2. The office of the secretary shall, on the first business day of each month, send a copy of a report filed under section 1 of this chapter to the following persons:

- (1) For persons less than seventeen (17) years of age, to the following:
 - (A) The Indiana School for the Blind.

(B) The division of disability, aging, and rehabilitative services.

(C) The division of special education of the department of education.

(2) For persons at least seventeen (17) years of age, to the following:

(A) The division of disability, aging, and rehabilitative services.

(B) On request, organizations serving the blind and the state department of health.

Sec. 3. All reports filed under this chapter shall be kept confidential and used solely to determine the eligibility of the individuals for assistance or rehabilitation.

Sec. 4. (a) On receiving a report under this chapter, the division of disability, aging, and rehabilitative services shall provide information to the visually impaired individual designated in the report concerning available state and local services.

(b) For a visually impaired individual less than seventeen (17) years of age, the Indiana School for the Blind:

(1) has the primary duty of initially contacting the visually impaired individual or the individual's family; and

(2) shall notify the division of disability, aging, and rehabilitative services and the department of education of the school's findings.

Sec. 5. This chapter does not prohibit a physician or an optometrist from making a referral to a local school corporation, an agency, the Indiana School for the Blind, or an agency or organization working with the blind or visually impaired.

Sec. 6. The office of the secretary shall prepare and provide educational materials for:

(1) licensed optometrists;

(2) licensed physicians;

(3) the Indiana University School of Medicine; and

(4) the Indiana University School of Optometry;

to inform individuals and schools of the reporting requirements and services available for an individual who is blind or visually impaired.

Sec. 7. A person required to make a report of blindness under this chapter who fails to do so commits a Class C infraction.

SECTION 2. IC 16-18-2-264 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 264. ~~(a)~~ "Operator", for purposes of IC 16-41-31, has the meaning set forth in IC 16-41-31-4.

~~(b)~~ "Operator", for purposes of IC 16-42-7, has the meaning set forth in IC 16-42-7-1.

SECTION 3. IC 16-19-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a)** The state department may make sanitary inspections and surveys throughout Indiana and of all public buildings and institutions.

(b) The state department may make indoor air quality inspections of all public buildings and institutions that are occupied by an agency of state or local government.

(c) After due notice is given, the state department may enter upon and inspect private property in regard to the presence of cases of infectious and contagious diseases and the possible cause and source of diseases.

SECTION 4. IC 16-19-5-1, AS AMENDED BY P.L.80-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** In addition to other fees provided by this title, the state department may establish and collect reasonable fees for specific services described under subsection **(b)** provided by the state department. The fees may not exceed the cost of services provided.

(b) Fees may be charged for the following services:

(1) Plan reviews conducted under rules adopted under IC 16-19-3-4(b)(13).

~~(2) Licensing or inspection of facilities under IC 16-42-7.~~

~~(3) (2)~~ Licensing of agricultural labor camps under IC 16-41-26.

~~(4) (3)~~ Services provided to persons other than governmental entities under rules adopted under IC 16-19-3-5.

~~(5) (4)~~ Services provided by the state health laboratory under IC 16-19-8.

~~(6) (5)~~ Services provided under IC 16-19-11-3.

~~(7) (6)~~ Services provided under IC 24-6 by the state metrology laboratory.

SECTION 5. IC 16-40-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a) Except as provided in subsection (b), each:**

(1) physician;

- (2) superintendent of a hospital;
- (3) director of a local health department;
- (4) director of a county office of family and children;
- (5) director of the division of disability, aging, and rehabilitative services;
- (6) superintendent of a state institution serving the handicapped;
- or
- (7) superintendent of a school corporation;

who diagnoses, treats, provides, or cares for a person with a disability shall report the disabling condition to the state department within sixty (60) days.

(b) Each:

(1) physician holding an unlimited license to practice medicine; or

(2) optometrist licensed under IC 25-24-1;

shall file a report regarding a blind or visually impaired person with the office of the secretary of family and social services in accordance with IC 12-12-9.

SECTION 6. IC 16-41-35-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) The state department shall adopt rules under IC 4-22-2 to regulate who may operate a radiation machine and what level of training and experience the operator must have. Rules adopted by the state department must exempt from testing to establish initial qualifications an individual who:

(1) holds a valid certificate issued by; and

(2) is currently registered with;

the American Registry of Radiologic Technologists.

(b) The state department may by rule exempt an individual who:

(1) is currently licensed in another state as a radiologic technologist; or

(2) performs the function of a radiologic technologist in another state that does not require the licensure of a radiologic technologist;

from testing to establish initial qualifications.

(c) The state department shall issue a license to an individual meeting the requirements of the rules adopted under subsection (a) for a radiologic technologist upon the payment to the state department of

a thirty dollar (\$30) fee and the cost of testing to establish initial qualifications. The license is valid for twenty-four (24) months. The state department shall establish a fee for the renewal or duplication of a license issued under this section not to exceed thirty dollars (\$30).

(~~c~~) (d) Every owner of a radiation machine, including an industrial radiation machine, shall have the machine inspected in accordance with procedures and standards established by the state department. The state department shall adopt rules under IC 4-22-2 establishing the procedures and standards applicable to inspections of radiation machines.

SECTION 7. IC 16-42-5-24, AS AMENDED BY P.L.266-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) For the purpose of enforcing IC 16-41-20, IC 16-41-21, IC 16-41-23, IC 16-41-24, IC 16-41-34, **or** IC 16-42-5, **or** ~~IC 16-42-7~~, the local health officers are food environmental health specialists subordinate to the state department.

(b) The state department shall provide to the local health officers who are food environmental health specialists guidelines concerning the interpretation of the state department's rules concerning food handling and food establishments so that enforcement of the state laws and rules is uniform throughout the state.

SECTION 8. IC 16-42-5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. If, upon inspection of a food establishment, a local health officer or food environmental health specialist finds an employer, operator, or other employee to be violating IC 16-41-20, IC 16-41-21, IC 16-41-23, IC 16-41-24, IC 16-41-34, **or** IC 16-42-5, **or** ~~IC 16-42-7~~, the local health officer or food environmental health specialist shall do at least one (1) of the following:

(1) Furnish evidence of the violation to the prosecuting attorney of the county or circuit in which the violation occurs. The prosecuting attorney shall prosecute all persons violating IC 16-41-20, IC 16-41-21, IC 16-41-23, IC 16-41-24, IC 16-41-34, **or** IC 16-42-5, **or** ~~IC 16-42-7~~, or rules adopted under those provisions.

(2) Report the condition and violation to the state health commissioner or the commissioner's legally authorized agent. The state health commissioner may issue an order to the person in

authority at the offending establishment to abate the condition or violation within five (5) days or within another reasonable time required to abate the condition or violation. The proceedings to abate must be in accordance with IC 4-21.5.

SECTION 9. IC 16-42-5.2-3, AS ADDED BY P.L.266-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. This chapter does not apply to the following:

- (1) Hospitals licensed under IC 16-21.
- (2) Health facilities licensed under IC 16-28.
- (3) Housing with services establishments that are required to file disclosure statements under IC 12-15.
- (4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.
- (5) Community mental health centers (as defined in IC 12-7-2-38).**
- (6) Private mental health institutions licensed under IC 12-25.**

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 16-40-2; IC 16-41-21-7; IC 16-41-21-16; IC 16-41-21-17; IC 16-42-7; IC 24-6-4; IC 24-6-5-1; IC 24-6-5-2; IC 24-6-5-3; IC 24-6-5-4; IC 24-6-5-5; IC 24-6-5-6; IC 24-6-5-7; IC 24-6-5-8; IC 24-6-5-9; IC 24-6-5-10; IC 24-6-5-14.

P.L.105-2003

[H.1728. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-3-1-3.5, AS AMENDED BY P.L.192-2002(ss), SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3.5. When used in this article, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as

follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).

(4) Subtract one thousand dollars (\$1,000) for:

(A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;

(B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and

(C) the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) one thousand five hundred dollars (\$1,500) for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; and

(B) five hundred dollars (\$500) for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars (\$40,000).

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars (\$2,000).

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Section 111 of the Internal Revenue Code as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section 221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of

a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(18) Subtract an amount equal to the amount of a September 11 terrorist attack settlement payment included in the individual's federal adjusted gross income.

(19) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States.

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(c) In the case of life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) that are organized under Indiana law, the same as "life insurance company taxable income" (as defined in Section 801 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(d) In the case of insurance companies subject to tax under Section 831 of the Internal Revenue Code and organized under Indiana law, the same as "taxable income" (as defined in Section 832 of the Internal Revenue Code), adjusted as follows:

(1) Subtract income that is exempt from taxation under this article by the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction allowed or allowable

under Section 170 of the Internal Revenue Code.

(3) Add an amount equal to a deduction allowed or allowable under Section 805 or Section 831(c) of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state.

(4) Subtract an amount equal to the amount included in the company's taxable income under Section 78 of the Internal Revenue Code.

(5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(e) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) ~~reduced by:~~ **adjusted as follows:**

(1) **Subtract** income that is exempt from taxation under this article by the Constitution and statutes of the United States. ~~and~~

(2) **Subtract** an amount equal to the amount of a September 11 terrorist attack settlement payment included in the federal adjusted gross income of the estate of a victim of the September 11 terrorist attack or a trust to the extent the trust benefits a victim of the September 11 terrorist attack.

(3) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

SECTION 2. IC 6-3-1-11, AS AMENDED BY P.L.192-2002(ss), SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the

United States as amended and in effect on January 1, ~~2002~~ **2003**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~2002~~ **2003**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~2002~~ **2003**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~2002~~ **2003**, that is effective for any taxable year that began before January 1, ~~2002~~ **2003**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 3. IC 6-3-1-33 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 33. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal adjusted gross income or federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed**

under Section 168(k) of the Internal Revenue Code.

SECTION 4. IC 6-5.5-1-2, AS AMENDED BY P.L.273-1999, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 2. (a) Except as provided in subsections (b) through (d), "adjusted gross income" means taxable income as defined in Section 63 of the Internal Revenue Code, adjusted as follows:

(1) Add the following amounts:

(A) An amount equal to a deduction allowed or allowable under Section 166, Section 585, or Section 593 of the Internal Revenue Code.

(B) An amount equal to a deduction allowed or allowable under Section 170 of the Internal Revenue Code.

(C) An amount equal to a deduction or deductions allowed or allowable under Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by a state of the United States or levied at the local level by any subdivision of a state of the United States.

(D) The amount of interest excluded under Section 103 of the Internal Revenue Code or under any other federal law, minus the associated expenses disallowed in the computation of taxable income under Section 265 of the Internal Revenue Code.

(E) An amount equal to the deduction allowed under Section 172 or 1212 of the Internal Revenue Code for net operating losses or net capital losses.

(F) For a taxpayer that is not a large bank (as defined in Section 585(c)(2) of the Internal Revenue Code), an amount equal to the recovery of a debt, or part of a debt, that becomes worthless to the extent a deduction was allowed from gross income in a prior taxable year under Section 166(a) of the Internal Revenue Code.

(G) Add the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii)

of the Internal Revenue Code to apply bonus depreciation to the property in the year that it was placed in service.

(2) Subtract the following amounts:

(A) Income that the United States Constitution or any statute of the United States prohibits from being used to measure the tax imposed by this chapter.

(B) Income that is derived from sources outside the United States, as defined by the Internal Revenue Code.

(C) An amount equal to a debt or part of a debt that becomes worthless, as permitted under Section 166(a) of the Internal Revenue Code.

(D) An amount equal to any bad debt reserves that are included in federal income because of accounting method changes required by Section 585(c)(3)(A) or Section 593 of the Internal Revenue Code.

(E) Subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k)(2)(C)(iii) of the Internal Revenue Code to apply bonus depreciation.

(b) In the case of a credit union, "adjusted gross income" for a taxable year means the total transfers to undivided earnings minus dividends for that taxable year after statutory reserves are set aside under IC 28-7-1-24.

(c) In the case of an investment company, "adjusted gross income" means the company's federal taxable income multiplied by the quotient of:

(1) the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of Indiana; divided by

(2) the total amount of gross payments collected during the taxable year by the company from the business upon investment contracts issued by the company and held by persons residing within Indiana and elsewhere.

(d) As used in subsection (c), "investment company" means a

person, copartnership, association, limited liability company, or corporation, whether domestic or foreign, that:

- (1) is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and
- (2) solicits or receives a payment to be made to itself and issues in exchange for the payment:
 - (A) a so-called bond;
 - (B) a share;
 - (C) a coupon;
 - (D) a certificate of membership;
 - (E) an agreement;
 - (F) a pretended agreement; or
 - (G) other evidences of obligation;

entitling the holder to anything of value at some future date, if the gross payments received by the company during the taxable year on outstanding investment contracts, plus interest and dividends earned on those contracts (by prorating the interest and dividends earned on investment contracts by the same proportion that certificate reserves (as defined by the Investment Company Act of 1940) is to the company's total assets) is at least fifty percent (50%) of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year. The term "investment contract" means an instrument listed in clauses (A) through (G).

SECTION 5. IC 6-5.5-1-20 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 20. As used in this article, "bonus depreciation" means an amount equal to that part of any depreciation allowance allowed in computing the taxpayer's federal taxable income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code.**

SECTION 6. [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]

(a) As used in this SECTION, "Internal Revenue Code" has the meaning set forth in IC 6-3-1-11, as amended by this act.

(b) IC 6-3-1-11, as amended by this act, does not authorize a

taxpayer, in the determination under:

(1) IC 6-3-1-3.5; or

(2) IC 6-5.5-1-2;

of adjusted gross income for a taxable year that began before January 1, 2003, to deduct any part of a depreciation allowance allowed in computing the taxpayer's federal adjusted gross income that is attributable to the additional first-year special depreciation allowance (bonus depreciation) for qualified property allowed under Section 168(k) of the Internal Revenue Code for that taxable year.

(c) For a taxable year beginning in 2002 or 2003, an individual whose determination under IC 6-3-1-3.5 of adjusted gross income for the taxable year includes the deduction under Section 62(a)(2)(D) of the Internal Revenue Code is treated as having complied with IC 6-3.

(d) Not later than August 1, 2003, the department of state revenue shall issue a commissioner's directive or other written policy statement explaining how this SECTION and the amendments made by this act to IC 6-3-1-3.5 and IC 6-5.5-1-2 must be implemented by a taxpayer. The policy statement must be published in the Indiana Register.

SECTION 7. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] IC 6-3-1-3.5, IC 6-3-1-11, and IC 6-5.5-1-2, all as amended by this act, apply only to taxable years beginning after December 31, 2002.

SECTION 8. An emergency is declared for this act.

P.L.106-2003

[H.1748. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-96 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 96. (a) "Manufactured

home" means, **except as provided in subsection (b)**, a structure that:

- (1) is assembled in a factory;
- (2) bears a seal certifying that it was built in compliance with the federal manufactured housing construction and safety standards law (42 U.S.C. 5401 et seq.);
- (3) is designed to be transported from the factory to another site in one (1) or more units;
- (4) is suitable for use as a dwelling in any season; and
- (5) is more than thirty-five (35) feet long.

(b) "Manufactured home", for purposes of IC 9-17-6, means a structure having the meaning set forth in the federal manufactured Housing Construction and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).

SECTION 2. IC 9-17-6-15.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15.1. (a) A person who holds a certificate of title or a certificate of origin for a manufactured home that is attached to real estate by a permanent foundation may apply for an affidavit of transfer to real estate with the bureau.**

(b) An application for an affidavit of transfer to real estate must contain the following:

- (1) A full description of the manufactured home, including the legal description of the real estate to which the manufactured home is attached.**
- (2) The:**
 - (A) certificate of title for the manufactured home, including a notation of any lien or encumbrance on the manufactured home; or**
 - (B) manufacturer's certificate of origin for the manufactured home, if a certificate of title has not been issued for the manufactured home, along with:**
 - (i) an application for a certificate of title under section 2 of this chapter; and**
 - (ii) any appropriate fee under IC 9-29-4 and any appropriate service charge under IC 9-29-3.**
- (3) An attestation by the owner of the manufactured home that the manufactured home has been permanently attached to the real estate upon which it is located.**

(4) The following printed statement:

"I swear or affirm that the information that I have entered on this form is correct. I understand that making a false statement on this form may constitute the crime of perjury."

(5) The signature of the person applying for the affidavit directly under the statement set forth in subdivision (4).**(6) Any other information required by the bureau.****(c) The bureau shall certify information regarding the title of the manufactured home on the affidavit of transfer to real estate.**

SECTION 3. IC 9-17-6-15.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15.3. Upon receipt from the person filing the affidavit of transfer to real estate with the accompanying certificate of title, the recorder of the county in which the manufactured home is located shall record the affidavit in the manner required by IC 36-2-11-8, provided that the auditor of the county has performed the endorsement required by IC 36-2-9-18.**

SECTION 4. IC 9-17-6-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15.5. The filing in the appropriate county recorder's office of the affidavit of transfer to real estate with the certificate of title is deemed a conversion of the manufactured home that is attached to real estate by a permanent foundation to an improvement upon the real estate upon which it is located.**

SECTION 5. IC 9-29-4-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. The fee for an affidavit of transfer to real estate furnished by the bureau under IC 9-17-6-15.1 is ten dollars (\$10).**

SECTION 6. IC 9-29-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. (a) Except as provided in subsection (b), fees for titles collected or documents furnished under this chapter shall be paid into the state general fund for credit to the motor vehicle highway account.**

(b) Fees from dealers for titles collected under this chapter shall be credited to the motor vehicle odometer fund and allocated under IC 9-29-1-5.

SECTION 7. IC 36-2-11-14 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The recorder may record:

- (1) a deed of partition; ~~or~~
- (2) a conveyance of land; **or**
- (3) **an affidavit of transfer to interest in land;**

only if it has been endorsed by the auditor of the proper county as "duly entered for taxation subject to final acceptance for transfer", "not taxable", or "duly entered for taxation" as provided by IC 36-2-9-18.

(b) A recorder who violates this section shall forfeit the sum of five dollars (\$5), to be recovered by an action in the name of the county, for the benefit of the common school fund.

P.L.107-2003

[S.26. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-34-1-1, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter does not apply to any property held, due, and owing in a foreign country and arising out of a foreign transaction.

(b) This chapter does not apply to:

- (1) stocks;
- (2) dividends;
- (3) capital credits;
- (4) patronage refunds;
- (5) utility deposits;
- (6) membership fees;
- (7) account balances; or
- (8) book equities;

for which the owner cannot be found and that are the result of distributable savings of a rural electric membership corporation formed under IC 8-1-13, a rural telephone cooperative corporation formed

under IC 8-1-17, or an agricultural cooperative association formed under IC 15-7-1.

(c) This chapter does not apply to unclaimed overpayments of utility bills that become the property of a municipality under IC 36-9-23-28.5.

(d) This chapter does not apply to deposits required by a municipally owned utility (as defined in IC 8-1-2-1).

(e) This chapter does not apply to a business to business credit memorandum or a credit balance resulting from a business to business credit memorandum.

(f) This chapter does not apply to gift certificates or gift cards.

SECTION 2. IC 32-34-1-20, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

(1) does not include a communication with an owner by an agent of the holder who has not identified in writing the property to the owner; and

(2) includes the following:

(A) With respect to an account or underlying shares of stock or other interest in a business association or financial organization:

(i) the cashing of a dividend check or other instrument of payment received; or

(ii) evidence that the distribution has been received if the distribution was made by electronic or similar means.

(B) A deposit to or withdrawal from a bank account.

(C) The payment of a premium with respect to a property interest in an insurance policy.

(D) The mailing of any correspondence in writing from a financial institution to the owner, including:

(i) a statement;

(ii) a report of interest paid or credited; or

(iii) any other written advice;

relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner has with the financial institution if the correspondence is not returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

(i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or

(ii) any other relationship with the financial institution, including the payment of any amounts due on a loan;

if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

(1) For traveler's checks, fifteen (15) years after issuance.

(2) For money orders, seven (7) years after issuance.

(3) For consumer credits, three (3) years after the credit becomes payable.

~~(4) For gift certificates, three (3) years after December 31 of the year in which the gift certificate was sold. If the gift certificate is redeemable in merchandise only, the amount abandoned is considered to be sixty percent (60%) of the certificate's face value.~~

~~(5)~~ (4) For amounts owed by an insurer on a life or an endowment insurance policy or an annuity contract:

(A) if the policy or contract has matured or terminated, three (3) years after the obligation to pay arose; or

(B) if the policy or contract is payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on

which the reserve is based.

~~(6)~~ **(5)** For property distributable by a business association in a course of dissolution, one (1) year after the property becomes distributable.

~~(7)~~ **(6)** For property or proceeds held by a court or a court clerk, ~~other than property or proceeds related to child support~~; five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3. ~~For property or proceeds related to child support held by a court or a court clerk, ten (10) years after the property or proceeds become distributable:~~

~~(8)~~ **(7)** For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.

~~(9)~~ **(8)** For compensation for personal services, one (1) year after the compensation becomes payable.

~~(10)~~ **(9)** For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.

~~(11)~~ **(10)** For stock or other interest in a business association, five (5) years after the earlier of:

(A) the date of the last dividend, stock split, or other distribution unclaimed by the apparent owner; or

(B) the date of the second mailing of a statement of account or other notification or communication that was:

(i) returned as undeliverable; or

(ii) made after the holder discontinued mailings to the apparent owner.

~~(12)~~ **(11)** For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, three (3) years after the earliest of:

(A) the actual date of the distribution or attempted distribution;

(B) the distribution date as stated in the plan or trust agreement governing the plan; or

(C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.

~~(13)~~ **(12)** For a demand, savings, or matured time deposit,

including a deposit that is automatically renewable, five (5) years after maturity or five (5) years after the date of the last indication by the owner of interest in the property, whichever is earlier. Property that is automatically renewable is considered matured for purposes of this section upon the expiration of its initial period, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder.

~~(14)~~ **(13)** For all other property, the earlier of five (5) years after:

- (A) the owner's right to demand the property; or
- (B) the obligation to pay or distribute the property;

arose.

(d) Property is payable or distributed for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or a document otherwise required to receive payment.

SECTION 3. IC 32-34-1-26, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) A holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property. Items of value of less than fifty dollars (\$50) may be reported by the holder in the aggregate.

(b) For each item with a value of at least fifty dollars (\$50), the report required under subsection (a) must be verified and must include the following:

(1) ~~Except with respect to traveler's checks and money orders;~~

The apparent owner's:

- (A) name, if known;
- (B) last known address, if any; and
- (C) Social Security number or taxpayer identification number, if readily ascertainable.

(2) In the case of the contents of a safe deposit box or other safekeeping depository of tangible property:

- (A) a description of the property;
- (B) the place where the property is held and may be inspected by the attorney general; and
- (C) any amount that is owed to the holder.

- (3) The date:
 - (A) the property became payable, demandable, or returnable; and
 - (B) of the last transaction with the apparent owner with respect to the property.
 - (4) Other information that the attorney general requires by rules adopted under IC 4-22-2 as necessary for the administration of this chapter.
- (c) If:
- (1) a holder of property that is presumed abandoned and that is subject to custody as unclaimed property is a successor to another person who previously held the property for the apparent owner; or
 - (2) the holder has changed its name while holding the property;
- the holder shall file with the report required by subsection (a) the former names of the holder, if any, and the known name and address of any previous holder of the property.
- (d) ~~The report required by subsection (a) must be filed as follows:~~
- ~~(1) The report of a life insurance company must be filed before May 1 of each year for the calendar year preceding the year in which the report is filed.~~
 - ~~(2) All other holders must file the report before November 1 of each year to cover the year preceding July 1 of the year in which the report is filed.~~
- (d) The attorney general shall establish filing dates for the report required by subsection (a).**
- (e) The holder of property that is presumed abandoned and that is subject to custody as unclaimed property under this chapter shall, not more than one hundred twenty (120) days or less than sixty (60) days before filing the report required by subsection (a), send written notice to the apparent owner of the property stating that the holder is in possession of property subject to this chapter if:
- (1) the holder has a record of an address for the apparent owner that the holder's records do not show as inaccurate;
 - (2) the claim of the apparent owner is not barred by the statute of limitations; and
 - (3) the value of the property is at least fifty dollars (\$50).
- (f) Before the date of filing the report required by subsection (a), the

holder may request the attorney general to extend the time for filing the report. The attorney general may grant the extension upon a showing of good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due. The making of an interim payment under this subsection suspends the accrual of interest on the amount.

(g) The holder shall file with the report an affidavit stating that the holder has complied with this section.

SECTION 4. IC 32-34-1-28, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) Except as provided in subsection (e), the attorney general shall publish a notice not later than November 30 of the year immediately following the year in which unclaimed property has been paid or delivered to the attorney general.

(b) Except as provided in subsection (c), the notice required by subsection (a) must be published at least once each week for two (2) successive weeks in a newspaper of general circulation published in the county in Indiana of the last known address of any person named in the notice.

(c) If the holder:

- (1) does not report an address for the apparent owner; or
- (2) reports an address outside Indiana;

the notice must be published in the county in which the holder has its principal place of business within Indiana or any other county that the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property and must contain the following information:

- (1) The name of each person appearing to be an owner of property that is presumed abandoned, as set forth in the report filed by the holder.
- (2) The last known address or location of each person appearing to be an owner of property that is presumed abandoned, if an address or a location is set forth in the report filed by the holder.
- (3) A statement explaining that the property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.

(4) A statement that information about the abandoned property and its return to the owner is available, upon request, from the attorney general, to a person having a legal or beneficial interest in the property.

(e) The attorney general is not required to publish the following in the notice:

(1) Any item with a value of less than ~~fifty one hundred~~ **one hundred** dollars ~~(~~\$50~~)~~ **(\$100)**.

(2) Information concerning a traveler's check, money order, or any similar instrument.

SECTION 5. IC 32-34-1-31, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) Except as provided in subsections (b), ~~and~~ (c), ~~and (f)~~, the attorney general, not later than three (3) years after the receipt of abandoned property, shall sell the property to the highest bidder at a **commercially reasonable** public sale ~~in a city in Indiana~~ that, in the judgment of the attorney general, affords the most favorable market for the property. The attorney general may decline the highest bid and reoffer the property for sale if, in the judgment of the attorney general, the bid is insufficient. If, in the judgment of the attorney general, the probable cost of the sale exceeds the value of the property, the attorney general is not required to offer the property for sale. A sale held under this section must be preceded, at least three (3) weeks before the sale, by one (1) publication of notice in a newspaper of general circulation published in the county in which the property is to be sold.

(b) If the property is of a type that is customarily sold on a recognized market or that is subject to widely distributed standard price quotations, and if, in the opinion of the attorney general, the probable cost of a public sale to the highest bidder would:

(1) exceed the value of the property; or

(2) result in a net loss;

the attorney general may sell the property privately, without notice by publication, at or above the prevailing price for the property at the time of the sale.

(c) Securities shall be sold as soon as reasonably possible following receipt. If a valid claim is made for any securities in the possession of the attorney general, the attorney general may:

- (1) transfer the securities to the claimant; or
- (2) pay the claimant the value of the securities as of the date the securities were delivered to the attorney general.

Notice of the sale of securities is not required. Securities listed on an established stock exchange must be sold at prices prevailing at the time of the sale on the stock exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the attorney general considers reasonable.

(d) A purchaser of property at a sale conducted by the attorney general under this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The attorney general shall execute all documents necessary to complete the transfer of ownership.

(e) A person does not have a claim against the attorney general for any appreciation of property after the property is delivered to the attorney general, except in a case of intentional misconduct or malfeasance by the attorney general.

(f) If property is forwarded to the attorney general and the property does not have any of the information required under section 26(b)(1) of this chapter or the total value of the property is ten dollars (\$10) or less, the attorney general may immediately:

- (1) sell the property and transmit the proceeds; or**
- (2) transfer the property;**

to the state general fund.

SECTION 6. IC 32-34-1-32, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. (a) The property custody fund is established. **Except as provided in section 31(f) of this chapter,** any money received by the attorney general under section 39(b) of this chapter shall be delivered to the treasurer of state for deposit in the property custody fund. Subject to any claim of the owner allowed by the attorney general under this chapter, the money shall be held in the property custody fund for safekeeping until the date the money is presumed abandoned under sections 20 and 24 of this chapter and transferred to the abandoned property fund established by section 33 of this chapter in accordance with this section.

(b) The attorney general shall specify in the notice required by section 28 of this chapter the latest date the apparent owner may claim

the property from the property custody fund. Notice must also be mailed to each person having a last known address listed in the report to the attorney general filed under section 26 of this chapter.

(c) Except as provided in subsection (d), not later than twenty-five (25) days after the date specified in the notice published under subsection (b), the treasurer of state, upon order of the attorney general, shall transfer the principal of the property to which the notice relates from property custody fund to the abandoned property fund.

(d) The attorney general may allow a claim of the apparent owner before the principal of the property in the property custody fund is transferred to the abandoned property fund under subsection (c). After the elapse of the twenty-five (25) days referred to in subsection (c), the funds are considered abandoned property instead of property received under section 39(b) of this chapter for purposes of this chapter.

SECTION 7. IC 32-34-1-33, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. (a) The abandoned property fund is established. Except as provided in subsection (b) and **section sections 31 and 32** of this chapter, money received by the attorney general under this chapter, including the proceeds from the sale of abandoned property under section 31 of this chapter, shall be transferred by the attorney general to the treasurer of state for deposit in the abandoned property fund.

(b) Money received under this chapter that was originally drawn from a fund under the control of a local unit of government shall be transferred to the fund from which the money was originally drawn.

SECTION 8. IC 32-34-1-36, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. (a) **Except as provided in subsection (f)**, a person, except another state, claiming an interest in property paid or delivered to the attorney general may file a claim on a form prescribed by the attorney general and verified by the claimant. **To be considered by the attorney general, the claim must meet the requirements established by the attorney general.**

(b) Not later than ninety (90) days after a claim **that meets the requirements established by the attorney general** is filed under subsection (a), the attorney general shall:

- (1) consider the claim; and

(2) give written notice to the claimant that the claim is granted or that the claim is denied in whole or in part.

(c) Not later than thirty (30) days after a claim is ~~allowed~~ **granted**, the attorney general shall pay over or deliver to the claimant the property, or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter.

(d) A holder who pays the owner for property that has been delivered to the state and that, if claimed from the attorney general by the owner, would be subject to an increment under section 30 of this chapter shall recover the amount of the increment from the attorney general.

(e) A person may file a claim under subsection (a) at any time within twenty-five (25) years after the date on which the property was first presumed abandoned under this chapter, notwithstanding the expiration of any other time specified by statute, contract, or court order during which an action or a proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property.

(f) The attorney general may pay over or deliver to the owner the property, or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter, without the owner filing a claim under subsection (a) if the attorney general identifies the owner.

SECTION 9. IC 32-34-1-36.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 36.5. (a) An owner of property that is delivered to the attorney general may disclaim the property by filing a disclaimer of property with the attorney general in the form and manner required by the attorney general.**

(b) If the property is disclaimed under subsection (a), the attorney general may immediately:

(1) sell the property and transmit the proceeds; or

(2) transfer the property;

to the state general fund.

P.L.108-2003

[S.35. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-29-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) In order to be eligible for payment under this chapter, a liability of a political subdivision must arise out of a claim based upon an act or omission that takes place while the political subdivision is a member of the fund.

(b) The maximum amount payable from the fund for any liability, whether or not it is covered under IC 34-13-3 (or IC 34-4-16.5 before its repeal), is:

(1) ~~three hundred thousand dollars (\$300,000)~~ for injury, death, or damage suffered by any one (1) person as a result of the act or omission from which the liability ~~arises; and arises:~~

(A) three hundred thousand dollars (\$300,000) for a cause of action that accrues before January 1, 2006;

(B) five hundred thousand dollars (\$500,000) for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or

(C) seven hundred thousand dollars (\$700,000) for a cause of action that accrues on or after January 1, 2008; and

(2) one million dollars (\$1,000,000) for all injury, death, or damage suffered by all persons as a result of the act or omission from which the liability arises.

(c) No amount may be paid from the fund in respect of punitive damages paid by or assessed against a member of the fund.

(d) No amount may be paid from the fund in the case of a liability based upon bodily injury or property damage arising out of the discharge, dispersal, release, or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials, or other irritants, contaminants, or pollutants into or upon land, the atmosphere, or any watercourse or body of water unless the discharge, dispersal,

release, or escape:

(1) is caused by an act or omission of a political subdivision that is a member of the fund; and

(2) occurs as a result of:

(A) a household hazardous waste; or

(B) a conditionally exempt small quantity generator (as described in 40 CFR 261.5(a));

collection, disposal, or recycling project conducted by or controlled by the political subdivision.

(e) The commissioner may pay a liability of a member of the fund in a series of annual payments. The amount of any annual payment under this subsection must be one hundred thousand dollars (\$100,000) or more, except for the final payment in a series of payments.

(f) The commission may negotiate a structured settlement of any claim.

(g) As used in this section, "household hazardous waste" means solid waste generated by households that consists of or contains a material that is:

(1) ignitable, as described in 40 CFR 261.21;

(2) corrosive, as described in 40 CFR 261.22;

(3) reactive, as described in 40 CFR 261.23; or

(4) toxic, as described in 40 CFR 261.24.

SECTION 2. IC 34-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed:

(1) three hundred thousand dollars (\$300,000) for injury to or death of one (1) person in any one (1) occurrence:

(A) three hundred thousand dollars (\$300,000) for a cause of action that accrues before January 1, 2006;

(B) five hundred thousand dollars (\$500,000) for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or

(C) seven hundred thousand dollars (\$700,000) for a cause of action that accrues on or after January 1, 2008; and
and (2) does not exceed five million dollars (\$5,000,000) for injury to or death of all persons in that occurrence, five million

dollars (\$5,000,000).

(b) A governmental entity is not liable for punitive damages.

P.L.109-2003

[S.109. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-5.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 5.2. Regulation of Amateur Radio Antennas

Sec. 1. A municipality or county may not enact or enforce an ordinance, a resolution, or an order that does not comply with the ruling of the Federal Communications Commission in "Amateur Radio Preemption, 101 FCC 2d 952 (1985)" or a regulation related to the amateur radio service adopted under 47 CFR Part 97.

Sec. 2. If a municipality or county adopts an ordinance, a resolution, or an order involving the placement, screening, or height of an amateur radio antenna based on health, safety, or aesthetic conditions, the ordinance, resolution, or order must:

(1) reasonably accommodate amateur radio communications; and

(2) represent the minimal regulation practicable to accomplish the municipality's or county's legitimate purpose.

Sec. 3. This chapter does not prohibit a municipality or county from taking action to protect or preserve a historic, a historical, or an architectural district that is established by the municipality or county or under state or federal law.

P.L.110-2003

[S.205. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-13-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The ~~judicial conference of Indiana~~ **compact administrator selected by the state council under IC 11-13-4.5-3** is the administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under this chapter and under IC 11-13-5.

(b) The judicial conference of Indiana may establish a staff position within the Indiana judicial center to which the duties of the compact administrator may be delegated.

(c) The judicial conference of Indiana shall adopt rules under IC 4-22-2 prescribing duties and procedures for administering probationers participating in the interstate compact under this chapter and under IC 11-13-5.

SECTION 2. IC 11-13-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 4.5. Interstate Compact for Adult Offender Supervision

Sec. 1. The governor shall enter into a compact on behalf of the state with any other state in the form substantially as follows:

**ARTICLE I
DEFINITIONS**

As used in this compact, unless the context clearly requires a different construction:

(1) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(2) "Bylaws" mean those bylaws established by the interstate commission for its governance or for directing or controlling the interstate commission's actions or conduct.

(3) "Compact administrator" means the individual in each compacting state appointed under the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

(4) "Compacting state" means any state that has enacted the enabling legislation for this compact.

(5) "Commissioner" means the voting representative of each compacting state appointed under Article II of this compact.

(6) "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

(7) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

(8) "Non-compacting state" means any state that has not enacted the enabling legislation for this compact.

(9) "Offender" means an adult placed under or subject to supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

(10) "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

(11) "Rules" means acts of the interstate commission, adopted under Article VIII of this compact, substantially affecting interested parties in addition to the interstate commission.

(12) "State" means a state of the United States, the District of Columbia, or any other territorial possession of the United States.

(13) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under Article II of this compact.

ARTICLE II

THE COMPACT COMMISSION

(1) The interstate commission for adult offender supervision is established.

(2) The interstate commission is a body corporate and joint

agency of the compacting states. The interstate commission has all the responsibilities, powers, and duties set forth in this chapter, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(3) The interstate commission consists of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners, who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All non-commissioner members of the interstate commission are ex officio nonvoting members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it considers necessary.

(4) Each compacting state represented at any meeting of the interstate commission is entitled to one (1) vote. A majority of the compacting states constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission.

(5) The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of twenty-seven (27) or more compacting states, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.

(6) The interstate commission shall establish an executive committee that must include commission officers, members, and others as shall be determined by the bylaws. The executive committee has authority to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of rulemaking or amendment to the compact. The executive committee oversees the day to day activities managed by the executive

director and interstate commission staff, administers enforcement and compliance with the provisions of the compact, its bylaws, and as directed by the interstate commission, and performs other duties as directed by commission or set forth in the bylaws.

ARTICLE III THE STATE COUNCIL

Each member state shall create a state council for interstate adult offender supervision that shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity or under applicable law of the member state. Although each member state may determine the membership of its own state council, its membership must include at least one (1) representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator, who shall be appointed by the state council or by the governor in consultation with the general assembly and the judiciary. In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including but not limited to development of policy concerning operations and procedures of the compact within that state.

ARTICLE IV POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

- (1) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.
- (2) To adopt rules that are binding in the compacting states to the extent and in the manner provided in this compact.
- (3) To oversee, supervise, and coordinate the interstate movement of offenders, subject to the terms of this compact and any bylaws adopted and rules adopted by the compact commission.

- (4) To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including but not limited to the use of judicial process.**
- (5) To establish and maintain offices.**
- (6) To purchase and maintain insurance and bonds.**
- (7) To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.**
- (8) To establish and appoint committees and hire staff it considers necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by Article II that may act on behalf of the interstate commission in carrying out its powers and duties.**
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants, to fix their compensation, define their duties, and determine their qualifications, and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.**
- (10) To accept donations and grants of money, equipment, supplies, materials, and services and to receive, use, and dispose of them.**
- (11) To lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any real, personal, or mixed property.**
- (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any real, personal, or mixed property.**
- (13) To establish a budget and make expenditures and levy dues as provided in Article IX of this compact.**
- (14) To sue and be sued.**
- (15) To provide for dispute resolution among compacting states.**
- (16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.**
- (17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports must include any recommendations that may have been adopted by the**

interstate commission.

(18) To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

(19) To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Part A. Bylaws

The interstate commission shall, by a majority of the members, within twelve (12) months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:

- (1) establishing the fiscal year of the interstate commission;
- (2) establishing an executive committee and such other committees as may be necessary;
- (3) providing reasonable standards and procedures:
 - (A) for the establishment of committees; and
 - (B) governing any general or specific delegation of any authority or function of the interstate commission;
- (4) providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each meeting;
- (5) establishing the titles and responsibilities of the officers of the interstate commission;
- (6) providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission;
- (7) providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of its debts and obligations;
- (8) providing transition rules for start up administration of the compact; and

(9) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Part B. Officers and Staff

(a) The interstate commission, by a majority of the members, shall elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the interstate commission. The officers elected shall serve without compensation or remuneration from the interstate commission. However, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

(b) The interstate commission, through its executive committee, shall appoint or retain an executive director for such time, upon such terms and conditions, and for such compensation as the interstate commission may find appropriate. The executive director shall serve as secretary to the interstate commission and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

Part C. Corporate Records of the Interstate Commission

The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

Part D. Qualified Immunity, Defense, and Indemnification

(a) The members, officers, executive director, and employees of the interstate commission are immune from suit and liability, either personally or in their official capacities, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities. However, nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(b) The interstate commission shall defend the commissioner of a compacting state, the commissioner's representatives or employees, and the interstate commission's representatives or

employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities or that the defendant has a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, as long as the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of the person.

(c) The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, and the interstate commission's representatives or employees harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurs within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of the person.

ARTICLE VI

ACTIVITIES OF THE INTERSTATE COMMISSION

(a) The interstate commission shall meet and take such actions as are consistent with the provisions of this compact. Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, the act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

(b) Each member of the interstate commission is entitled to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting

conducted by telephone or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where members are present in person.

(c) The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

(d) The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In adopting rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure and may enter into agreements with law enforcement agencies to receive or exchange information or records, subject to nondisclosure and confidentiality provisions.

(e) Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall adopt rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. 552(b), as amended. The interstate commission or any of its committees may close a meeting to the public if it determines by two-thirds (2/3) vote that an open meeting would be likely to:

- (1) relate solely to the interstate commission's internal personnel practices and procedures;
- (2) disclose matters specifically exempted from disclosure by statute;
- (3) disclose trade secrets or commercial or financial information that is privileged or confidential;
- (4) involve accusing any person of a crime or formally censuring any person;
- (5) disclose information of a personal nature that would constitute a clearly unwarranted invasion of personal privacy;
- (6) disclose investigatory records compiled for law enforcement purposes;
- (7) disclose information contained in or related to

examination, operating, or condition reports prepared by, on behalf of, or for the use of the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of the entity;

(8) disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; or

(9) specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding.

(f) For every meeting closed under this provision, the interstate commission's chief legal officer shall publicly certify that, in the officer's opinion, the meeting may be closed to the public and shall reference each relevant exemptive provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and that provide a full and accurate summary of any actions taken and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(g) The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules, which must specify the data to be collected, the means of collection and data exchange, and reporting requirements.

ARTICLE VII RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(a) The interstate commission shall adopt rules to effectively and efficiently achieve the purposes of the compact, including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states. Rulemaking shall occur under the criteria set forth in this article and the bylaws and rules adopted under this article and the bylaws. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C. 551 et seq. and the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 1 et seq., as may be amended (referred to in this compact as "APA").

(b) All rules and amendments shall become binding as of the date specified in each rule or amendment.

(c) When adopting a rule, the interstate commission shall:

- (1) publish the proposed rule, stating with particularity the text of the rule that is proposed and the reason for the proposed rule;**
- (2) allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available;**
- (3) provide an opportunity for an informal hearing; and**
- (4) adopt a final rule and its effective date, if appropriate, based on the rulemaking record.**

(d) Not later than sixty (60) days after a rule is adopted, any interested person may file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the interstate commission's principal office is located for judicial review of the rule. If the court finds that the interstate commission's action is not supported by substantial evidence (as defined in the APA) in the rulemaking record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within twelve (12) months after the first meeting must at a minimum include:

- (1) notice to victims and opportunity to be heard;**
- (2) offender registration and compliance;**
- (3) violations/returns;**
- (4) transfer procedures and forms;**
- (5) eligibility for transfer;**
- (6) collection of restitution and fees from offenders;**
- (7) data collection and reporting;**
- (8) the level of supervision to be provided by the receiving state;**
- (9) transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact; and**
- (10) mediation, arbitration, and dispute resolution.**

(e) Upon determination by the interstate commission that an emergency exists, it may adopt an emergency rule that shall become effective immediately upon adoption. However, the rulemaking procedures provided under this article shall be applied

retroactively to the rule as soon as reasonably possible and not later than ninety (90) days after the effective date of the rule.

ARTICLE VIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Part A. Oversight

(a) The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in non-compacting states that may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes.

Part B. Dispute Resolution

(a) The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

(b) The interstate commission shall attempt to resolve any disputes or other issues that are subject to the compact and that may arise between compacting states and non-compacting states.

(c) The interstate commission shall enact a bylaw or adopt a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

Part C. Enforcement

The interstate commission, in the reasonable exercise of its discretion, shall enforce this compact using any or all means set forth in Article XI, Part C, of this compact.

ARTICLE IX

FINANCE

(a) The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The interstate commission shall levy and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff that must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The total annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state, and shall adopt a rule binding upon all compacting states that governs the assessment.

(c) The interstate commission shall not incur any obligation of any kind before securing the funds adequate to meet the obligation, nor shall the interstate commission pledge the credit of any compacting state except by and with the authority of the compacting state.

(d) The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE X

COMPACTING STATES, DATE, AND AMENDMENT

(a) Any state may become a compacting state. The compact becomes effective and binding upon legislative enactment of the compact into law by not less than thirty-five (35) states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter, the compact shall become effective and binding on any other compacting state upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis before adoption of the compact by all states and territories of the United States.

(b) Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No

amendment shall become effective and binding upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

**ARTICLE XI
WITHDRAWAL, DEFAULT, TERMINATION, AND
JUDICIAL ENFORCEMENT**

Part A. Withdrawal

(a) Once effective, the compact continues in force and remains binding upon every compacting state. A compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute that enacted the compact into law.

(b) The effective date of withdrawal is the effective date of the repeal.

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt.

(d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations the performance of which extends beyond the effective date of withdrawal.

(e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

Part B. Default

(a) If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws, or any adopted rules, the interstate commission may impose any or all of the following penalties:

(1) Fines, fees, and costs levied upon the county responsible for the default, or upon the state, if the state is responsible for the default, in amounts considered reasonable as fixed by the interstate commission.

(2) Remedial training and technical assistance as directed by the interstate commission.

(3) Suspension and termination of membership in the compact.

(b) Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(c) The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or adopted rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states, and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of suspension.

(d) Within sixty (60) days of the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council of such termination.

(e) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including any obligations, the performance of which extends beyond the effective date of termination.

(f) The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission under the rules.

Part C. Judicial Enforcement

The interstate commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices, to enforce compliance with the provisions of the compact and its adopted rules and bylaws against any compacting state in default or against a county if the county is responsible for the default. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

Part D. Dissolution of Compact

(a) The compact dissolves effective on the date of the withdrawal or default of the compacting state that reduces membership in the compact to one (1) compacting state.

(b) Upon the dissolution of this compact, the compact becomes void and is of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) All lawful actions of the interstate commission, including all rules and bylaws adopted by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states are binding in accordance with their terms. Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation.

(b) Any provision of this compact that violates the Constitution of the State of Indiana is ineffective in Indiana.

Sec. 2. (a) As used in this section, "council" refers to the state

council for interstate adult offender supervision described in Article II subdivision (3) of this compact.

(b) The council consists of the following members:

- (1) The commissioner of the department of correction.**
- (2) The executive director of the Indiana judicial center.**
- (3) The executive director of the Indiana criminal justice institute.**
- (4) One (1) member of a victim's group appointed by the governor upon recommendation of the executive director of the Indiana criminal justice institute.**
- (5) The executive director of the Indiana sheriffs' association.**
- (6) The executive director of the public defender council of Indiana.**
- (7) The executive director of the prosecuting attorneys council of Indiana.**
- (8) One (1) member of the general assembly appointed by the chairman of the legislative council. The legislative member serves at the pleasure of the chairman of the legislative council.**
- (9) The compact administrator, if the compact administrator is not already a member of the council.**

(c) The executive director of the Indiana judicial center shall serve as the chairperson of the council.

(d) The Indiana judicial center shall staff the council.

(e) The council shall meet at the call of the chairperson or upon request by a majority of the members, but at least one (1) time per calendar year.

(f) The commissioner of the department of correction shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the interstate compact for adult offender supervision with respect to out-of-state offenders who are on parole.

(g) The executive director of the Indiana judicial center shall appoint sufficient deputy compact administrators to fulfill Indiana's obligations under the interstate compact for adult offender supervision with respect to out-of-state offenders who are on probation.

(h) The council has the following duties:

- (1) The council shall receive the recommendation of the**

commissioner of the department of correction and the executive director of the Indiana judicial center concerning the appointment of a compact administrator.

(2) The council shall appoint the compact administrator, who shall serve as commissioner on the interstate commission. If the compact administrator is unable to serve as commissioner at a meeting of the interstate commission, the council shall designate another person to serve in place of the compact administrator.

(3) The council shall oversee activities of the interstate commission.

(4) The council may make recommendations concerning the operation of the interstate compact within Indiana and to facilitate the implementation of the rules and bylaws adopted by the interstate commission.

(i) The expenses of the council shall be paid from appropriations made to the Indiana judicial center.

(j) Each member of the council who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the council who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(l) Each member of the council who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(m) A member of the council who is a member of the general assembly serves as a nonvoting member.

(n) The affirmative votes of a majority of the voting members appointed to the council are required for the committee to take action on any measure, including making a recommendation.

Sec. 3. The state shall continue to meet its obligations under IC 11-13-4 (the interstate compact for the supervision of parolees and probationers) to those states that:

(1) continue to meet their obligations to the state of Indiana under IC 11-13-4; and

(2) have not approved the interstate compact for adult supervision after this chapter becomes effective.

Sec. 4. (a) Except as provided in subsection (b), an Indiana offender on probation or parole who applies to be transferred out of state under the interstate compact for adult supervision shall pay an application fee of seventy-five dollars (\$75). The application fee shall be used to cover the costs of administering the interstate compact for adult offender supervision.

(b) An offender who has been found indigent by a trial court at the time the offender applies to be transferred out of state under the interstate compact for adult supervision may, at the court's discretion, be required to pay a lesser amount of the cost of the application fee under subsection (a).

(c) An Indiana offender who is on probation shall pay the application fee to the county probation department.

(d) An Indiana offender who is on parole shall pay the application fee to the department of correction.

(e) The application fee paid by an Indiana offender who is on probation shall be transferred to the county treasurer. The county treasurer shall deposit fifty percent (50%) of the money collected under this subsection into the county supplemental adult probation services fund and shall transmit the remaining fifty percent (50%) of the money collected under this subsection to the Indiana judicial center for deposit in the general fund, to be used to cover the cost of administering the interstate compact for adult offender supervision.

(f) The executive director of the Indiana judicial center shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in

accordance with IC 4-12-1.

(g) The application fee paid by an Indiana offender who is on parole shall be deposited into the general fund to be used to cover the cost of administering the interstate compact for adult offender supervision.

(h) The commissioner of the department of correction shall submit a proposed budget for expenditure of the money deposited in the general fund under this section to the budget agency in accordance with IC 4-12-1.



P.L.111-2003

[S.304. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-9-27-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 20.5. (a) A municipal or sanitary district drain maintenance fund is established for each drain:**

(1) that is subject to assessments by the board for periodic maintenance and repair; and

(2) jurisdiction over which is transferred by the board to a municipality or sanitary district under section 20 of this chapter.

(b) Except as provided in subsections (c) and (d), on or after the date the board transfers jurisdiction over a drain to the municipality or sanitary district, the county treasurer shall transfer the following to the municipal or sanitary district drain maintenance fund established under this section:

(1) The balance of the maintenance fund established under section 44 of this chapter.

(2) Except as provided in subsection (e), any assessments for periodic maintenance of the drain that:

(A) were imposed before the date on which the board transfers jurisdiction of the drain; and

(B) are collected after the date on which the board transfers jurisdiction of the drain.

(c) Except as provided in subsection (d), if the board transfers jurisdiction over part of a drain to a municipality or sanitary district, the county treasurer shall transfer under subsection (b):

(1) the part of the balance in the maintenance fund established under section 44 of this chapter that bears the same proportion to the balance in the fund that the length of the part of the drain transferred to the municipality or sanitary district bears to the total length of the drain; and

(2) except as provided in subsection (e), the proportion determined under subdivision (1) of any assessments for periodic maintenance of the drain that:

(A) were imposed before the date on which the board transfers jurisdiction of part of the drain; and

(B) are collected after the date on which the board transfers jurisdiction of part of the drain.

(d) The board and a municipality or sanitary district to which jurisdiction over part of a drain is transferred may agree in writing to an apportionment of the maintenance fund and outstanding assessments different from the apportionment under subsection (c) based on disproportionate maintenance requirements between the part of the drain transferred and the part remaining under the jurisdiction of the board. Subject to subsection (e), a county treasurer who receives a written agreement under this subsection shall transfer under subsection (b) the amounts specified in the agreement.

(e) If payment for maintenance work for a drain was made from the general drain improvement fund under section 45 of this chapter, the county treasurer shall transfer all or part of the assessment described in subsection (b)(2) to the general drain improvement fund to reimburse the fund for all or part of the cost of the maintenance work.

(f) The expenses of a municipal or sanitary district drain maintenance fund established by subsection (a) shall be paid from the fund. The municipality or sanitary district to which jurisdiction over a drain is transferred shall deposit money in the fund

established for the drain under subsection (a) in accordance with IC 5-13-6. Any interest earned by the fund shall be credited to the fund. Any balance remaining in the fund at the end of a fiscal year shall be carried over in the fund for the following fiscal year.

(g) A municipal or sanitary district drain maintenance fund established under subsection (a) is subject to the use of the municipality or the sanitary district for the necessary or proper repair, maintenance, study, or evaluation of the particular drain or combination of drains for which the fund was established whenever the municipality or sanitary district finds that it is necessary. Except as provided in subsection (h), payment for all the maintenance work for a drain or combination of drains shall be made out of the municipal or sanitary district drain maintenance fund established for the drain or combination of drains under subsection (a).

(h) If the balance of a maintenance fund is not sufficient to pay for all of the maintenance work, the municipality or sanitary district shall pay for any deficiency from the funds used by the municipality or the sanitary district to pay for maintenance work on drains that are not subject to a municipal or sanitary district maintenance fund. A drain maintenance fund shall close upon payment of all money in the fund.

(i) If the amount of funds on deposit in a municipal or sanitary district drain maintenance fund is less than five hundred dollars (\$500), the balance of the municipal or sanitary district drain maintenance fund may be transferred to the fund used by the municipality or the sanitary district to pay for maintenance work on drains that are not subject to a municipal or sanitary district maintenance fund, and the drain maintenance fund shall be closed.

SECTION 2. IC 36-9-27-20.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 20.6.** If jurisdiction over a drain is transferred by the board to a municipality or sanitary district under section 20 of this chapter, the municipality or sanitary district has, with respect to that drain, the same right of entry and right-of-way powers over and upon private land that are given to the county surveyor or drainage board under section 33 of this chapter.

P.L.112-2003

[S.354. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-13-4-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) This section applies only to new construction of the following dwellings:**

(1) A detached one (1) or two (2) family dwelling.

(2) A townhouse.

(b) This section does not apply to a mobile structure or industrialized building system.

(c) As used in this section, "environmental controls" means switches or devices that control or regulate lights, temperature, fuses, fans, doors, security system features, or other features.

(d) As used in this section, "new construction" means the construction of a new dwelling on a vacant lot. The term does not include an addition to or remodeling of an existing building.

(e) As used in this section, "townhouse" means a single family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two (2) sides.

(f) As used in this section, "visitability feature" means a design feature of a dwelling that allows a person with a mobility impairment to enter and comfortably stay in a dwelling for a duration of time. The term includes features that allow a person with a mobility impairment to get in and out through one (1) exterior door of the dwelling without any steps, and to pass through all main floor interior doors, including a bathroom.

(g) If a person contracts with a designer and a builder for construction of a visitability feature in the new construction of a dwelling, the designer and builder shall comply with the standards adopted by the commission under this section for construction and

design of the visitability feature. The standards adopted under this section:

- (1) shall be enforced by a political subdivision that enforces the commission's standards with respect to Class 2 structures; and
- (2) may not be enforced by the department.

(h) The commission shall adopt minimum standards by rule under IC 4-22-2 for visitability features in the new construction of a dwelling. The rules shall include minimum standards for the following:

- (1) Entrances to the dwelling, including paths from the dwelling to the street.
- (2) Room dimensions.
- (3) The width of exterior and interior doors.
- (4) The width of interior hallways.
- (5) The grade of interior thresholds and hallways.
- (6) The height and location of environmental controls.
- (7) The reinforcement of bathroom walls sufficient to attach grab bars.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the fire prevention and building safety commission.

(b) The commission shall consider the following criteria in adopting standards under IC 22-13-4-7, as added by this act:

- (1) Standards for an entrance to the dwelling unit that has the following features:
 - (A) The entrance is designed to:
 - (i) provide access to; and
 - (ii) be usable by;

people with physical disabilities.
 - (B) The entrance is designed:
 - (i) without any steps; or
 - (ii) with a rise that is not more than one-half (1/2) inch.
 - (C) The entrance is located on a continuous unobstructed path from the entrance of the building that contains or consists of the dwelling unit to the street. The commission shall consider standards that make the path:
 - (i) usable by a person who uses a wheelchair; and
 - (ii) safe for and usable by people with other physical

disabilities and people without physical disabilities.

The commission's standards may include curb ramps, parking access aisles, walks, ramps, or lifts.

(2) Standards for doors within the dwelling that are designed to allow passage for a person described in subdivision (1)(C)(i) and (1)(C)(ii). The commission shall consider standards that require a door to have an unobstructed opening of at least thirty-six (36) inches.

(3) Standards for the location of environmental controls including the following:

(A) Except as provided in clause (B), environmental controls that are located:

(i) not higher than forty-eight (48) inches; and

(ii) not lower than eighteen (18) inches;

on a wall.

(B) If environmental controls are located directly above a counter, sink, or appliance, the controls shall be located not higher than three (3) inches above the counter, sink, or appliance.

(4) Standards for indoor rooms that:

(A) have an area of not less than seventy (70) square feet; and

(B) contain no side or dimension narrower than seven (7) feet.

(5) Standards for a bathroom located on the first floor of the dwelling that contains at least a toilet, sink, and walls that may be reinforced later to allow for the installation of grab bars.

(6) Standards for interior hallways that are level and at least thirty-six (36) inches wide.

(c) The commission shall adopt rules under IC 4-22-2 as required under IC 22-13-4-7, as added by this act, not later than January 1, 2005.

(d) This SECTION expires January 1, 2006.

SECTION 3. An emergency is declared for this act.

P.L.113-2003

[S.365. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 10-16-7-23 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 23. (a) As used in this section, "active duty" means:**

(1) training or duty under federal law; or

(2) state active duty under section 7 of this chapter;

performed under an order of the governor.

(b) The rights, benefits, and protections of the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 501 et seq., as amended and in effect on January 1, 2003, apply to a member of the Indiana national guard ordered to active duty for at least thirty (30) consecutive days.

(c) The rights, benefits, and protections of the federal Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. 4301 et seq., as amended and in effect on January 1, 2003, apply to a member of the Indiana national guard ordered to active duty.

(d) Nothing in this section shall be construed as a restriction or limitation on any of the rights, benefits, and protections granted to a member of the Indiana national guard under federal law.

SECTION 2. IC 33-1-18 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 18. Protection of Indiana National Guard Members on Active Duty

Sec. 1. (a) An Indiana state court may grant the rights, benefits, and protections described in section 513 of the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 513, as amended and

in effect on January 1, 2003, to a person primarily or secondarily liable on an obligation or liability of an Indiana national guard member to whom IC 10-16-7-23 applies.

(b) All rights, benefits, and protections granted to a person under subsection (a) are in addition to the rights, benefits, and protections granted the person under the federal Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. 501 et seq., as amended and in effect on January 1, 2003.

SECTION 3. An emergency is declared for this act.

P.L.114-2003

[S.438. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-1-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) This section applies to recordings made with a county recorder before September 1, 2004.

(b) Except as provided in subsection (e), an operator that has underground facilities located in Indiana shall record with the county recorder of each county in which the facilities are located a list containing the name of each township in the county in which the operator has underground facilities, including those facilities that have been abandoned in place by the operator but not yet physically removed. The list must include the name of the operator and the name, title, address, and telephone number of the operator's representative designated to receive the written or telephonic notice of intent required by section 16 of this chapter.

~~(b)~~ **(c)** An operator shall record any changes in the information contained in the list recorded under subsection ~~(a)~~ **(b)** with the county recorder of the county in which these facilities are located within thirty

(30) calendar days of the change. The document reflecting the changes shall be cross-referenced to the original list recorded under subsection ~~(a)~~: **(b)**.

~~(c)~~ **(d)** The county recorder shall charge a fee in accordance with IC 36-2-7-10.

~~(d)~~ **(e)** An association meeting the requirements of section 17 of this chapter shall be responsible for providing the information required in subsections ~~(a)~~ **(b)** and ~~(b)~~ **(c)** for the association's members and shall be responsible for paying the fee contained in subsection ~~(c)~~ **(d)** for the association's members.

SECTION 2. IC 8-1-26-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15.5. (a) Except as provided in subsection (b), after August 31, 2004, the association described in section 17(c) of this chapter is responsible for:**

- (1) providing the information; and**
- (2) paying the fee;**

required under section 15 of this chapter for each of the association's members.

(b) The association described in section 17(c) of this chapter is not required to provide information or pay a new fee under this section for a member:

- (1) that has provided the information and paid the fee required under section 15 of this chapter before September 1, 2004; or**
- (2) on whose behalf the association has provided the information and paid the fee required under section 15 of this chapter before September 1, 2004;**

unless the association receives notice from the member of a change in the information recorded before September 1, 2004, under section 15 of this chapter.

SECTION 3. IC 8-1-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16. (a) Except as provided in section 19 of this chapter, before commencing an excavation or demolition operation described in section 14 of this chapter each person responsible for the excavation or demolition must serve written or telephonic notice to excavate or demolish. The notice must be received at least two (2) full working days but not more than**

twenty (20) calendar days before the commencement of the work. However, a person responsible for excavation or demolition may commence work before the elapse of two (2) full working days if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or that the affected operators have no facilities in the location of the proposed excavation or demolition.

(b) For a notice served under this section before September 1, 2004, the notice must be served on each operator, or each operator's association, who has recorded a list required by section 15 of this chapter indicating that the operator has underground facilities located in the proposed area of excavation or demolition.

(c) After August 31, 2004, a notice under this section must be served on the association described in section 17(c) of this chapter. A county recorder who receives an inquiry from a person seeking to provide notice of an excavation or a demolition under this section shall refer the person to the association described in section 17(c) of this chapter. After receiving a notice under this section, the association shall:

- (1) determine whether one (1) or more of the association's members have underground facilities located in the proposed area of excavation or demolition, based on recordings made under section 15 or 15.5 of this chapter; and**
- (2) provide notice of the proposed excavation or demolition to any member identified under subdivision (1) as having underground facilities located in the proposed area of excavation or demolition.**

(d) A person responsible for demolition must give an operator a reasonable amount of time, as mutually determined by the operator, the person responsible for demolition, and the project owner, to remove or protect the operator's facilities before demolition of the structure is commenced.

~~(b)~~ **(e)** The written or telephonic notice required by subsection (a) must contain the following information:

- (1) The name, address, and telephone number of the person serving the notice, and, if different, the person responsible for the excavation or demolition.
- (2) The starting date, anticipated duration, and type of excavation

or demolition operation to be conducted.

(3) The location of the proposed excavation or demolition.

(4) Whether or not explosives or blasting are to be used.

(5) The approximate depth of excavation.

(c) (f) If the notice required by this section is by telephone, the operator or association shall maintain an adequate record of the notice for three (3) years to document compliance with this chapter. A copy of the record shall be furnished to the person giving notice to excavate or demolish upon written request. **For a notice given by telephone after August 31, 2004, the association described in section 17(c) of this chapter is responsible for maintaining the record of notice required by this subsection.**

SECTION 4. IC 8-1-26-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) **Before September 1, 2004**, operators, in any combination or group, may form and operate an association in Indiana to record for the association's members the information required by section 15 of this chapter and to provide for mutual receipt of notice of excavation or demolition operations under section 16 of this chapter. An association may provide the service on behalf of operators having underground facilities in Indiana and shall record with the county recorder of the county in which those facilities are located the following information:

(1) The telephone number and address of the association.

(2) A description of the geographical area served by the association.

(3) A list of the names and addresses of each operator receiving the service from the association.

(b) An association formed under this section must have the capability to serve any operator located in Indiana. Associations that qualify under this section include, without limitation, the "One Call" system that is managed by a ~~group of operators in the~~ **Indiana Underground Plant Protection Service.**

(c) **After August 31, 2004, an operator that has underground facilities located in Indiana must be a member of the Indiana Underground Plant Protection Service or its successor organization if the articles of incorporation or the bylaws of the Indiana Underground Plant Protection Service or its successor organization do the following:**

(1) Provide that the board of directors of the Indiana Underground Plant Protection Service or its successor organization is composed of:

- (A) five (5) members representing electric utilities other than municipal electric utilities, including corporations organized or operating under IC 8-1-13 or corporations organized under IC 23-17, some of whose members are local district corporations (as described in IC 8-1-13-23);**
- (B) five (5) members representing investor owned gas utilities, including pipelines;**
- (C) five (5) members representing telecommunications providers, at least one (1) of whom is a provider of cable television service;**
- (D) five (5) members representing water or sewer utilities other than municipal water or sewer utilities; and**
- (E) five (5) members representing political subdivisions, including municipal utilities, which must include the political subdivision that owns the largest waterworks utility in Indiana.**

(2) Require the affirmative vote of at least sixty percent (60%) of each category of members in subdivision (1) to approve an increase, a decrease, or any other adjustment to the membership dues, rates, tariffs, locate fees, or any other charges imposed by the Indiana Underground Plant Protection Service or its successor organization.

(d) The association identified in subsection (c) shall provide the services described in subsection (a) by:

- (1) recording for the association's members the information required by section 15.5 of this chapter; and**
- (2) providing for mutual receipt of notice of excavation or demolition operations under section 16 of this chapter.**

(e) The association identified in subsection (c) shall:

- (1) annually update the association's grid map data, including street addresses; and**
- (2) make reasonable efforts to reduce incorrect locate requests issued to the association's members.**

P.L.115-2003

[S.455. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 10-1-2.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. It is the intent of this chapter to provide information and data with reference to the total criminal justice system that will be equally beneficial to all officers, agencies, and components of ~~said the~~ system so that each may better perform ~~his or its~~ **their** respective duties for the overall improvement of criminal justice. Rules ~~and regulations~~ adopted ~~pursuant to~~ **under** this chapter shall be drafted so as to express this intent. Any public official required by ~~said the~~ rules ~~and regulations~~ to report to the division who fails to comply with the requests of the superintendent for ~~such the~~ information or data, or with the governing records and systems and equipment and their maintenance may, at the discretion of the director of the criminal justice planning agency, be denied the benefits of the system until meeting minimum compliance with ~~said regulations~~: **the rules**. An official who knowingly, **intentionally, or recklessly** makes a false return of information to the division commits a Class A misdemeanor.

SECTION 2. IC 10-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The definitions appearing in this section shall apply to words in this article, unless otherwise apparent from the context and are subject to organization modification as adopted by regular army and regular air force troop structures which are incorporated in this article by reference:

"Armory" means real property and facilities located on the real property that are used by the military or naval forces of the state for drill, meeting, training, and rendezvous purposes.

"National guard" means the Indiana army national guard and the Indiana air national guard.

"Company", "troop", "battery", "squadron", "battalion", "air-group", "regiment", "battle group", "wing", and "division", where referred to in this article, shall have the same meaning as comparably used in the national military establishment.

"Commanding officer" denotes a company, troop, battery, squadron, battalion, air-group, regiment, battle group, wing, or division commander.

"Court martial" means a military or naval court of justice for the trial of cases within the jurisdiction of the armed forces of the state of Indiana, as provided for in this article.

"Federally recognized national guard" denotes that portion of the Indiana national guard which has met all the requirements for, and has been recognized by, the national military establishment as a part of the reserve components of the armed forces of the United States.

"General orders" shall mean the official instructions issued by the military department of Indiana for the information and guidance of all concerned.

"Headquarters" shall mean the office of the appropriate commander.

"National guard" may apply to the national guard of Indiana or the national guard of the United States according to the tenor of the appropriate section.

"Officer" shall mean commissioned officer, including warrant officer, in the armed forces of the state of Indiana.

"Organization", where used in this article, may mean unit or command.

"Regulations" shall mean the official rules of the appropriate department.

"State and federal property" shall mean state property, real or personal, owned by the state of Indiana or federal property owned by the federal government and consigned to the state of Indiana for use in its armed forces.

"Unit" where used in this article applies to military complements of a company, detachment, troop, battery, or any larger command organization.

SECTION 3. IC 10-2-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Pursuant to article 12, section 1 of the constitution of Indiana, the militia ~~shall consist~~ **consists** of all ~~able-bodied male persons between the ages of at least~~ **eighteen** (18)

~~and forty-five (45) years of age except such as may be those persons who are exempted by the laws of the United States or of this state. and said~~ The militia shall be divided into two (2) classes.

SECTION 4. IC 10-2-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a)** On days of military duty the national guard, called out by proper authority, and performing military duty, shall be considered to be under military discipline. ~~and no~~ An officer or enlisted person ~~shall~~ **may not** be subject to be arrested on any civil process during the time aforesaid.

(b) For purposes of this section:

- (1) an attachment for contempt for failure to obey the command of a subpoena to testify is a civil process; and**
- (2) a citation for a traffic violation is not a civil process.**

SECTION 5. IC 10-2-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Fines may be collected in the following manner:

- (1) By the retention of any pay or allowances due or to become due from the state. ~~of the United States.~~
- (2) By commitment to a jail designated by the reviewing authority until such fine shall have been paid, or until one (1) day shall have been served for each one dollar (\$1) of the fine imposed.
- (3) By payment to the treasurer of the county, who shall then forthwith transmit said sum to the treasurer of state. The treasurer of state shall then quarterly pay such sums to the armory board of the state of Indiana, and such sums are hereby appropriated continuously for the purposes of IC 10-2-2-16.5. It shall be sufficient to record upon the payroll opposite the name of the person fined a notation of the sentence of the court-martial and the date of approval of the sentence, together with the name and rank of the reviewing authority.

(b) Sentence of imprisonment imposed by the courts-martial during active service or at camps of instruction shall be carried out by confinement in a guardhouse, tent, or other places designated by the reviewing authority. Sentence of imprisonment imposed by courts-martial upon persons not in active service or at camps of instruction shall be carried out by confinement in a jail to be designated by the reviewing authority.

SECTION 6. IC 10-4-1-9 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The director of each local organization for emergency management may develop or cause to be developed mutual aid arrangements with other public and private agencies within this state for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management program and state emergency operations plan. In time of emergency it shall be the duty of each local organization for emergency management and the department to render assistance in accordance with the provisions of such mutual aid arrangements.

(b) The director of each local organization for emergency management and disaster may assist in negotiation of reciprocal mutual aid agreements between the governor and the adjoining state or its political subdivisions and shall carry out arrangements or any such agreement relating to the local and political subdivision.

(c) This subsection applies when the governor finds that two (2) or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services. The governor may, with the concurrence of the affected counties, delineate by executive order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to disaster in that area, and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency operations plan, mutual aid, or an area organization for emergency management planning and services. A finding of the governor under this subsection must be based on one (1) or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on an unijurisdictional basis, such as the following:

- (1) Small or sparse population.
- (2) Limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome.
- (3) Unusual vulnerability to disaster as evidenced by a past history of disaster, topographical features, drainage characteristics, disaster potential, and presence of disaster prone facilities or operations.
- (4) The interrelated character of the counties in a multicounty

area.

(5) Other relevant conditions or circumstances.

(d) If the governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster, the governor shall take steps to that end as are desirable. If action under this subsection is taken with jurisdictions that have enacted the ~~interstate~~ emergency management ~~and disaster assistance~~ compact, any resulting agreement or agreements may be considered supplemental agreements pursuant to article 6 7 of that compact.

(e) If the other jurisdiction or jurisdictions with which the governor proposes to cooperate pursuant to subsection (d) have not enacted the ~~interstate~~ emergency management ~~and disaster assistance~~ compact, the governor may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for its making does not otherwise exist, becomes effective only after its text has been communicated to the legislature and so long as no house of the legislature has disapproved the agreement either by the adjournment of the next ensuing session which is competent to consider the agreement or within thirty (30) days of submission of the agreement, whichever is longer.

SECTION 7. IC 10-4-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Each political subdivision within this state shall be within the jurisdiction of and served by a department of emergency management or by an interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) Each county shall maintain a county emergency management advisory council and a county emergency management organization or participate in an interjurisdictional disaster agency which, except as otherwise provided under this chapter, may have jurisdiction over and serve the entire county.

(c) ~~In whatever county in this state a county emergency management advisory council does not exist by March 6, 1951, it is directed that a county emergency management advisory council be organized under the temporary chairmanship of the executive of the county seat, with the assistance of all other city and town executives in the county, the~~

~~president of the county fiscal body, and the president of the county executive.~~

~~(d)~~ (c) The county emergency management advisory council shall consist of the following individuals or their designees:

(1) The president of the county executive **or, if the county executive does not have a president, a member of the county executive appointed from the membership of the county executive.**

(2) The president of the county fiscal body.

(3) The mayor of each city located in the county.

(4) An individual representing the legislative bodies of all towns located within the county.

(5) Representatives of ~~such~~ private and public agencies or organizations which can be of assistance to emergency management as the organizing group considers appropriate, or as may be added later by the county emergency management advisory council.

(6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

~~(e) Upon the organization of the county emergency management advisory council and the selection of a chairman from its membership, the organizing group shall be dissolved.~~

~~(f)~~ (d) The county emergency management advisory council shall exercise general supervision and control over the emergency management and disaster program of the county and shall select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who shall have direct responsibility for the organization, administration, and operation of the emergency management program in the county and shall be responsible to the chairman of the county emergency management advisory council.

~~(g)~~ (e) Any provision of this chapter or other law to the contrary notwithstanding, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political divisions if ~~he~~ **the governor** finds that the establishment and maintenance of an agency or participation in one is made necessary by circumstances or conditions that make it unusually difficult to provide

disaster prevention, preparedness, response, or recovery services under other provisions of this chapter.

~~(h)~~ **(f)** Each political subdivision ~~which that~~ does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that subdivision in the work of disaster prevention, preparedness, response, and recovery.

~~(i)~~ **(g)** The county emergency management and disaster director and personnel of the department may be provided with appropriate office space, furniture, vehicles, communications, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other county agencies.

~~(j)~~ **(h)** Each local or interjurisdictional agency shall prepare and keep current a local or interjurisdictional disaster emergency plan for its area.

~~(k)~~ **(i)** The local or interjurisdictional disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

~~(l)~~ **(j)** Each political subdivision may:

- (1) appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any disaster resulting from enemy attack; provide for a comprehensive insurance program for its emergency management volunteers; and direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set by the federal civil defense agency and the state emergency management agency;
- (2) appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other emergency management and disaster workers;
- (3) establish a primary and one (1) or more secondary control centers to serve as command posts during an emergency;

(4) subject to the order of the governor or the chief executive of the political subdivision, assign and make available for duty the employees, property, or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management and disaster purposes and within or outside of the physical limits of the subdivision; and

(5) in the event of a national security emergency or state of emergency as provided in section 7 of this chapter, waive procedures and formalities otherwise required by law pertaining to the performance of public work, the entering into of contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and distribution of supplies, materials, and facilities, and the appropriation and expenditure of public funds.

SECTION 8. IC 10-4-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class B misdemeanor.

SECTION 9. IC 10-9-2-3, AS ADDED BY P.L.178-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A quorum consists of eight (8) of the voting members of the foundation described in section 2(b)(2) through 2(b)(6) of this chapter.

(b) One (1) of the following is necessary for the foundation to take action:

(1) An affirmative vote by at least a ~~majority of the quorum~~: **eight (8) of the fifteen (15) voting members.**

(2) A tie vote broken by the executive director.

SECTION 10. IC 10-13-2-12, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) It is the intent of the general assembly in enacting this chapter to provide information and data with reference to the total criminal justice system that will be equally beneficial to all officers, agencies, and components of the criminal justice system to better perform their respective duties for the overall improvement of criminal justice. Rules adopted under this chapter shall be drafted to

express this intent.

(b) If a public official:

(1) is required by the rules to report to the division; and

(2) fails to comply with:

(A) the requests of the superintendent for information or data;
or

(B) the rules governing records and systems and equipment
and their maintenance;

the director of the criminal justice planning agency may deny the public official the benefits of the system until the public official complies with the rules.

(c) An official who knowingly, **intentionally, or recklessly** makes a false return of information to the division commits a Class A misdemeanor.

SECTION 11. IC 10-14-3-16, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) The director of a local organization for emergency management may develop or cause to be developed mutual aid arrangements with other public and private agencies within Indiana for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. An arrangement must be consistent with the state emergency management program and state emergency operations plan. During an emergency, a local organization for emergency management and the agency shall render assistance in accordance with the provisions of the mutual aid arrangement.

(b) The director of a local organization for emergency management and disaster:

(1) may assist in the negotiation of reciprocal mutual aid agreements between the governor and the adjoining state or the state's political subdivisions; and

(2) shall carry out arrangements or any agreement relating to the local and political subdivision.

(c) This subsection applies when the governor finds that two (2) or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services. The governor may, with the concurrence of the affected counties, delineate by executive order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to

disaster in that area, and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint emergency operations plan, mutual aid, or an area organization for emergency management planning and services. A finding of the governor under this subsection must be based on one (1) or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on a unijurisdictional basis, including the following factors:

- (1) Small or sparse population.
 - (2) Limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome.
 - (3) Unusual vulnerability to disaster as evidenced by a history of disaster, topographical features, drainage characteristics, disaster potential, and presence of disaster prone facilities or operations.
 - (4) The interrelated character of the counties in a multicounty area.
 - (5) Other relevant conditions or circumstances.
- (d) If the governor finds that:
- (1) a vulnerable area lies partly in Indiana and includes territory in another state or states; and
 - (2) it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster;

the governor shall take steps to establish an interstate relationship. If action under this subsection is taken with jurisdictions that have enacted the ~~interstate~~ emergency management **and disaster assistance** compact, any resulting agreement or agreements may be considered supplemental agreements under article ~~6~~ **7** of the compact.

(e) If the other jurisdiction or jurisdictions with which the governor proposes to cooperate under subsection (d) have not enacted the ~~interstate~~ emergency management **and disaster assistance** compact, the governor may negotiate special agreements with the jurisdiction or jurisdictions. An agreement, if sufficient authority for making the agreement does not otherwise exist, becomes effective only:

- (1) after the agreement's text has been communicated to the general assembly; and
- (2) if a house of the general assembly does not disapprove of the agreement by the later of:

(A) the date of adjournment of the next ensuing session that is competent to consider the agreement; or

(B) not more than thirty (30) days after the date of the submission of the agreement.

SECTION 12. IC 10-14-3-17, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) A political subdivision is:

(1) within the jurisdiction of; and

(2) served by;

a department of emergency management or by an interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) A county shall:

(1) maintain a county emergency management advisory council and a county emergency management organization; or

(2) participate in an interjurisdictional disaster agency that, except as otherwise provided under this chapter, may have jurisdiction over and serve the entire county.

(c) The county emergency management advisory council consists of the following individuals or their designees:

(1) The president of the county executive **or, if the county executive does not have a president, a member of the county executive appointed from the membership of the county executive.**

(2) The president of the county fiscal body.

(3) The mayor of each city located in the county.

(4) An individual representing the legislative bodies of all towns located in the county.

(5) Representatives of private and public agencies or organizations that can assist emergency management considered appropriate by the county emergency management advisory council.

(6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

(d) The county emergency management advisory council shall do the following:

(1) Exercise general supervision and control over the emergency management and disaster program of the county.

(2) Select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who:

(A) has direct responsibility for the organization, administration, and operation of the emergency management program in the county; and

(B) is responsible to the chairman of the county emergency management advisory council.

(e) Notwithstanding any provision of this chapter or other law to the contrary, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political divisions if the governor finds that the establishment and maintenance of an agency or participation in one (1) is necessary by circumstances or conditions that make it unusually difficult to provide:

(1) disaster prevention;

(2) preparedness;

(3) response; or

(4) recovery services;

under this chapter.

(f) A political subdivision that does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that political subdivision in the work of:

(1) disaster prevention;

(2) preparedness;

(3) response; and

(4) recovery.

(g) The county emergency management and disaster director and personnel of the department may be provided with appropriate:

(1) office space;

(2) furniture;

(3) vehicles;

(4) communications;

(5) equipment;

(6) supplies;

(7) stationery; and

(8) printing;

in the same manner as provided for personnel of other county agencies.

(h) Each local or interjurisdictional agency shall:

(1) prepare; and

(2) keep current;

a local or interjurisdictional disaster emergency plan for its area.

(i) The local or interjurisdictional disaster agency shall prepare and distribute to all appropriate officials a clear and complete written statement of:

(1) the emergency responsibilities of all local agencies and officials; and

(2) the disaster chain of command.

(j) Each political subdivision may:

(1) appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes, provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster resulting from enemy attack, provide for a comprehensive insurance program for its emergency management volunteers, and direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set by the federal emergency management agency and the state emergency management agency;

(2) appoint, employ, remove, or provide, with or without compensation:

(A) rescue teams;

(B) auxiliary fire and police personnel; and

(C) other emergency management and disaster workers;

(3) establish:

(A) a primary; and

(B) one (1) or more secondary;

control centers to serve as command posts during an emergency;

(4) subject to the order of the governor or the chief executive of the political subdivision, assign and make available for duty the employees, property, or equipment of the political subdivision relating to:

(A) firefighting;

- (B) engineering;
- (C) rescue;
- (D) health, medical, and related services;
- (E) police;
- (F) transportation;
- (G) construction; and
- (H) similar items or services;

for emergency management and disaster purposes within or outside the physical limits of the political subdivision; and
 (5) in the event of a national security emergency or disaster emergency as provided in section 12 of this chapter, waive procedures and formalities otherwise required by law pertaining to:

- (A) the performance of public work;
- (B) the entering into of contracts;
- (C) the incurring of obligations;
- (D) the employment of permanent and temporary workers;
- (E) the use of volunteer workers;
- (F) the rental of equipment;
- (G) the purchase and distribution of supplies, materials, and facilities; and
- (H) the appropriation and expenditure of public funds.

SECTION 13. IC 10-14-3-34, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class B misdemeanor.

SECTION 14. IC 10-14-4-12, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. A person who **knowingly, intentionally, or recklessly** violates this chapter commits a Class B misdemeanor.

SECTION 15. IC 10-15-2-3, AS ADDED BY SEA 257-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A quorum consists of eight (8) of the voting members of the foundation described in section 2(b)(2) through 2(b)(6) of this chapter.

(b) One (1) of the following is necessary for the foundation to take action:

- (1) An affirmative vote by at least a **majority of the quorum: eight**

(8) of the fifteen (15) members.

(2) A tie vote broken by the executive director.

SECTION 16. IC 10-16-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. "Armory" means real property and facilities located on the real property that are used by the military or naval forces of the state for drill, meeting, training, and rendezvous purposes.**

SECTION 17. IC 10-16-6-1, AS ADDED BY SEA 257-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Under Article 12, Section 1 of the Constitution of the State of Indiana, the militia consists of all ~~able-bodied males~~ **persons** who are

(+) at least eighteen (18) years of age ~~and~~

(2) ~~less than forty-six (46) years of age;~~

except those persons who are exempted by the laws of the United States or of Indiana.

SECTION 18. IC 10-16-7-8, AS ADDED BY SEA 257-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) On days of military duty, the Indiana national guard, called out by proper authority and performing military duty, is considered to be under military discipline. An officer or enlisted person is not subject to arrest on any civil process during this time.

(b) For purposes of this section:

(1) an attachment for contempt for failure to obey the command of a subpoena to testify is a civil process; and

(2) a citation for a traffic violation is not a civil process.

SECTION 19. IC 10-16-9-3, AS ADDED BY SEA 257-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Fines may be collected in the following manner:

(1) By the retention of any pay or allowances due or to become due from the state. ~~or the United States:~~

(2) By commitment to a jail designated by the reviewing authority until the fine is paid or until one (1) day is served for each one dollar (\$1) of the fine imposed.

(3) By payment to the county treasurer. The county treasurer shall

immediately transmit the payment to the treasurer of state. The treasurer of state shall quarterly pay the sums to the armory board, and the sums are appropriated continuously for the purposes of IC 10-16-3-11. It is sufficient to record upon the payroll opposite the name of the person fined a notation of the sentence of the court-martial and the date of approval of the sentence, together with the name and rank of the reviewing authority.

(b) A sentence of imprisonment imposed by a court-martial during active service or at camps of instruction shall be carried out by confinement in a guardhouse, tent, or other places designated by the reviewing authority. A sentence of imprisonment imposed by court-martial upon persons not in active service or at camps of instruction shall be carried out by confinement in a jail to be designated by the reviewing authority.

SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 10-4-3; IC 10-14-7; IC 34-30-2-38.3.



P.L.116-2003

[S.477. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-6-6-40 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 40. (a) This section applies after December 31, 2003.**

(b) The county election board shall conduct a training and educational meeting for precinct election officers.

(c) The board shall require inspectors and judges to attend the meeting and may require other precinct election officers to attend the meeting.

(d) The meeting required under this section must include information related to making polling places and voting systems accessible to elderly voters and disabled voters. The meeting may

include other information relating to the duties of precinct election officers as determined by the county election board.

(e) The meeting required by this section must be held not later than the day before election day.

SECTION 2. IC 3-11-6.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "federal act" refers to the federal Help America Vote Act of 2002.**

SECTION 3. IC 3-11-8-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. (a) As used in this section, "facility" refers to the facility in which a polling place is located.**

(b) For purposes of this chapter, a facility is an "accessible facility" for elderly voters and voters with disabilities only if the following apply:

(1) The facility meets the standards for accessibility for elderly voters and voters with disabilities established under 42 U.S.C. 1973ee through 42 U.S.C. 1973ee-6.

(2) All the following are accessible to elderly voters and voters with disabilities in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters:

(A) Parking spaces marked and available to conform with IC 5-16-9.

(B) The path to the facility that an individual must travel on the property where the facility is located.

(C) The entrances of the facility to be used by voters.

(D) The paths of travel within the facility to the rooms or areas where the voting systems are located.

(E) The rooms or areas in the facility where the voting systems are located.

(c) The requirements of subsection (b) are satisfied if a facility will comply with subsection (b) by implementing temporary measures.

SECTION 4. IC 3-11-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. A voter shall vote at the polls for the precinct where the voter resides except when authorized to vote in another precinct under IC 3-10-10, IC 3-10-11, IC 3-10-12, or at a**

special voting poll under ~~section 6~~ **section 6.5** of this chapter.

SECTION 5. IC 3-11-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Before each election each county executive shall secure for each precinct of the county ~~a suitable room~~ **an accessible facility** in which to hold the election.

(b) If ~~there is no suitable room~~ **an accessible facility is not** available within the precinct, then the polls may be located in a public building in an adjoining precinct if the public building is:

(1) **either:**

(A) not more than one (1) mile from the closest boundary of the precinct for which it is the polls; or

~~(2)~~ (B) located in the same township as the precinct that ~~has no suitable room~~ **does not have an accessible facility** available; if the polling place complies with accessibility requirements for disabled voters under 42 U.S.C. 1973cc through 1973cc-6. **and**

(2) **an accessible facility.**

(c) If the county election board, by a unanimous vote of its entire membership, determines that ~~there is no suitable room~~ **an accessible facility is not** available under subsection (b), the board may locate the polls in the most convenient available ~~room~~ **accessible facility** in the county. ~~that complies with the accessibility requirements for disabled voters.~~

SECTION 6. IC 3-11-8-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. (a) A county executive shall designate the polls for each precinct not less than twenty-nine (29) days before election day.

(b) The designation of a polling place under this section remains in effect until:

(1) the location of the polling place is altered by an order of the county executive or county election board under this chapter; or

(2) a precinct establishment order issued under IC 3-11-1.5:

(A) designates a new polling place location; or

(B) combines the existing precinct with another precinct established by the order.

(c) The county executive shall then file the report required by section ~~6~~ **6.5** of this chapter concerning polls that are inaccessible to voters with disabilities.

SECTION 7. IC 3-11-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.2. (a) A county executive shall give ten (10) days notice of the place of voting in each precinct by publication in the manner prescribed by IC 5-3-1-4. **The notice must include the following information:**

(1) For each precinct, whether the polls are located in an accessible facility.

(2) If special polling places are designated under section 6.5 of this chapter:

(A) the location of each special polling place; and

(B) the procedures for elderly voters and voters with disabilities to apply to vote at a special polling place.

(b) If it is necessary to change a place for voting after giving notice, notice of the change shall be given in the same manner. However, except as provided in subsection ~~(b)~~, **no (c), a change may not be made within two (2) days before an election.**

~~(b)~~ **(c)** If the county election board determines by a unanimous vote of the board's entire membership that the use of a polling place at an election would be dangerous or impossible, the county election board may order the relocation of the polling place during the final two (2) days before an election. The county election board shall give the best possible notice of this change to news media and the voters of the precinct. **If an order is adopted under this subsection, the order expires after the election.**

SECTION 8. IC 3-11-8-6, AS AMENDED BY P.L.38-1999, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~(a) If possible;~~ **Except as provided in section 6.5 of this chapter,** the county executive shall locate the polls for each precinct in a **an accessible** facility. ~~that meets the standards for accessibility for voters with disabilities and elderly voters established under 42 U.S.C. 1973ee through 1973ee-6. If the county executive determines that no accessible facility is available in a precinct and that no facility can be made temporarily accessible;~~ the county executive shall designate at least one ~~(1)~~ special voting poll in the county at least twenty-nine ~~(29)~~ days before election day. A special voting poll must:

~~(1) be accessible to voters with disabilities and elderly voters under federal law; and~~

~~(2) operate under all other requirements for precincts and polls~~

under this title:

(b) The county executive shall:

- (1) provide public notice; and
- (2) file a report;

listing each inaccessible precinct and each special voting poll in the county with the election division at least twenty-nine (29) days before election day. The list shall be available to any person upon request.

(c) A precinct poll may also be used as a special voting poll for the county if the precinct poll meets the standards for accessibility by voters with disabilities and elderly voters established under federal law.

(d) The county election board shall assign a special voting poll to a voter with disabilities or elderly voter:

- (1) whose regular precinct poll is inaccessible to voters with disabilities or elderly voters; and
- (2) who submits an application on a form prescribed by the commission at least ten (10) days before election day:

(e) Applications may be submitted under subsection (d)(2):

- (1) in person at the principal office of the county election board;
- or
- (2) by mail.

(f) The precinct election board at a special voting poll shall do the following:

- (1) Provide each voter with disabilities or elderly voter assigned under subsection (d) a ballot that includes all offices and public questions to be voted for in the voter's precinct of residence.
- (2) Prepare a separate poll list for the voters with disabilities and elderly voters assigned to the special voting poll.

(g) Votes cast at a special voting poll shall be counted and reported in the same manner as votes cast at a precinct under this title.

SECTION 9. IC 3-11-8-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.5. (a) Not later than twenty-nine (29) days before election day, the county executive shall file a report with the co-directors of the election division listing each precinct of the county for which the county executive was unable to secure an accessible facility for election day. The report must include any other information required by the co-directors.**

(b) If the co-directors determine that there are no accessible

facilities the county executive can secure for a precinct polling place, the co-directors shall authorize the county executive to designate at least one (1) special polling place in the county.

(c) A special polling place must:

- (1) be located in an accessible facility; and
- (2) operate under all other requirements for precincts and polls under this title.

(d) A precinct polling place located in an accessible facility may be used as a special polling place for the county under subsection (c).

(e) The circuit court clerk shall assign a special polling place to an elderly voter or a voter with disabilities:

- (1) whose regular precinct polling place is not located in an accessible facility; and
- (2) who submits an application on a form prescribed by the commission not later than ten (10) days before election day.

Applications may be submitted under subdivision (2) by mail or in person at the circuit court clerk's office.

(f) The precinct election board at a special polling place shall do the following:

- (1) Provide each elderly voter or voter with disabilities assigned to the special polling place under subsection (e) a ballot that includes all offices and public questions to be voted for in the voter's precinct of residence.
- (2) Prepare a separate poll list for the elderly voters and the voters with disabilities assigned to the special polling place.

(g) Votes cast at a special polling place shall be counted and reported in the same manner as votes cast at a precinct under this title.

SECTION 10. IC 3-11-15-13, AS AMENDED BY P.L.126-2002, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in this chapter, To be approved for use in Indiana, a voting system shall meet **the following standards:**

- (1) After December 31, 2005, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and

participation (including privacy and independence) as for other voters. A county complies with the standards described in this subdivision if each polling place in the county has at least one (1) voting system equipped for individuals with disabilities that complies with the standards described in this subdivision.

(2) A voting system must meet the Voting System Standards established by the Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Voting Systems issued ~~approved~~ by the Federal Election Commission on ~~January 25, 1990~~ April 30, 2002.

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

SECTION 11. IC 3-11-8-4.2 IS REPEALED [EFFECTIVE JULY 1, 2003].

P.L.117-2003

[S.504. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

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

SECTION 1. IC 24-3-5.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 5.2. Delivery Sales of Cigarettes

Sec. 1. As used in this chapter, "cigarette" has the meaning set forth in IC 6-7-1-2.

Sec. 2. As used in this chapter, "delivery sale" means a transaction for the purchase of cigarettes in which an offer to

purchase cigarettes is made electronically using a computer network (as defined in IC 35-43-2-3) or by mail and acceptance of the offer results in delivery of the cigarettes to a named individual at a designated address.

Sec. 3. As used in this chapter, "merchant" means a person or an entity that engages in the selling of cigarettes by delivery sale.

Sec. 4. A merchant may not mail or ship cigarettes as part of a delivery sale unless, before mailing or shipping the cigarettes, the merchant complies with the following:

(1) Obtains from the prospective customer a written statement signed by the prospective customer under penalty of perjury:

(A) providing the prospective customer's address and date of birth;

(B) advising the prospective customer that:

(i) signing another person's name to the statement required under this subdivision may subject the person to a civil monetary penalty of not more than one thousand dollars (\$1,000); and

(ii) purchasing cigarettes by a person less than eighteen (18) years of age is a Class C infraction under IC 35-46-1-10.5;

(C) confirming that the cigarette order was placed by the prospective customer;

(D) providing a warning under 15 U.S.C. 1333(a)(1); and

(E) stating the sale of cigarettes by delivery sale is a taxable event for purposes of IC 6-7-1.

(2) Makes a good faith effort to verify the information in the written statement obtained under subdivision (1) by using a federal or commercially available data base of valid government issued identification, which must include the date of birth or age of the individual placing the order. A valid government issued identification may include a driver's license, a state identification card, military identification, a passport, an official naturalization or immigration document, or a voter registration card. However, if the prospective customer's age cannot be verified using the data base, the prospective customer shall submit a photocopy or other image of a valid government issued identification that includes the

date of birth or age of the customer.

(3) Receives payment for the delivery sale by a check, credit card, or debit card issued in the name of the prospective purchaser.

(4) Submits, to each credit or debit card acquiring company with whom the merchant has credit or debit card sales, information in an appropriate form so that the words "tobacco products" will be printed on the purchaser's credit or debit card statement when cigarettes are purchased using a credit or debit card.

Sec. 5. (a) A merchant who mails or ships cigarettes as part of a delivery sale shall:

(1) use a mailing or shipping service that requires the customer or a person at least eighteen (18) years of age who is designated by the customer to:

(A) sign to accept delivery of the cigarettes; and

(B) present a valid operator's license issued under IC 9-24-3 or identification card issued under IC 9-24-16 if the customer or the customer's designee, in the opinion of the delivery agent or employee of the mailing or shipping service, appears to be less than twenty-seven (27) years of age;

(2) provide to the mailing or shipping service used under subdivision (1) proof of compliance with section 7(a) of this chapter; and

(3) include the following statement in bold type or capital letters on an invoice or shipping document:

INDIANA LAW PROHIBITS THE MAILING OR SHIPPING OF CIGARETTES TO A PERSON LESS THAN EIGHTEEN (18) YEARS OF AGE AND REQUIRES PAYMENT OF ALL APPLICABLE TAXES.

(b) The alcohol and tobacco commission may impose a civil penalty of not more than one thousand dollars (\$1,000) if a mailing or shipping service:

(1) delivers cigarettes as part of a delivery sale without first receiving proof from the merchant of compliance with section 7(a) of this chapter; or

(2) fails to obtain a signature and proof of identification of the customer or the customer's designee under subsection (a)(1).

The alcohol and tobacco commission shall deposit amounts collected under this subsection into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

(c) The following apply to a merchant that mails or ships cigarettes as part of a delivery sale without using a third party service as required by subsection (a)(1):

(1) The merchant shall require the customer or a person at least eighteen (18) years of age who is designated by the customer to:

(A) sign to accept delivery of the cigarettes; and

(B) present a valid operator's license issued under IC 9-24-3 or identification card issued under IC 9-24-16 if the customer or the customer's designee, in the opinion of the merchant or the merchant's employee making the delivery, appears to be less than twenty-seven (27) years of age.

(2) The alcohol and tobacco commission may impose a civil penalty of not more than one thousand dollars (\$1,000) if the merchant:

(A) delivers the cigarettes without first complying with section 7(a) of this chapter; or

(B) fails to obtain a signature and proof of identification of the customer or the customer's designee under subsection (c)(1).

The alcohol and tobacco commission shall deposit amounts collected under this subdivision into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

Sec. 6. (a) A merchant shall, before mailing or shipping cigarettes as part of a delivery sale, provide the department of state revenue with a written statement containing the merchant's name, address, principal place of business, and each place of business in Indiana.

(b) A merchant who mails or ships cigarettes as part of a delivery sale shall, not later than the tenth day of the calendar month immediately following the month in which the delivery sale occurred, file with the department of state revenue a copy of the invoice for each delivery sale to a customer in Indiana. The invoice must include the following information:

(1) The name and address of the customer to whom the

cigarettes were delivered.

(2) The brand name of the cigarettes that were delivered to the customer.

(3) The quantity of cigarettes that were delivered to the customer.

(c) A merchant who complies with 15 U.S.C. 376 is considered to satisfy the requirements of this section.

Sec. 7. (a) A merchant who delivers cigarettes to a customer as part of a delivery sale shall:

(1) collect and pay all applicable taxes under IC 6-7-1; or

(2) place a legible and conspicuous notice on the outside of the container in which the cigarettes are shipped. The notice shall be placed on the same side of the container as the address to which the container is shipped and must state the following:

"If these cigarettes have been shipped to you from a merchant located outside the state in which you reside, the merchant has under federal law reported information about the sale of these cigarettes, including your name and address, to your state tax collection agency. You are legally responsible for all applicable unpaid state taxes on these cigarettes."

In addition to the requirements in subsections (1) and (2), as part of a delivery sale the merchant shall inform the customer in writing of all state taxes imposed by the customer's state of residence, including a computation of the amount of taxes due.

(b) The alcohol and tobacco commission may impose, in addition to any other remedies, civil penalties as follows:

(1) If the defendant has one (1) judgment for a violation of this section committed during a five (5) year period, a civil penalty of at least one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000).

(2) If the defendant has two (2) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least two thousand five hundred dollars (\$2,500) and not more than three thousand five hundred dollars (\$3,500).

(3) If the defendant has three (3) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least four thousand dollars

(\$4,000) and not more than five thousand dollars (\$5,000).

(4) If the defendant has four (4) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least five thousand five hundred dollars (\$5,500) and not more than six thousand five hundred dollars (\$6,500).

(5) If the defendant has at least five (5) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of ten thousand dollars (\$10,000).

Sec. 8. The alcohol and tobacco commission may impose a civil penalty of not more one thousand dollars (\$1,000) on a:

(1) customer who signs another person's name to a statement required under section 4(1) of this chapter; or

(2) merchant who sells cigarettes by delivery sale to a person less than eighteen (18) years of age.

The alcohol and tobacco commission shall deposit amounts collected under this section into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

SECTION 2. IC 34-24-1-1, AS AMENDED BY P.L.123-2002, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

(i) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(ii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(iii) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(iv) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(v) Dealing in a counterfeit substance (IC 35-48-4-5).

(vi) Possession of cocaine, a narcotic drug, or

methamphetamine (IC 35-48-4-6).

(vii) Dealing in paraphernalia (IC 35-48-4-8.5).

(viii) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.

(C) Any hazardous waste in violation of IC 13-30-6-6.

(D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).

(2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

(A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;

(B) used to facilitate any violation of a criminal statute; or

(C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

(A) commit, attempt to commit, or conspire to commit;

(B) facilitate the commission of; or

(C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

(A) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(B) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(C) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.

(11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.

(12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes that a person attempts to sell in violation of IC 24-3-5.2, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.2.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as

consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

- (1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).
- (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
- (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- (4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.
- (5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.
- (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

P.L.118-2003

[H.1596. Approved April 29, 2003.]

AN ACT concerning Medicaid.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "autism spectrum disorder" includes the following diagnoses:**

- (1) Autism.**
- (2) Asperger's syndrome.**
- (3) Other pervasive developmental disorders.**

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) As used in this SECTION, "waivers" refers to the following home and community based services waivers approved by the United States Department of Health and Human Services:

(1) Support services waiver.

(2) Autism waiver.

(3) Mentally retarded/developmentally disabled (DD) waiver.

(d) Before July 1, 2004, the office shall apply to the United States Department of Health and Human Services for approval to amend the waivers' language from using the word "autism" to using the phrase "autism spectrum disorder".

(e) The office may not implement the amendments to the waivers until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the amendment to the waivers are approved.

(f) If the office receives approval to amend the waivers under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (e), the office shall implement the amendments to the waivers not more than sixty (60) days after the governor receives the affidavit.

(g) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(h) This SECTION expires December 31, 2009.

P.L.119-2003

[H.1808. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 36-8-12-2, AS AMENDED BY P.L.192-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

"Nominal compensation" means annual compensation of not more than ~~ten~~ **twenty** thousand dollars (~~\$10,000~~) (**\$20,000**).

"Responsible party" has the meaning set forth in IC 13-11-2-191(d).

"Volunteer fire department" means a department or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

- (1) who, as a result of a written application, has been elected or appointed to membership in a volunteer fire department;
- (2) who has executed a pledge to faithfully perform, with or without nominal compensation, the work related duties assigned and orders given to the firefighter by the chief of the volunteer fire department or an officer of the volunteer fire department, including orders or duties involving education and training as prescribed by the volunteer fire department or the state; and
- (3) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire department and that has been approved by the proper officers of the unit.

P.L.120-2003

[H.1858. Approved April 29, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-3-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 23. (a) For purposes of this section:**

- (1) "adjusted cost" refers to the adjusted cost established in 50 IAC 4.2-4-4 (as in effect on January 1, 2003);
- (2) "depreciable personal property" has the meaning set forth in 50 IAC 4.2-4-1 (as in effect on January 1, 2003);
- (3) "integrated steel mill" means a person that produces steel by processing iron ore and other raw materials in a blast furnace;
- (4) "oil refinery/petrochemical company" means a person that produces a variety of petroleum products by processing an annual average of at least one hundred thousand (100,000) barrels of crude oil per day;
- (5) "permanently retired depreciable personal property" has the meaning set forth in 50 IAC 4.2-4-3 (as in effect on January 1, 2003);
- (6) "pool" refers to a pool established in 50 IAC 4.2-4-5(a) (as in effect on January 1, 2003);
- (7) "special integrated steel mill or oil refinery/petrochemical equipment" means depreciable personal property, other than special tools and permanently retired depreciable personal property:
 - (A) that:
 - (i) is owned, leased, or used by an integrated steel mill or an entity that is at least fifty percent (50%) owned by an affiliate of an integrated steel mill; and
 - (ii) falls within Asset Class 33.4 as set forth in IRS Rev.

Proc. 87-56, 1987-2, C.B. 647; or

(B) that:

(i) is owned, leased, or used as an integrated part of an oil refinery/petrochemical company or its affiliate; and

(ii) falls within Asset Class 13.3 or 28.0 as set forth in IRS Rev. Proc. 87-56, 1987-2, C.B. 647;

(8) "special tools" has the meaning set forth in 50 IAC 4.2-6-2 (as in effect on January 1, 2003); and

(9) "year of acquisition" refers to the year of acquisition determined under 50 IAC 4.2-4-6 (as in effect on January 1, 2003).

(b) Notwithstanding 50 IAC 4.2-4-4, 50 IAC 4.2-4-6, and 50 IAC 4.2-4-7, a taxpayer may elect to calculate the true tax value of the taxpayer's special integrated steel mill or oil refinery/petrochemical equipment by multiplying the adjusted cost of that equipment by the percentage set forth in the following table:

Year of Acquisition	Percentage
1	40%
2	56%
3	42%
4	32%
5	24%
6	18%
7	15%
8 and older	10%

(c) The department of local government finance shall designate the table under subsection (b) as "Pool No. 5" on the business personal property tax return.

(d) The percentage factors in the table under subsection (b) automatically reflect all adjustments for depreciation and obsolescence, including abnormal obsolescence, for special integrated steel mill or oil refinery/petrochemical equipment. The equipment is entitled to all exemptions, credits, and deductions for which it qualifies.

(e) The minimum valuation limitations under 50 IAC 4.2-4-9 do not apply to special integrated steel mill or oil refinery/petrochemical equipment valued under this section. The value of the equipment is not included in the calculation of that

minimum valuation limitation for the taxpayer's other assessable depreciable personal property in the taxing district.

(f) An election to value special integrated steel mill or oil refinery/petrochemical equipment under this section:

- (1) must be made by reporting the equipment under this section on a business personal property tax return;
- (2) applies to all of the taxpayer's special integrated steel mill or oil refinery/petrochemical equipment located in the state (whether owned or leased, or used as an integrated part of the equipment); and
- (3) is binding on the taxpayer for the assessment date for which the election is made.

The department of local government finance shall prescribe the forms to make the election beginning with the March 1, 2003, assessment date. Any special integrated steel mill or oil refinery/petrochemical equipment acquired by a taxpayer that has made an election under this section is valued under this section.

(g) If fifty percent (50%) or more of the adjusted cost of a taxpayer's property that would, notwithstanding this section, be reported in a pool other than Pool No. 5 is attributable to special integrated steel mill or oil refinery/petrochemical equipment, the taxpayer may elect to calculate the true tax value of all of that property as special integrated steel mill or oil refinery/petrochemical equipment. The true tax value of property for which an election is made under this subsection is calculated under subsections (b) through (f).

SECTION 2. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]

(a) IC 6-1.1-3-23, as added by this act, applies only to property taxes first due and payable after December 31, 2003.

(b) This SECTION expires January 1, 2005.

SECTION 3. An emergency is declared for this act.

P.L.121-2003

[H.1222. Approved April 30, 2003.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-28-1-26.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26.5. (a) This section applies to the following activities:

- (1) The placement or replacement of a mobile home within a boundary river floodway.
- (2) The repair of a residence that:
 - (A) is located in a boundary river floodway; and
 - (B) has been damaged by floodwaters or another means; except for the reconstruction of a residence to which section 25 of this chapter applies.
- (3) The construction of an:
 - (A) addition to; or
 - (B) improvement of;a residential structure within a boundary river floodway.

(4) The construction of a new residence within a boundary river floodway.

(b) The federal regulations that:

- (1) were adopted by the director of the Federal Emergency Management Agency to implement the National Flood Insurance Act (42 U.S.C. 4001 et seq.);
- (2) are published in 44 CFR Parts 59 through 60; and
- (3) are in effect on January 1, 1997;

are adopted as the criteria for determining whether an activity referred to in subsection (a) is allowed in Indiana. **However, the lowest floor of a new residence constructed within a boundary river floodway referred to in subsection (a)(4) must be at least two (2) feet above the one hundred (100) year frequency flood elevation.**

(c) A person who wishes to perform an activity referred to in

subsection (a) is authorized to perform the activity if:

(1) the federal regulations described in subsection (b) as the governing criteria allow the activity; and

(2) the person obtains a permit for the activity under this section.

(d) To obtain a permit for an activity referred to in subsection (a), a person must:

(1) file with the director a verified written application for a permit on a form provided by the department; and

(2) pay to the department a nonrefundable fee of ten dollars (\$10).

(e) An application filed under this section must:

(1) set forth the material facts concerning the proposed activity; and

(2) in the case of an activity described in subsection (a)(1), ~~or (a)(3)~~, **or (a)(4)**, include plans and specifications for the construction, reconstruction, or repair.

(f) If an application submitted under this section meets the requirements set forth in subsections (d) and (e), the director may not reject the application unless the regulations adopted as the governing criteria under subsection (b) do not allow the activity.

(g) If the federal regulations adopted as the governing criteria under subsection (b) authorize a type of activity only when certain conditions are met, a permit that the director issues for that type of activity may require the applicant, in carrying out the activity, to meet the same conditions.

(h) If:

(1) there is a dispute under this section about the elevation of a site; and

(2) the elevation of the site has been determined by a registered land surveyor;

the elevation determined by the registered land surveyor must be used as the accepted elevation.

P.L.122-2003

[H.1365. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-29-1-11, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This chapter does not limit:

- (1) the right to assign, mortgage, or pledge the rents and profits arising from real estate;
- (2) the right of an assignee, a mortgagee, or a pledgee to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge; or
- (3) the power of a court of equity to appoint a receiver to take charge of real estate to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge.

(b) A person may enforce an assignment, a mortgage, or a pledge of rents and profits arising from real property:

- (1) whether the person has or does not have possession of the real estate; and
- (2) regardless of the:
 - (A) adequacy of the security; or
 - (B) solvency of the assignor, mortgagor, or pledgor.

(c) If a person:

- (1) enforces an assignment, a mortgage, or a pledge of rents and profits arising from real estate; and
- (2) does not have possession of the real estate;

the obligations of a mortgagee in possession of real estate may not be imposed on the holder of the assignment, mortgage, or pledge.

(d) A mortgagee seeking equitable subrogation with respect to a lien may not be denied equitable subrogation solely because:

- (1) the mortgagee:**
 - (A) is engaged in the business of lending; and**
 - (B) had constructive notice of the intervening lien over**

- which the mortgagee seeks to assert priority;
- (2) the lien for which the mortgagee seeks to be subrogated was released; or
- (3) the mortgagee obtained a title insurance policy.
- (e) Subsection (d) does not apply to a municipal sewer lien under IC 36-9-23 or a mechanic's lien under IC 32-28-3-1.**

P.L.123-2003

[H.1367. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-42-4-5, AS AMENDED BY P.L.118-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to touch or fondle himself or another child under the age of sixteen (16) with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class D felony. However, the offense is:

- (1) a Class C felony if a child involved in the offense is under the age of fourteen (14);
- (2) a Class B felony if:
 - (A) the offense is committed by using or threatening the use of deadly force or while armed with a deadly weapon; or
 - (B) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and
- (3) a Class A felony if it results in serious bodily injury.

(b) A person eighteen (18) years of age or older who knowingly or intentionally directs, aids, induces, or causes a child under the age of sixteen (16) to:

- (1) engage in sexual intercourse with another child under sixteen (16) years of age;
- (2) engage in sexual conduct with an animal other than a human being; or
- (3) engage in deviate sexual conduct with another person;

with intent to arouse or satisfy the sexual desires of a child or the older person commits vicarious sexual gratification, a Class C felony. However, the offense is a Class B felony if any child involved in the offense is less than fourteen (14) years of age, and it is a Class A felony if the offense is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) A person eighteen (18) years of age or older who knowingly or intentionally:

- (1) engages in sexual intercourse;**
- (2) engages in deviate sexual conduct; or**
- (3) touches or fondles himself; the person's own body;**

in the presence of a child less than fourteen (14) years of age with the intent to arouse or satisfy the sexual desires of the child or the older person commits ~~fondling~~ **performing sexual conduct** in the presence of a minor, a Class D felony.

SECTION 2. IC 35-45-4-1, AS AMENDED BY P.L.121-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person who knowingly or intentionally, in a public place:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct;
- (3) appears in a state of nudity **with the intent to arouse the sexual desires of the person or another person; or**
- (4) fondles the person's genitals or the genitals of another person;

commits public indecency, a Class A misdemeanor.

(b) A person at least eighteen (18) years of age who knowingly or intentionally, in a public place, appears in a state of nudity with the intent to be seen by a child less than sixteen (16) years of age commits public indecency, a Class A misdemeanor.

(c) However, the offense under subsection (a) or subsection (b) is a Class D felony if the person who commits the offense has a prior unrelated conviction:

- ~~(1)~~ by appearing in the state of nudity with the intent to arouse the sexual desires of the person or another person in or on a public place where a child less than sixteen ~~(16)~~ years of age is present;
- ~~(2)~~ in a public park and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section;
- ~~(3)~~ in or on school property and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section; or
- ~~(4)~~ in department of natural resources owned or managed property and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section.

(1) under subsection (a) or (b); or

(2) in another jurisdiction, including a military court, that is substantially equivalent to an offense described in subsection (a) or (b).

~~(c)~~ **(d) As used in this section, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.**

~~(d)~~ **(e) A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:**

- (1) engages in sexual intercourse;
 - (2) engages in deviate sexual conduct; or
 - (3) fondles the person's genitals or the genitals of another person;
- or**
- (4) appears in a state of nudity;**

where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

SECTION 3. IC 35-45-4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. (a) As used in this section, "nudity" has the meaning set forth in section 1(d) of this chapter.**

(b) A person who knowingly or intentionally appears in a public place in a state of nudity commits public nudity, a Class C misdemeanor.

(c) A person who knowingly or intentionally appears in a public place in a state of nudity with the intent to be seen by another person commits a Class B misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (d).

(d) A person who knowingly or intentionally appears in a state of nudity:

(1) in or on school grounds;

(2) in a public park; or

(3) with the intent to arouse the sexual desires of the person or another person, in a department of natural resources owned or managed property;

commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (c).

SECTION 4. [EFFECTIVE JULY 1, 2003] IC 35-45-4-1 and IC 35-42-4-5, both as amended by this act, and IC 35-45-4-1.5, as added by this act, apply only to acts committed after June 30, 2003.

P.L.124-2003

[H.1489. Approved May 1, 2003.]

AN ACT concerning high speed rail funding.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] **(a) This SECTION applies to a state fiscal year beginning after June 30, 2003, and**

ending before July 1, 2005.

(b) For each state fiscal year described in subsection (a), the Indiana department of transportation shall expend at least ten percent (10%) of Indiana's federal funding for state planning and research received under 23 U.S.C. 505 during the state fiscal year to pay planning costs, including environmental impact studies, associated with the development of a high speed passenger rail system in Indiana.

(c) This SECTION expires July 1, 2005.



P.L.125-2003

[H.1510. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 16-35-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6. Breastfeeding

Sec. 1. Notwithstanding any other law, a woman may breastfeed her child anywhere the woman has a right to be.

P.L.126-2003
[H.1523. Approved May 1, 2003.]

AN ACT concerning pensions.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "PERF board" refers to the public employees' retirement fund board of trustees established by IC 5-10.3-3-1.

(b) As used in this SECTION, "fund" refers to the fund for the defined contribution plan of the legislators' retirement system established by IC 2-3.5-3-2.

(c) Beginning January 1, 2004, the PERF board shall conduct a pilot program concerning:

**(1) the implementation of a member's investment selection;
and**

**(2) the crediting of a member's contributions and earnings;
for the fund.**

(d) The pilot program referred to in subsection (c) must include the following elements:

(1) Notwithstanding IC 2-3.5-5-3(b)(2), the PERF board shall implement a member's selection under IC 2-3.5-5-3 not later than the next business day following receipt of the member's selection by the PERF board. This date is the effective date of the member's selection.

(2) Notwithstanding IC 2-3.5-5-3(b)(7), all contributions to a member's account in the fund must be allocated under IC 2-3.5-5-3 not later than the last day of the quarter in which the contributions are received and reconciled in accordance with the member's most recent effective direction.

(3) Notwithstanding IC 2-3.5-5-3(c) and IC 2-3.5-5-3(d), when a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member is the market value of the member's investment as of five (5) business days preceding the member's distribution or annuitization at

retirement, disability, death, or withdrawal, plus contributions received after that date.

(4) Notwithstanding IC 2-3.5-5-4, contributions to the fund under IC 2-3.5-5-4 must be credited to the fund not later than the last day of the quarter in which the contributions were deducted.

(5) Notwithstanding IC 2-3.5-5-5, the state shall make contributions under IC 2-3.5-5-5 to the fund not later than the last day of each quarter. The contributions must equal twenty percent (20%) of the annual salary received by each participant during that quarter.

(e) Before November 1, 2005, the PERF board shall report to the pension management oversight commission established by IC 2-5-12 the results of the pilot program referred to in subsection (c) and shall recommend proposed legislation if the report includes a finding that the pilot program should be implemented on a permanent basis. If the PERF board recommends implementing the pilot program on a permanent basis, the PERF board shall provide to the pension management oversight commission a schedule to implement the elements of the pilot program on a permanent basis for all funds for which it has responsibility.

(f) This SECTION expires December 31, 2005.

P.L.127-2003

[H.1643. Approved May 1, 2003.]

AN ACT concerning human services.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "office" refers to the office of the secretary of family and social services established by IC 12-8-1-1.

(b) The office shall:

(1) cooperate with; and

(2) assist;
a nonprofit organization with the purpose to implement and administer a program to provide health care to uninsured Indiana residents.

(c) The office shall assist a nonprofit organization that has the purpose described in subsection (b) with the following:

(1) Determining eligibility of potential participants who have an income of not more than one hundred percent (100%) of the federal poverty level for a program described in this SECTION.

(2) Issuing a plan card that is valid for one (1) year to an individual whom:

(A) the office has determined is eligible for the program;
and

(B) has paid the office a registration fee determined by the office.

(3) Operating a toll free telephone number that provides provider referral services for participants in the program.

(4) Implementing the program described in this SECTION to combine the resources of the office and the nonprofit organization in a manner that would not result in the additional expenditure of state funds.

P.L.128-2003

[H.1683. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-9-11-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. The motor carrier services division of the department of state revenue may adopt rules under IC 4-22-2 to**

implement and administer this chapter.

SECTION 2. IC 8-9-11-5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 5. A person who violates this chapter commits a Class C infraction.**

SECTION 3. IC 8-9-12-5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) A railroad that violates this chapter is liable to the state for a penalty of not:**

(1) less than one hundred dollars (\$100); or

(2) more than five hundred dollars (\$500);

for each violation.

(b) A suit to recover the penalty set forth in subsection (a) may be brought by the attorney general in the name of the state on relation of the Indiana department of transportation in the circuit or superior court of a county through which the railroad runs or is operated.

P.L.129-2003

[H.1692. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15. (a) Except as provided in subsection (b), a domestic mutual company that organized before July 1, 1977, must maintain a surplus of not less than two hundred fifty thousand dollars (\$250,000). This subsection does not apply to a **standard farm mutual insurance** company that is organized under IC 27-5 (**before its repeal**) or **IC 27-5.1.****

(b) A domestic mutual company that organized before July 1, 1977, must maintain a surplus of not less than:

(1) seven hundred fifty thousand dollars (\$750,000), if it markets

one (1) or more kinds of insurance under both Class II and Class III, other than Class II(k) insurance;

(2) one million dollars (\$1,000,000), if it markets one (1) or more kinds of insurance under Class II, including Class II(k) insurance;

or

(3) one million dollars (\$1,000,000), if it markets one (1) or more kinds of insurance under both Class II and Class III, including Class II(k) insurance.

(c) A domestic mutual company that organized after June 30, 1977, must maintain a surplus of not less than one million two hundred fifty thousand dollars (\$1,250,000). However, when it organizes, it must:

(1) have a surplus of not less than two million dollars (\$2,000,000);

(2) for the one (1) or more kinds of insurance under Class I that it intends to market, have received applications for insurance from not less than four hundred (400) persons, each application for an amount not less than one thousand dollars (\$1,000), and have received the first year's premium due on a policy to be issued on each such application; and

(3) for the one (1) or more kinds of insurance under Class II or Class III that it intends to market, have received applications for insurance covering not less than eight hundred (800) separate risks in not less than forty (40) policies to be issued to not less than forty (40) members, and have received premiums amounting to not less than one hundred thousand dollars (\$100,000) for those policies.

(d) A domestic mutual company must deposit with the department in cash or in obligations of the United States:

(1) twenty-five thousand dollars (\$25,000), if it organized before June 30, 1955;

(2) fifty thousand dollars (\$50,000), if it organized after June 29, 1955, and before March 7, 1967; or

(3) one hundred thousand dollars (\$100,000), if it organized after March 6, 1967.

This subsection does not apply to a **standard farm mutual insurance** company that is organized under IC 27-5 (**before its repeal**) or **IC 27-5.1**.

(e) If the commissioner determines that the continued operation of

a domestic mutual company may be hazardous to the policyholders or the general public, the commissioner may, upon the commissioner's determination, issue an order requiring the insurer to increase the insurer's capital and surplus based on the type, volume, and nature of the business transacted.

SECTION 2. IC 27-1-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. ~~(c)~~ **(a)** The charter powers and licenses of any domestic insurers authorized to market one or more kinds of insurance or reinsurance under Class II or Class III and meeting the requirements set out in section 14 or 15 of this chapter may be broadened and extended hereunder to include the right, power and authority to make any one or more of the kinds of insurance and reinsurance specified in both Class II and Class III of IC 27-1-5-1.

~~(c)~~ **(b)** Any domestic company authorized to insure against loss or damage by fire, which has been actively engaged in the fire insurance business continuously for ten (10) years or more, or whose predecessor or predecessors, if any prior to merger or consolidation, shall have been so engaged for such period, may, if it complies with the provisions of this subsection ~~(c)~~ and without complying with the capitalization and surplus requirements of section 14 or section 15 of this chapter, insure against loss or damage to dwellings and appurtenant structures and to the contents thereof and any other personal property of a similar nature of the insured or of the members of his household, resulting from any peril, and may, in connection with making such insurance, also make insurance against the legal liability of the insured or of the members of his household, and for any medical, surgical and hospital expenses of any person other than the insured or such members, arising out of nonbusiness pursuits of the insured or such members or out of the condition of, or acts performed by the insured or such members on such dwellings and appurtenant structures and the real estate on which each is located. Where a company is entitled to make such additional insurance solely by virtue of this subsection, ~~(c)~~; it shall not make such insurance unless it has made reinsurance arrangements satisfactory to the commissioner whereby all of such additional insurance is reinsured with a company which is qualified under IC 27-1 to make reinsurance of such additional kind of insurance. The charter powers and licenses of any domestic insurer meeting the requirements set out in this subsection ~~(c)~~ may be broadened and extended hereunder to include the

right, power and authority to make any one or more of the kinds of insurance permitted by this subsection.

(f) (c) No policy issued by a mutual company including a ~~farmer's~~ **farm** mutual insurance company, shall be required to contain a provision limiting the time within which suit against the insurer on such policy must be filed.

SECTION 3. IC 27-1-15.6-4, AS ADDED BY P.L.132-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

- (B) enrolling individuals under plans;
- (C) issuing certificates under plans or otherwise assisting in administering plans; or
- (D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

- (A) An employer or association.
- (B) An officer, director, or employee of an employer or association.
- (C) The trustees of an employee trust plan.

(4) An:

- (A) employee of an insurer; or
- (B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

- (A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

~~(8) A representative of a county farmers mutual insurance company;~~

~~(9)~~ **(8)** An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

SECTION 4. IC 27-1-20-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. **Except as provided in IC 27-5.1-2-8**, the provisions of this article shall not apply to ~~any farmers' mutual hail insurance company; farmers' mutual fire insurance company; or farmers' mutual windstorm insurance company;~~ **a farm mutual insurance company** or any similar company organized and operating under IC 27-5 **(before its repeal) or IC 27-5.1**, ~~nor to any mutual fire insurance company confining its business to the town or city in which its home office is located;~~ nor shall any provision of this article be construed as repealing any provision of the statutes applicable to the companies and associations referred to in this section.

SECTION 5. IC 27-1-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This chapter applies to all forms of casualty insurance including fidelity, surety, and guaranty bonds, to all forms of motor vehicle insurance, to all forms of fire, marine, and inland marine insurance, and to any and all combinations of the foregoing or parts thereof, on risks or operations in this state, except:

- (1) reinsurance, other than joint reinsurance to the extent stated in section 14 of this chapter;
- (2) accident and health insurance;
- (3) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;
- (4) insurance against loss or damage to aircraft or against liability

arising out of the ownership, maintenance, or use of aircraft;

(5) worker's compensation insurance; and

(6) abstract and title insurance.

(b) Inland marine insurance includes insurance defined by statute, or by interpretation of statute, or if not so defined or interpreted, by ruling of the commissioner of insurance (referred to as the commissioner), or as established by general custom of the business, as inland marine insurance.

~~(c) This chapter shall not apply to farmers' mutual insurance companies organized and operating under IC 27-5 unless and only to the extent that IC 27-5 specifically provides that such companies are subject to~~

~~(1) this chapter.~~

~~(2) Acts 1947, c.60; or~~

~~(3) Acts 1947, c.111.~~

SECTION 6. IC 27-1-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The term "public adjuster" shall include every individual or corporation who, or which, for compensation or reward, renders advice or assistance to the insured in the adjustment of a claim or claims for loss or damages under any policy of insurance covering real or personal property and any person or corporation who, or which, advertises, solicits business, or holds itself out to the public as an adjuster of such claims. However, no public adjuster shall:

(1) act in any manner in relation to claims for personal injury or automobile property damage; or

(2) bind the insured in the settlement of claims.

(b) This chapter does not apply to, and the following are not included in the term "public adjuster":

(1) An attorney at law admitted to practice in the state of Indiana who adjusts insurance losses in the course of the practice of his profession.

(2) An officer, regular salaried employee, or other representative of an insurer or of an attorney in fact of any reciprocal insurer of Lloyd's underwriter licensed to do business in Indiana who adjusts losses arising under his employer's or principal's own policies.

(3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any

regular salaried employee who devotes substantially all of his time to the business of such bureau or association.

(4) Any licensed agent or an authorized insurer or officer or employee of the same who adjusts losses for such insurer, and any agent or representative of a ~~farmers'~~ **farm** mutual insurance company operating under the ~~farmers'~~ **farm** mutual insurance laws of this state on behalf of an insurer.

(5) Any independent adjuster representing an insurer.

SECTION 7. IC 27-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. When and as used in this chapter:

(a) The term "person" shall mean any individual, corporation, company including any ~~farmers'~~ **farm** mutual insurance company, association, partnership, firm, reciprocal exchange, inter-insurer, Lloyds insurers, society, fraternal benefit society, lodge, order, council, corps, and any other association or legal entity, engaged in the business of insurance, including but not in limitation of the foregoing, agents, brokers, solicitors, advisors, auditors, and adjusters.

(b) "Department" shall mean the department of insurance of this state created and defined as a department in the state government of the state of Indiana by IC 27-1.

(c) "Commissioner" shall mean the insurance commissioner of this state appointed pursuant to, and on and in whom the powers, duties, management, and control of the department are conferred and vested by, the provisions of IC 27-1.

SECTION 8. IC 27-5.1 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 5.1. FARM MUTUAL INSURANCE COMPANIES

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Assessment" means an amount or a policyholder's share of an amount that a farm mutual insurance company determines is necessary for any of the following:

(1) To pay the farm mutual insurance company's accrued liabilities.

(2) To meet or defray the farm mutual insurance company's anticipated needs.

(3) To add to or restore the policyholder surplus of the farm mutual insurance company.

Sec. 3. "Certificate of authority" has the meaning set forth in IC 27-1-2-3(v).

Sec. 4. "Commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

Sec. 5. "Department" means the department of insurance created by IC 27-1-1-1.

Sec. 6. "Extended company" means a farm mutual insurance company that is authorized to provide coverage as described in IC 27-5.1-4.

Sec. 7. "Farm mutual insurance company" means a company (as defined in IC 27-1-2-3) that is authorized to provide insurance coverage under this article.

Sec. 8. "First class city" refers to a first class city as classified under IC 36-4-1-1.

Sec. 9. "Initial charge" means a charge that is collected by a farm mutual insurance company before or at the time of the issuance or renewal of an insurance policy under this article.

Sec. 10. "Person" means an individual or a business entity.

Sec. 11. "Policyholder" means a person who is insured by a farm mutual insurance company.

Sec. 12. "Policyholder surplus" means the accumulated assets of a farm mutual insurance company that exceed the farm mutual insurance company's accrued losses and expenses.

Sec. 13. "Premium" means money given in consideration to a farm mutual insurance company on account of or in connection with an insurance policy for a specified policy period.

Sec. 14. "Premium plus assessment" refers to an insurance policy under which the policyholder is:

(1) obligated to pay a premium; and

(2) subject to potential assessment.

Sec. 15. "Principal office" means the primary office maintained by a farm mutual insurance company in Indiana.

Sec. 16. "Standard company" means a farm mutual insurance company that may provide insurance coverage under IC 27-5.1-3. The term does not include an extended company.

Chapter 2. Farm Mutual Insurance Companies

Sec. 1. This chapter applies to a farm mutual insurance

company regulated under this article.

Sec. 2. (a) A farm mutual insurance company that holds a certificate of authority to do business in Indiana on June 30, 2003, is a standard company under this article unless the farm mutual insurance company:

(1) elects to become an extended company under IC 27-5.1-4; and

(2) is authorized by the commissioner to do business as an extended company.

(b) A standard company described in subsection (a) may elect to become an extended company at any time by:

(1) complying with IC 27-5.1-4-2(b); and

(2) submitting to an examination that may be conducted at the discretion of the commissioner.

(c) An election made under this section is effective upon the date the commissioner issues a new certificate of authority.

Sec. 3. (a) If a proposed farm mutual insurance company does not hold a certificate of authority to do business in Indiana on June 30, 2003, an application may be made to the commissioner on a form prescribed by the commissioner for a certificate of authority for the proposed farm mutual insurance company to do business in Indiana as a standard company.

(b) An application described in subsection (a) must include the following concerning the proposed farm mutual insurance company:

(1) The name.

(2) The location and address of the principal office.

(3) The names and addresses of the officers and directors.

(4) Three (3) copies of the articles of incorporation.

(5) A copy of the bylaws.

(c) A standard company described in subsection (a), not earlier than three (3) years after it is granted a certificate of authority to do business as a standard company, may elect to obtain a certificate of authority to do business as an extended company if the standard company:

(1) has an annual direct written premium of more than one million dollars (\$1,000,000); and

(2) complies with IC 27-5.1-4-2.

Sec. 4. A farm mutual insurance company that is established

after June 30, 2003, must have at least:

- (1) two hundred fifty (250) applications for insurance policies; and
- (2) one hundred thousand dollars (\$100,000) in annual direct written premiums;

before issuing an insurance policy.

Sec. 5. (a) A farm mutual insurance company has all the powers, rights, privileges, duties, and obligations of a company organized under IC 27-1-6 except where IC 27-1-6 is inconsistent with this article.

(b) A farm mutual insurance company has the following:

- (1) The power to borrow money.
- (2) The ability to sue or be sued.
- (3) The power to make contracts of insurance or indemnity with:

- (A) a person;
- (B) a firm;
- (C) a public corporation;
- (D) a private corporation;
- (E) a board;
- (F) an association;
- (G) an estate; or
- (H) a trustee or legal representative of an estate.

(4) The power to cede or obtain reinsurance from an insurance company legally operating in Indiana.

(5) The power to participate with a financially stable insurance company in:

- (A) a plan for reinsurance; or
- (B) catastrophe protection.

(6) The power to determine the qualifications and the manner by which to admit or withdraw policyholders.

(7) The power to use a common seal, which the farm mutual insurance company may change or alter.

(8) The power to purchase, lease, hold, and dispose of:

- (A) real property; and
- (B) personal property;

in the farm mutual insurance company's name for use in carrying out the purposes of the farm mutual insurance company.

- (9) The power to classify risks according to the hazards involved.**
- (10) The power to establish rates according to the classification of risk.**
- (11) The power to determine the acceptability of risk and hazards insured.**
- (12) The power to determine the cost of insurance issued by the farm mutual insurance company and the adjustment and payment of losses.**
- (13) The power to determine the compensation of directors and officers of the farm mutual insurance company.**
- (14) The power to require that directors and officers of the farm mutual insurance company be bonded in the performance of the duties of the directors and officers.**
- (15) The power to adopt or amend bylaws and articles of incorporation of the farm mutual insurance company.**
- (16) The power to adopt or amend policy forms and application forms used by the farm mutual insurance company.**

Sec. 6. A farm mutual insurance company with an annual direct written premium of more than ten million dollars (\$10,000,000) may not function as a farm mutual insurance company and shall be regulated as a domestic mutual insurance company described in IC 27-1-6-15.

Sec. 7. Except as provided in section 8 of this chapter, a farm mutual insurance company that operates under this article is exempt from any other Indiana insurance law unless the law expressly states that the law is applicable to a farm mutual insurance company.

Sec. 8. The following provisions apply to standard companies and extended companies:

- (1) IC 27-1-3.**
- (2) IC 27-1-3.1.**
- (3) IC 27-1-5-3.**
- (4) IC 27-1-7-14 through IC 27-1-7-16.**
- (5) IC 27-1-7-21 through IC 27-1-7-23.**
- (6) IC 27-1-9.**
- (7) IC 27-1-10.**
- (8) IC 27-1-13-3 through IC 27-1-13-4.**

- (9) IC 27-1-13-6 through IC 27-1-13-9.**
- (10) IC 27-1-15.6.**
- (11) IC 27-1-20-1.**
- (12) IC 27-1-20-4.**
- (13) IC 27-1-20-6.**
- (14) IC 27-1-20-9 through IC 27-1-20-11.**
- (15) IC 27-1-20-14.**
- (16) IC 27-1-20-19 through IC 27-1-20-21.3.**
- (17) IC 27-1-20-23.**
- (18) IC 27-1-20-30.**
- (19) IC 27-1-22.**
- (20) IC 27-4-1.**
- (21) Except as provided in IC 27-6-1.1-6, IC 27-6-1.1-2.**
- (22) IC 27-6-2.**
- (23) IC 27-7-2.**
- (24) IC 27-9.**
- (25) IC 34-30-17.**

Sec. 9. A farm mutual insurance company may engage in the business of insurance in any location in Indiana other than a first class city. However, a farm mutual insurance company may continue to insure property in a first class city in Indiana if the insurance policy under which the property is insured was originally issued before July 1, 2003, or if the insurance policy was originally issued before the city became a first class city.

Sec. 10. (a) A farm mutual insurance company shall hold an annual meeting of the policyholders of the farm mutual insurance company on the date, time, and location set forth in the articles of incorporation of the farm mutual insurance company. If the articles of incorporation do not specify the date, time, and location of the annual meeting, the meeting shall be held on the first Monday in April at the registered principal office of the farm mutual insurance company.

(b) A quorum for purposes of an annual policyholder meeting must be defined in a farm mutual insurance company's articles of incorporation.

(c) Each policyholder of a farm mutual insurance company is entitled to one (1) vote on any issue voted upon at a policyholder meeting.

Sec. 11. (a) A farm mutual insurance company shall elect a

board of directors consisting of at least five (5) policyholders.

(b) To be elected to the board of directors of a farm mutual insurance company, an individual must be the owner of an insurance policy issued by the farm mutual insurance company.

Sec. 12. (a) Unless a farm mutual insurance company's articles of incorporation specify otherwise, a director of a farm mutual insurance company must be elected at the farm mutual insurance company's annual policyholder meeting by the affirmative vote of a majority of:

(1) the policyholders present and voting; and

(2) the policyholders voting by proxy, if voting by proxy is allowed by the farm mutual insurance company's articles of incorporation.

(b) The term of office of a director must be at least one (1) year but not more than five (5) years. A farm mutual insurance company's articles of incorporation may provide for the classification of directors into three (3) groups, and the terms of the directors may be staggered. A vacancy on the board of directors may be filled for the unexpired term through an appointment made by the remaining directors.

(c) The board of directors of a farm mutual insurance company shall, by vote of a majority of the directors, elect the officers designated in the farm mutual insurance company's bylaws. The directors may also elect any additional officers that the directors determine are necessary. An officer elected under this subsection is not required to be a director.

(d) The term of an officer elected under subsection (c) may not be less than one (1) year or more than three (3) years. An outgoing officer shall hold office until the officer's successor is either elected or selected and qualified.

(e) The board of directors of a farm mutual insurance company shall hold a separate meeting of the board of directors immediately after the farm mutual insurance company's annual meeting.

Sec. 13. (a) Unless a farm mutual insurance company's articles of incorporation specify otherwise, the articles of incorporation of a farm mutual insurance company may be amended by an affirmative vote of two-thirds (2/3) of the farm mutual insurance company's policyholders who are voting in person or by proxy at any policyholder meeting if the policyholders are given at least

thirty (30) days notice of:

(1) the meeting; and

(2) the subject matter of the proposed amendments.

(b) After a farm mutual insurance company has adopted an amendment to the farm mutual insurance company's articles of incorporation, three (3) copies of the amendment must be filed with the commissioner.

(c) The commissioner shall determine whether to approve an amendment specified under subsection (b) and, if the amendment is approved, shall return a copy of the filed amendment and a certificate of approval to the farm mutual insurance company.

Sec. 14. (a) Bylaws of a farm mutual insurance company may be amended by the farm mutual insurance company in accordance with the farm mutual insurance company's articles of incorporation. All amendments to the bylaws must be filed with the commissioner.

(b) Bylaws of a farm mutual insurance company may not be inconsistent with this article, other applicable laws, or the farm mutual insurance company's articles of incorporation.

Sec. 15. The commissioner may charge a farm mutual insurance company a reasonable fee, as provided in IC 27-1-3-15, for a filing under this article.

Sec. 16. (a) A farm mutual insurance company may not deliver or issue for delivery an insurance policy or an endorsement or a rider to an insurance policy until a copy of the form and the rates charged for the insurance policy are filed with the commissioner.

(b) A farm mutual insurance company may use any form or rate filed with the commissioner unless the commissioner notifies the farm mutual insurance company in writing that the form is disapproved not more than thirty (30) days after the commissioner's receipt of the rate or form filing. The commissioner may disapprove a rate or form for the following reasons:

(1) An inconsistency with this article or another applicable state law.

(2) A provision that is:

(A) deceptive;

(B) ambiguous; or

(C) misleading.

(c) If the commissioner disapproves a rate or form under this

section, the commissioner shall notify the farm mutual insurance company of the reason that the rate or form was disapproved. The farm mutual insurance company may request a hearing before the commissioner under IC 4-21.5 concerning the disapproval.

(d) A farm mutual insurance company may seek judicial review under IC 4-21.5-5 of the commissioner's final disapproval of a rate or form under this section.

(e) The commissioner may charge a farm mutual insurance company a reasonable fee as provided in IC 27-1-3-15 for the filing of a rate or form.

Sec. 17. (a) The commissioner may examine the affairs of a farm mutual insurance company under IC 27-1-3.1.

(b) The commissioner may take an action that may protect a policyholder's interest if the commissioner determines that a farm mutual insurance company conducts business in a manner that is:

- (1) contrary to law applying to a farm mutual insurance company; or
- (2) detrimental to policyholder interests.

Sec. 18. (a) If the commissioner determines from:

- (1) a statement filed by a farm mutual insurance company;
- (2) an examination under section 17 of this chapter; or
- (3) other information obtained by the commissioner;

that a farm mutual insurance company is conducting business in an unsafe manner or that a farm mutual insurance company's assets are insufficient to justify continuing the business, the commissioner shall send written notice of the commissioner's concerns regarding the farm mutual insurance company to the officers and directors of the farm mutual insurance company.

(b) Not more than thirty (30) days after receiving a notice under subsection (a), the farm mutual insurance company's officers and directors shall:

- (1) remedy; or
- (2) establish a plan to remedy;

the commissioner's concerns.

(c) If:

- (1) a farm mutual insurance company does not remedy or establish a plan to remedy the commissioner's concerns under subsection (b); or
- (2) the commissioner determines that the continuation of a

farm mutual insurance company is not in the best interests of the farm mutual insurance company's policyholders; the commissioner shall institute proceedings in the Marion County circuit court to enjoin the farm mutual insurance company from conducting any further business transactions.

(d) If the commissioner seeks a permanent injunction against a farm mutual insurance company under subsection (c), the commissioner shall also institute proceedings to settle and wind up the affairs of the farm mutual insurance company and liquidate and dissolve the farm mutual insurance company, as provided in IC 27-9.

Sec. 19. (a) A person, including a person described in subsection (b), that has a risk that is insurable under this article in a territory in which a farm mutual insurance company operates may apply for insurance coverage with the farm mutual insurance company. If the farm mutual insurance company accepts the person as a policyholder, the person becomes a policyholder of the farm mutual insurance company and is entitled to all the rights and privileges of a policyholder.

(b) Any of the following that own property within the territory of a farm mutual insurance company may apply for insurance, enter into an agreement for an insurance policy, and hold an insurance policy issued by a farm mutual insurance company:

- (1) A corporation.
- (2) An estate.
- (3) An association.

(c) An officer, a trustee, a board member, or a legal representative of an entity described in subsection (b) may be recognized as acting for or on behalf of the entity for the purpose of membership.

Sec. 20. A person that solicits or negotiates insurance on behalf of a farm mutual insurance company must be licensed as an insurance producer under IC 27-1-15.6.

Sec. 21. (a) Two (2) or more farm mutual insurance companies may merge into one (1) farm mutual insurance company upon approval of a merger plan by the policyholders of each farm mutual insurance company as provided in subsection (b).

- (b) Before a merger described in subsection (a) may take place:
- (1) the board of directors of each farm mutual insurance

company must approve a merger plan; and

(2) the merger plan must be approved by the affirmative vote of two-thirds (2/3) of the policyholders of each farm mutual insurance company who vote in person or by proxy.

(c) Before a meeting at which a proposed merger under this section may be considered:

(1) the policyholders of a farm mutual insurance company for which the merger is proposed must be provided, by first class mail:

(A) written notice of the date, time, and location of the meeting;

(B) written notice that a proposed merger will be discussed and voted on at the meeting; and

(C) a copy or summary of the merger plan; and

(2) a general notice stating:

(A) the date, time, and location of the meeting; and

(B) that a proposed merger or transfer will be discussed and voted on at the meeting;

must be published in a newspaper of general circulation in the county in which the principal office of the farm mutual insurance company is located.

Sec. 22. (a) Each farm mutual insurance company that decides to merge under section 21 of this chapter shall file the following documents with the commissioner:

(1) A petition for merger.

(2) The farm mutual insurance company's merger plan.

(3) Articles of merger.

(4) A copy of the minutes of a meeting at which the merger plan was approved.

(5) Proof of compliance with section 21 of this chapter.

(b) The commissioner shall:

(1) review a filing submitted under subsection (a); and

(2) schedule a hearing under IC 4-21.5 if the commissioner considers a hearing necessary.

The commissioner may waive a hearing under this subsection if the commissioner determines that a proposed merger does not prejudice the interests of policyholders of the farm mutual insurance company.

(c) If the commissioner determines under subsection (b) that a

hearing is necessary, the commissioner shall provide written notice of the hearing to the farm mutual insurance company that filed the petition for merger. The commissioner may require the farm mutual insurance company to provide the farm mutual insurance company's policyholders with written notice of the hearing, including the date, time, and place of the hearing.

(d) If the commissioner requires a farm mutual insurance company to provide the farm mutual insurance company's policyholders with notice of a hearing under subsection (c), the notice must meet the following requirements:

(1) Be published in at least two (2) daily newspapers that the commissioner may designate.

(2) Be published in the newspapers designated under subdivision (1):

(A) not less than one (1) time per week;

(B) for two (2) successive weeks; and

(C) on the same day of the week.

(3) The last publication of notice must appear not more than five (5) calendar days before the date of the hearing.

(e) The commissioner may require a farm mutual insurance company to provide more notice than is required by subsection (d) if the commissioner determines that more notice is required under the circumstances concerning the farm mutual insurance company.

(f) In a hearing conducted under this section, the commissioner may examine a farm mutual insurance company's business affairs by:

(1) requiring and compelling the production of documents, records, books, papers, contracts, or other evidence; and

(2) compelling the attendance of, and examining under oath, a director, an officer, an agent, an employee, a solicitor, or an attorney of the farm mutual insurance company, or another person.

(g) A person who has an interest in a hearing conducted under this section may appear and testify at the hearing.

(h) The commissioner shall approve and authorize a proposed merger if the commissioner determines the following:

(1) That the interests of policyholders of the merging farm mutual insurance companies are properly protected.

(2) That a reasonable objection to the proposed merger does

not exist.

(i) The commissioner may order a modification of the merger plan or articles of merger for a proposed merger if the commissioner determines that the modification is in the best interest of policyholders.

(j) The commissioner may hire experts the commissioner considers necessary to review a merger plan filed under this section.

(k) A farm mutual insurance company that files a petition for merger shall pay the costs of a hearing under this section.

Sec. 23. (a) The commissioner may establish the time frame in which a farm mutual insurance company must perform the terms of a merger plan approved under section 22 of this chapter.

(b) After a farm mutual insurance company that is a party to a merger under sections 21 and 22 of this chapter performs the terms of the merger plan, the surviving farm mutual insurance company shall file with the commissioner written notice of the surviving farm mutual insurance company's compliance with the merger plan.

(c) The commissioner shall determine whether the terms of a merger plan are performed adequately by a farm mutual insurance company that is a party to a merger under sections 21 and 22 of this chapter. If the commissioner determines that the terms of the merger plan are met, the commissioner shall issue a certificate of merger to the surviving farm mutual insurance company.

(d) The commissioner may charge a farm mutual insurance company the fee set forth in IC 27-1-3-15 for a filing made under this section.

Sec. 24. Upon the commissioner's issuance of a certificate of merger under section 23 of this chapter, the farm mutual insurance companies that are parties to the merger plan become a single surviving farm mutual insurance company. The separate existence of each farm mutual insurance company that is a party to the merger plan ceases upon the issuance of the certificate of merger.

Sec. 25. (a) A person that intends to enter into a contract for the exclusive or dominant right to manage or control a farm mutual insurance company shall file notice of the contract with the commissioner at least thirty (30) days before entering into the contract.

(b) The commissioner may approve a contract or proposed contract described in subsection (a) only if the contract is not detrimental to:

- (1) the policyholders of the farm mutual insurance company;**
- or**
- (2) the public.**

(c) If the commissioner disapproves a contract or proposed contract described in subsection (a), the commissioner shall provide written notice of the disapproval to the parties to the contract. A person that entered into a contract described in subsection (a) may not manage or control the farm mutual insurance company under the contract after receiving notice of the commissioner's disapproval of the contract.

(d) A person that enters into a contract for the exclusive or dominant right to manage or control a farm mutual insurance company is the managing general agent (as defined in IC 27-1-33-4) of the farm mutual insurance company and shall comply with the requirements that apply to a managing general agent under IC 27.

Sec. 26. If the commissioner determines, after notice and a hearing under IC 4-21.5, that a farm mutual insurance company has violated a provision of this article or a rule or order issued under this article, the commissioner may issue an order requiring the farm mutual insurance company to refrain from the unlawful practice or to take an affirmative action that the commissioner considers necessary to carry out the purposes of this article.

Sec. 27. (a) A decision, a determination, or an order of the commissioner under section 26 of this chapter is subject to judicial review under IC 4-21.5-5.

(b) If a farm mutual insurance company does not seek judicial review of the commissioner's determination to issue an order under section 26 of this chapter less than thirty (30) days after the commissioner notifies the farm mutual insurance company of the commissioner's determination, the order is final.

(c) If a farm mutual insurance company seeks judicial review of the commissioner's determination under section 26 of this chapter and the commissioner's determination is upheld, the order is final.

Sec. 28. If a farm mutual insurance company willfully violates a provision of an order under section 26 of this chapter, the

commissioner may do the following:

- (1) Impose a civil penalty on the farm mutual insurance company of not more than ten thousand dollars (\$10,000).
- (2) Suspend or revoke the farm mutual insurance company's certificate of authority.
- (3) Institute proceedings to enjoin the farm mutual insurance company from conducting further business.
- (4) Institute proceedings to wind up the affairs of the farm mutual insurance company.

Sec. 29. (a) A farm mutual insurance company may not waive:

- (1) a term of an insurance policy; or
- (2) a right or defense of the farm mutual insurance company;

unless the farm mutual insurance company states in a letter or other written or printed document to a policyholder that the farm mutual insurance company intends to specifically waive the term, right, or defense.

(b) A letter or other written or printed document required under subsection (a) must include the signature of an officer or other representative of the farm mutual insurance company who is authorized to execute the particular type of waiver.

(c) A letter or other written or printed document under this section is the only admissible evidence of a waiver by the farm mutual insurance company.

Sec. 30. (a) A policyholder of a farm mutual insurance company operating on a premium plus assessment basis under this article is liable for the policyholder's share of the amount necessary to:

- (1) pay the losses and necessary expenses incurred by the farm mutual insurance company; and
- (2) maintain an adequate reserve or safety fund as determined by the farm mutual insurance company's directors;

while the policyholder's insurance policy is in effect.

(b) Notwithstanding subsection (a), a farm mutual insurance company shall limit a policyholder's contingent liability during any one (1) year to an amount not to exceed the limitation set forth in the farm mutual insurance company's bylaws. The limitation set forth in the farm mutual insurance company's bylaws under this subsection must be an amount equal to not less than three percent (3%) of the insurance carried by the policyholder.

Sec. 31. (a) A farm mutual insurance company shall collect an

assessment from a policyholder in the manner prescribed by the farm mutual insurance company's bylaws.

(b) After a farm mutual insurance company that operates on a premium plus assessment basis receives:

(1) notice of a loss or damage to a policyholder's property; or

(2) a judgment against the farm mutual insurance company;

the directors of the farm mutual insurance company shall verify the loss, damage, or judgment and shall, subject to the limitation set forth in the farm mutual insurance company's bylaws under section 30 of this chapter, assess each policyholder an amount proportionate to the amount of risk the policyholder has with the farm mutual insurance company.

Sec. 32. (a) If a policyholder is assessed and fails to pay the assessment, the farm mutual insurance company may, upon providing written notice of failure to pay:

(1) suspend the farm mutual insurance company's liability for loss under the policyholder's insurance policy for the time during which the assessment is not paid; or

(2) cancel the policyholder's insurance policy if the assessment is not paid less than thirty (30) days after notice of the assessment is sent to the policyholder.

The farm mutual insurance company may deduct the assessment from the policyholder's deposit before returning the remainder of a deposit, if any, to the policyholder.

(b) If an assessment is paid by a policyholder after a farm mutual insurance company takes an action under subsection (a), the farm mutual insurance company may reinstate the policyholder's insurance policy effective beginning on the date on which the payment is received, but a deduction or credit may not be made to an assessment because of the suspension of the insurance policy.

(c) A farm mutual insurance company may file an action to compel a policyholder to pay an assessment.

Sec. 33. (a) A policyholder is not liable for an assessment of losses or expenses that are incurred by a farm mutual insurance company after the policyholder has terminated the policyholder's insurance policy.

(b) A former policyholder is not liable for an assessment for obligations incurred by a farm mutual insurance company before

the policyholder terminated the insurance policy on which the assessment is made unless the farm mutual insurance company gives the former policyholder notice of the assessment less than one (1) year after the date of termination of the insurance policy.

Sec. 34. (a) A premium plus assessment insurance policy must expressly and prominently state on the face page of the insurance policy that the insurance policy is a premium plus assessment insurance policy.

(b) A suit or action for a loss under a premium plus assessment insurance policy may not be commenced until:

- (1)** the loss is due in accordance with the premium plus assessment insurance policy; or
- (2)** not less than sixty (60) days after proof of loss was given to the farm mutual insurance company that issued the premium plus assessment insurance policy.

(c) Requirements that a policyholder must meet to sustain a legal cause of action under this section must be disclosed clearly and prominently on the face page of the premium plus assessment insurance policy.

(d) Notwithstanding IC 34-11-2-11, the statute of limitations for a claim on a premium plus assessment insurance policy under this section is two (2) years after the date of the loss.

Sec. 35. (a) A farm mutual insurance company that operates on a premium plus assessment basis must pay losses and judgments of the farm mutual insurance company from premiums received or amounts collected on promissory notes. The amount:

- (1)** deducted from a policyholder's premium paid; or
- (2)** demanded from a policyholder's promissory note;

must bear the same relationship to the total loss as the policyholder's total premium bears to the total premiums collected in the calendar year that the loss is incurred.

(b) If funds collected under subsection (a) are insufficient to cover a loss or judgment, the directors of the farm mutual insurance company may, subject to the limitation set forth in the farm mutual insurance company's bylaws under section 30 of this chapter, assess each policyholder in the same manner. However, a farm mutual insurance company may not assess policyholders more than one (1) time in a calendar year for losses incurred by the farm mutual insurance company.

Sec. 36. (a) A farm mutual insurance company may borrow money for the payment of accrued losses and expenses.

(b) A farm mutual insurance company that borrows money under subsection (a) shall assess policyholders the full amount necessary to fully repay the loan in the assessment immediately following the date the money is borrowed. Unless the commissioner authorizes a longer period, the assessment must be levied not more than twelve (12) months after the losses or expenses paid by the farm mutual insurance company through the loan are incurred.

Sec. 37. (a) A farm mutual insurance company may cancel, in whole or in part, a policyholder's insurance policy after giving the policyholder written notice of the cancellation as follows:

(1) The written notice must be delivered or mailed to the policyholder at the last known address of the policyholder.

(2) The written notice must specify the effective date of the cancellation.

(3) Upon request of the policyholder, the written notice must be accompanied by a written explanation of the specific reasons for the cancellation.

(b) A farm mutual insurance company shall provide the written notice specified in subsection (a) at least:

(1) ten (10) days before canceling the insurance policy, if the cancellation is for nonpayment of premium;

(2) twenty (20) days before canceling the insurance policy, if the cancellation occurs more than sixty (60) days after the date of issuance of the policy; and

(3) ten (10) days before canceling the insurance policy, if the cancellation occurs less than sixty-one (61) days after the date of issuance of the policy.

(c) If the insurance policy was procured by an independent insurance producer licensed in Indiana, the farm mutual insurance company shall deliver or mail notice of cancellation to the insurance producer not less than ten (10) days before the farm mutual insurance company delivers or mails the notice to the policyholder, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

Sec. 38. A farm mutual insurance company may vote to discontinue operations and settle its affairs under IC 27-1-10.

Sec. 39. A director, an officer, a member, an insurance

producer, or an employee of a farm mutual insurance company who knowingly or intentionally, directly or indirectly, uses or employs, or allows another person to use or employ, money, funds, securities, or assets of the farm mutual insurance company for private profit or gain commits a Class C felony.

Sec. 40. This article does not prohibit a farm mutual insurance company from doing the following:

- (1) Distributing underwriting or investment gain to policyholders of a farm mutual insurance company.
- (2) Accumulating a reasonable policyholder surplus for the payment of losses or other expenses.

Sec. 41. (a) A farm mutual insurance company may elect to be subject to the provisions of IC 27-1, as provided by IC 27-1-11-1, with the rights, privileges, and franchises provided under IC 27-1.

(b) An election under subsection (a) becomes effective on the date of issuance of a new certificate of authority under IC 27-1-11-7.

(c) An insurance policy that is:

- (1) issued or bound by a farm mutual insurance company that makes an election under subsection (a); and
- (2) in effect on the date the election becomes effective;

is not invalidated by IC 27-1, but remains in full force and effect until expiration or termination of the insurance policy. However, IC 27-1 applies to an insurance policy described in this subsection beginning three (3) years after the date the election becomes effective.

Sec. 42. A company or association organized before January 1, 1870, that provides the kind of insurance described in this article and has not made an election under IC 27-5-1-14 (before its repeal) is not subject to this article unless the company or association elects to conduct the company's or association's business under this article by a resolution:

- (1) adopted by the company's or association's board of directors or policyholders;
- (2) filed with the commissioner; and
- (3) approved by the commissioner.

Sec. 43. The commissioner may adopt rules under IC 4-22-2 to implement this article.

Chapter 3. Standard Farm Mutual Insurance Companies

Sec. 1. (a) This chapter supplements the requirements set forth for a standard company in IC 27-5.1-2.

(b) A standard company may not insure a policyholder of the farm mutual insurance company:

- (1)** against loss to a motor vehicle owned by the policyholder from peril;
- (2)** against liability resulting from the use of a motor vehicle owned by the policyholder;
- (3)** for property loss in connection with a specific loan or other credit transaction; or
- (4)** for personal, commercial, and farm liability.

Sec. 2. A standard company that is issued a certificate of authority under this article may:

(1) perform the business of insurance on:

- (A)** an assessable;
- (B)** a mutual; and
- (C)** a nonprofit;

basis;

(2) insure the property of policyholders of the standard company against loss or damage that is caused by:

- (A)** fire;
- (B)** windstorm;
- (C)** causes specified under an extended coverage provision; and
- (D)** other perils that are not specifically excluded in the policy form; and

(3) insure the property of policyholders of the standard company against:

- (A)** loss of use;
- (B)** loss of occupancy;
- (C)** loss of rents; and
- (D)** additional expenses;

that result from direct loss or damage to covered property.

Sec. 3. (a) A standard company may not insure property located outside the standard company's territory, as described in the standard company's articles of incorporation, unless the standard company meets the following requirements for expansion:

- (1)** A standard company with annual direct written premiums that total not less than one hundred thousand dollars

(\$100,000) may expand the territory in which the standard company insures property to not more than ten (10) counties if the expansion is approved by the affirmative vote of a majority of the standard company's:

(A) board of directors; or

(B) policyholders present and voting at a meeting of the policyholders.

(2) A standard company with annual direct written premiums that total not less than two hundred fifty thousand dollars (\$250,000) may expand the territory in which the standard company insures property to more than ten (10) counties if the expansion is approved by the affirmative vote of a majority of the standard company's:

(A) board of directors; or

(B) policyholders present and voting at a meeting of the policyholders.

(b) The net retention per risk of a standard company may not exceed two-tenths percent (0.2%) of the standard company's insurance in force.

(c) A standard company shall make investments in accordance with IC 27-1-13-3.

Sec. 4. A standard company may issue an insurance policy insuring against loss or damage to property of a policyholder of the standard company from the perils specified in section 2 of this chapter in a county located in Indiana if the standard company maintains a policyholder surplus or reinsurance that the commissioner determines is sufficient to protect the financial stability of the standard company.

Sec. 5. (a) A standard company shall, not later than March 1, prepare and file with the commissioner an annual statement:

(1) that is on a form prescribed by the commissioner;

(2) that is verified by an affidavit of the:

(A) president; and

(B) secretary;

of the board of the standard company and individuals who are authorized to do business on behalf of the standard company; and

(3) that reflects the financial condition of the standard company as of the end of the calendar year immediately

preceding the date of the annual statement.

(b) An annual statement prepared and filed under subsection (a) must be presented at the annual meeting of the standard company.

(c) An annual statement filed under subsection (a) must be accompanied by the filing fee set forth under IC 27-1-3-15.

Chapter 4. Extended Farm Mutual Insurance Companies

Sec. 1. An extended company is subject to the requirements of IC 27-5.1-2 and this chapter.

Sec. 2. (a) A farm mutual insurance company that was authorized to provide insurance in Indiana on June 30, 2003, may elect to obtain a certificate of authority as an extended company.

(b) An election under subsection (a) is made by:

(1) an affirmative vote by the board of directors of the farm mutual insurance company:

(A) on a resolution to convert to an extended company; and

(B) on an amendment of the articles of incorporation of the farm mutual insurance company; and

(2) filing:

(A) the resolution;

(B) the amended articles of incorporation; and

(C) other information that the commissioner considers necessary for review;

with the commissioner.

(c) The commissioner shall, upon:

(1) receiving a filing specified under subsection (b)(2); and

(2) determining that the farm mutual insurance company is in compliance with the requirements of this article and other applicable law;

issue an amended certificate of authority to the farm mutual insurance company authorizing the farm mutual insurance company as an extended company.

(d) A farm mutual insurance company, after receiving an amended certificate of authority under subsection (c):

(1) is subject to the requirements of this chapter; and

(2) may commence the business of insurance as an extended company.

Sec. 3. An extended company may:

(1) insure the property of policyholders of the extended

company against loss or damage that is caused by:

- (A) fire;**
- (B) windstorm;**
- (C) causes specified under an extended coverage provision;**
- and**
- (D) other perils that are specified in the policy form;**

(2) insure the property of policyholders of the extended company against:

- (A) loss of use;**
- (B) loss of occupancy;**
- (C) loss of rents; and**
- (D) additional expenses;**

that result from direct loss or damage to covered property;
and

(3) provide other kinds of insurance that are approved by the commissioner.

Sec. 4. An extended company shall comply with the following financial and reinsurance requirements if the extended company provides the types of insurance described in section 3 of this chapter:

- (1) The extended company shall maintain a policyholder surplus as required under IC 27-1-6-15.**
- (2) The net retention per risk that an extended company may maintain may not exceed two-tenths percent (0.2%) of the extended company's insurance in force.**

Sec. 5. (a) An extended company:

- (1) may collect a membership fee and an initial premium charge that are prescribed by the board of directors of the extended company; and**
- (2) shall collect, not less than annually, an amount that is sufficient to enable the extended company to:**
 - (A) pay losses and expenses; and**
 - (B) create and maintain a policyholder surplus in accordance with the articles of incorporation and bylaws of the extended company.**

(b) Collections under subsection (a) are subject to the following requirements:

- (1) Collections must be made through assessments or premiums charged by the extended company on certain**

insurance policies issued by the extended company as determined by the board of directors of the extended company.

(2) A policyholder that holds an insurance policy that is issued on a basis other than a premium basis:

(A) may be charged an advance assessment that is payable not later than the time at which the insurance policy is issued, as determined by the board of directors of the extended company; and

(B) may be assessed if a further assessment is required under the articles of incorporation of the extended company.

(c) The terms and conditions of assessments made under this section must be clearly disclosed in the insurance policy.

Sec. 6. The following requirements apply to the policyholder surplus of an extended company:

(1) The articles of incorporation of the extended company must provide for the existence, maintenance, and use of the policyholder surplus.

(2) The policyholder surplus may be used only for the payment of losses and expenses considered necessary by the board of directors of the extended company.

(3) The existence or maintenance of the policyholder surplus does not relieve a policyholder of any assessment or other obligation that the:

(A) policyholder owes to the extended company; or

(B) extended company has levied against the policyholder.

(4) If the extended company is dissolved, the policyholder surplus must be treated in the same manner as any other asset of the extended company.

Sec. 7. An extended company shall make investments in accordance with IC 27-1-13-3.

Sec. 8. (a) An extended company shall, not later than March 1, prepare and file with the commissioner an annual statement:

(1) that is on a form prescribed by the commissioner;

(2) that is verified by an affidavit of the:

(A) president; and

(B) secretary;

of the board of directors of the extended company; and

(3) that reflects the condition of the extended company as of the end of the calendar year immediately preceding the date of the annual statement.

(b) An annual statement prepared and filed under subsection (a) must be presented at the annual meeting of the extended company.

(c) An annual statement filed under subsection (a) must be accompanied by the filing fee set forth in IC 27-1-3-15.

SECTION 9. IC 27-6-1.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. This chapter does not apply to any of the parties to a contract of merger or consolidation under ~~IC 27-5-4-3~~. **IC 27-5.1-2-21.**

SECTION 10. IC 27-6-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Every ~~farmers'~~ **farm** mutual insurance company authorized on or after March 11, 1955, to make the kinds of insurance and reinsurance permitted under and pursuant to the provisions of ~~IC 27-5-3~~ **IC 27-5.1-2** is hereby authorized to write, make, or take, in addition to the kinds of reinsurance authorized under ~~IC 27-5-3~~, **IC 27-5.1-2**, any kind or kinds of reinsurance on lines of insurance or hazards which they cede and shall not write, make, or take reinsurance on any hazard or lines of insurance that they do not themselves cede to other reinsurers.

SECTION 11. IC 27-6-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The rights and powers conferred in this chapter shall be supplemental and in addition to those conferred by law as of March 11, 1955, upon such ~~farmers'~~ **farm** mutual insurance companies.

SECTION 12. IC 27-6-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this chapter, unless otherwise provided:

- (1) The term "account" means any one (1) of the three (3) accounts created by section 5 of this chapter.
- (2) The term "association" means the Indiana Insurance Guaranty Association created by section 5 of this chapter.
- (3) The term "commissioner" means the commissioner of insurance of this state.
- (4) The term "covered claim" means an unpaid claim which arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this chapter

applies issued by an insurer, if the insurer becomes an insolvent insurer after the effective date (January 1, 1972) of this chapter and (a) the claimant or insured is a resident of this state at the time of the insured event or (b) the property from which the claim arises is permanently located in this state. "Covered claim" shall be limited as provided in section 7 of this chapter, and shall not include (1) any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise. However, a claim for any such amount, asserted against a person insured under a policy issued by an insurer which has become an insolvent insurer, which if it were not a claim by or for the benefit of a reinsurer, insurer, insurance pool or underwriting association, would be a "covered claim" may be filed directly with the receiver or liquidator of the insolvent insurer, but in no event may any such claim be asserted in any legal action against the insured of such insolvent insurer; nor (2) any supplementary obligation including but not limited to adjustment fees and expenses, attorney fees and expenses, court costs, interest and bond premiums, whether arising as a policy benefit or otherwise, prior to the appointment of a liquidator; nor (3) any unpaid claim that is not both filed within one (1) year after an order of liquidation and permitted to share in liquidation distributions under IC 27-9-3-33 if the insolvent insurer is a domestic insurer or in accordance with the applicable provisions of the law of the state of domicile if the insolvent insurer is not a domestic insurer; nor (4) any claim by a person whose net worth at the time an insured event occurred was more than five million dollars (\$5,000,000); nor (5) a claim against a person insured by an insolvent insurer if the person's net worth at the time an insured event occurred was more than fifty million dollars (\$50,000,000); nor (6) any claim by a person who directly or indirectly controls, is controlled, or is under common control with an insolvent insurer on December 31 of the year before the order of liquidation. All covered claims filed in the liquidation proceedings shall be referred immediately to the association by the liquidator for processing as provided in this chapter.

(5) The term "insolvent insurer" means (a) a member insurer holding a valid certificate of authority to transact insurance in this

state either at the time the policy was issued or when the insured event occurred and (b) against whom a final order of liquidation, with a finding of insolvency, to which there is no further right of appeal, has been entered by a court of competent jurisdiction in the company's state of domicile. "Insolvent insurer" shall not be construed to mean an insurer with respect to which an order, decree, judgment or finding of insolvency whether preliminary or temporary in nature or order to rehabilitation or conservation has been issued by any court of competent jurisdiction prior to January 1, 1972 or which is adjudicated to have been insolvent prior to that date.

(6) The term "member insurer" means any person who is licensed or holds a certificate of authority under IC 27-1-6-18 or IC 27-1-17-1 to transact in Indiana any kind of insurance for which coverage is provided under section 3 of this chapter, including the exchange of reciprocal or inter-insurance contracts. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed, or voluntarily surrendered. A "member insurer" does not include **farmers' farm** mutual insurance companies organized and operating pursuant to ~~IC 27-5~~, **IC 27-5.1** other than ~~IC 27-5-3 and IC 27-5-4-2~~. **a company to which IC 27-5.1-2-6 applies.**

(7) The term "net direct written premiums" means direct gross premiums written in this state on insurance policies to which this chapter applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct premiums written" does not include premiums on contracts between insurers or reinsurers.

(8) The term "person" means an individual, corporation, limited liability company, partnership, reciprocal or inter-insurance exchange, association, or voluntary organization.

SECTION 13. IC 27-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this chapter:

"Account" means one of the three (3) accounts created under section 3 of this chapter.

"Association" means the Indiana life and health insurance guaranty

association created under section 3 of this chapter.

"Commissioner" refers to the commissioner of insurance.

"Contractual obligation" means an obligation under covered policies.

"Covered policy" means any policy or contract that is of a type described in section 1(a) of this chapter and is not excluded by section 1(b) of this chapter.

"Impaired insurer" means a member insurer deemed by the commissioner to be potentially unable to fulfill its contractual obligations.

"Insolvent insurer" means a member insurer who becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court.

"Member insurer" means any person that is licensed or holds a certificate of authority to transact in Indiana any kind of insurance for which coverage is provided under this chapter. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed, or voluntarily withdrawn but does not include the following:

- (1) A medical and hospital service organization.
- (2) A health maintenance organization under IC 27-13.
- (3) A fraternal benefit society under IC 27-11.
- (4) The Indiana Comprehensive Health Insurance Association or any other mandatory state pooling plan or arrangement.
- (5) An assessment company or any other person that operates an assessment plan (as defined in IC 27-1-2-3(y)).
- (6) An interinsurance exchange authorized by IC 27-6-6.
- (7) A prepaid limited health service organization or a limited service health maintenance organization under IC 27-13-34.
- (8) A special service health care delivery plan under IC 27-8-7.
- (9) A ~~farmer's farm~~ mutual insurance company under ~~IC 27-5-~~
IC 27-5.1.
- (10) Any person similar to any person described in subdivisions (1) through (9).

"Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations, and dividends paid or credited to policyholders on direct business. It does not include premiums and considerations on

contracts between insurers and reinsurers. For purposes of assessments made under section 6 of this chapter, "premiums" for covered policies shall not be reduced on account of any limitation on benefits for which the association is obligated under section 5(1) of this chapter. However, "premiums" for assessment purposes does not include that portion of any premium exceeding five million dollars (\$5,000,000) for any one (1) unallocated annuity contract.

"Person" means any natural person, corporation, limited liability company, partnership, association, voluntary organization, trust, governmental organization or entity, or other business organization or entity.

"Resident" means any person who resides in Indiana at the time the association becomes obligated for an impaired or insolvent insurer. Persons other than natural persons are considered to reside in the state where their principal place of business is located.

"Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and held by a natural person (excluding a natural person acting as a trustee), except to the extent of any annuity benefits guaranteed to a natural person by an insurer under the contract or certificate. For the purposes of section 1.5 of this chapter, an unallocated annuity contract shall not be considered a group covered policy.

(b) For purposes of this chapter, a policy, contract, or certificate is considered to be held by the person identified on the policy, contract, or certificate as the holder or owner of the policy, contract, or certificate.

SECTION 14. IC 34-30-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies to all insurers, including **farmers' farm** mutual insurance companies operating under ~~IC 27-5~~: **IC 27-5.1**.

SECTION 15. IC 27-5 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 16. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 27-5.1-2-20, as added by this act, before January 1, 2004, an insurance producer that solicits, negotiates, or sells policies issued by a standard farm mutual insurance company that held a certificate of authority to conduct insurance business in Indiana on June 30, 2003, may continue to solicit, negotiate, or sell the same**

insurance that the insurance producer was previously authorized to sell and is not required to take the examination required under IC 27-1-15.6.

(b) This SECTION expires January 1, 2004.

SECTION 17. [EFFECTIVE JULY 1, 2003] A rate or form filed by a farm mutual insurance company before July 1, 2003, is valid and remains in effect notwithstanding the repeal of IC 27-5 by this act and the addition of IC 27-5.1 by this act.



P.L.130-2003

[S.117. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-12-21-3, AS AMENDED BY P.L.186-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter:

(1) "Academic year" means the period from September 1 of a year through August 31 of the next succeeding year.

(2) "Approved institution of higher learning" means the following:

- (A) An educational institution that operates in the state and:
 - (i) provides an organized two (2) year or longer program of collegiate grade directly creditable toward a baccalaureate degree;
 - (ii) is either operated by the state or operated not-for-profit; and
 - (iii) is accredited by a recognized regional accrediting agency or by the commission on proprietary education.
- (B) Ivy Tech State College.
- (C) A hospital which operates a nursing diploma program which is accredited by the Indiana state board of nursing.
- (D) A postsecondary proprietary educational institution that

meets the following requirements:

- (i) Is incorporated in Indiana, or is registered as a foreign corporation doing business in Indiana.
- (ii) Is fully accredited by and is in good standing with the commission on proprietary education.
- (iii) Is accredited by and is in good standing with a regional or national accrediting agency.
- (iv) Offers a course of study that is at least eighteen (18) consecutive months in duration (or an equivalent to be determined by the commission on proprietary education) and that leads to an associate or a baccalaureate degree recognized by the commission on proprietary education.
- (v) Is certified to the commission by the commission on proprietary education as meeting the requirements of this clause.

(3) "Approved secondary school" means a public high school located in the state and any school, located in or outside the state, that in the judgment of the superintendent provides a course of instruction at the secondary level and maintains standards of instruction substantially equivalent to those of public high schools located in the state.

(4) "Caretaker relative" means a relative by blood or law who lives with a minor and exercises parental responsibility, care, and control over the minor in the absence of the minor's parent.

~~(4)~~ (5) "Commission" means the state student assistance commission established by this chapter.

~~(5)~~ (6) "Commission on proprietary education" refers to the Indiana commission on proprietary education established under IC 20-1-19-2.

~~(6)~~ (7) "Educational costs" means tuition and regularly assessed fees.

~~(7)~~ (8) "Enrollment" means the establishment and maintenance of an individual's status as an undergraduate student in an institution of higher learning.

~~(8)~~ (9) "Higher education award" means a monetary award.

~~(9)~~ (10) "Postsecondary proprietary educational institution" has the meaning set forth in IC 20-1-19-1.

~~(10)~~ **(11)** "Superintendent" means the state superintendent of public instruction.

SECTION 2. IC 20-12-21-5.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 5.6. (a) This section applies to a person:**

- (1) who is a dependent student;**
- (2) who is a graduate of a high school located in Indiana or recipient of the state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1;**
- (3) who on the date that eligibility is determined by the commission, has resided in Indiana with a caretaker relative who is a resident of Indiana for at least four (4) years; and**
- (4) whose legal parent:**
 - (A) is currently; or**
 - (B) has been in the past;**

a resident of Indiana for at least three (3) consecutive years.

(b) In determining the eligibility of a person described in subsection (a) to receive financial aid administered by the commission under this chapter or any other law, the commission shall use the residence or domicile of the caretaker relative referred to in subsection (a)(3) to determine the person's residence or domicile.

SECTION 3. IC 20-12-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) An applicant is eligible for a first year higher education award under this chapter if the student meets the following requirements:**

- (1) The applicant is a resident of Indiana, as defined by the commission.**
- (2) The applicant:**
 - (A) has successfully completed the program of instruction at an approved secondary school;**
 - (B) has been granted a:**
 - (i) high school equivalency certificate before July 1, 1995;**
 - or**
 - (ii) state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1; or**
 - (C) is a student in good standing at an approved secondary**

school and is engaged in a program that in due course will be completed by the end of the current academic year.

(3) The financial resources reasonably available to the applicant, as defined by the commission, are such that, in the absence of an award under this chapter, the applicant would be deterred from completing the applicant's education at the approved institution of higher learning that the applicant has selected and that has accepted the applicant. **In determining the financial resources reasonably available to an applicant to whom section 5.6 of this chapter applies, the commission must consider the financial resources of the applicant's legal parent.**

(4) The applicant will use the award initially at that institution.

(5) If the student is already enrolled in an approved institution of higher learning, the applicant must be a full-time student and be making satisfactory progress, as determined by the commission, toward a first baccalaureate degree.

(6) The student declares, in writing, a specific educational objective or course of study and enrolls in:

(A) courses that apply toward the requirements for completion of that objective or course of study; or

(B) courses designed to help the student develop the basic skills that the student needs to successfully achieve that objective or continue in that course of study.

(b) A higher education award recipient is not eligible for assistance after the recipient has received an award for a total of eight (8) semesters or twelve (12) quarters of postsecondary school education.

(c) To maintain eligibility a student is not required to:

(1) attend an institution of higher learning; or

(2) receive an award;

in consecutive semesters or quarters. However, a recipient's eligibility for an award does not extend more than ten (10) years after the date that the initial award is granted.

SECTION 4. An emergency is declared for this act.

P.L.131-2003
[S.203. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 10-13-5-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8.5. (a) A broadcaster that has agreed to participate in the Amber alert program and that:**

(1) receives an Amber alert notification from the department; and

(2) broadcasts:

(A) a description of the abducted child contained in the notification; and

(B) other information contained in the notification that will assist in locating the child;

is immune from civil liability based on the broadcast of the information received from the department.

(b) If:

(1) a person enters into an agreement with the department to establish or maintain an Amber alert web site; and

(2) the agreement provides that only the department has the ability to place information on the web site;

the person is immune from civil liability for the information placed on the web site by the department. However, this subsection does not affect the applicability of IC 34-13-3 to the department.

SECTION 2. IC 34-30-2-35.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 35.7. IC 10-13-5-8.5 (Concerning a broadcaster who broadcasts an Amber alert notification, and a person who establishes or maintains an Amber alert web site under an agreement with the state police**

department).

SECTION 3. An emergency is declared for this act.

P.L.132-2003

[S.215. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-23-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) As used in this section, "highway work zone" means an area where:

- (1) highway construction, reconstruction, or maintenance is actually occurring; and
- (2) notice is posted in accordance with the:
 - (A) Indiana Manual on Uniform Traffic Control Devices; or
 - (B) Indiana Work Site Traffic Control Manual;

to indicate that highway construction, reconstruction, or maintenance is occurring.

(b) The department may contract with the state police department or local law enforcement agencies to hire off duty police officers to patrol highway work zones. The duties of a police officer who is hired under this section:

- (1) are limited to those duties that the police officer normally performs while on active duty; and
- (2) do not include the duties of a:
 - (A) flagman; or
 - (B) security officer.

(c) The department shall use the money transferred to the department under IC 33-19-9-4(6) to pay the costs of hiring off duty police officers to perform the duties described in subsection (b).

(d) All money transferred to the department under IC 33-19-9-4(6) is annually appropriated to pay off duty police officers to perform the

duties described in subsection (b).

(e) An off duty police officer hired to patrol highway work zones under subsection (b) may engage in not more than sixteen (16) hours of off duty employment under subsection (b) during a calendar week during which the police officer is regularly scheduled for duty.

SECTION 2. An emergency is declared for this act.

P.L.133-2003

[S.247. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-23-14.5-3, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **Except as provided in subsection (b)**, a drug court established under this chapter and accompanying services are open only to individuals over whom the court that established the drug court has jurisdiction.

(b) **A drug court that does not otherwise have felony jurisdiction may accept an eligible individual who is referred to the drug court from another court within the county if the following criteria are met:**

(1) **The drug court returns the case to the court that made the referral for appropriate proceedings when the person has successfully completed drug court or the person's participation in the drug court has been terminated.**

(2) **If the drug court is a city or town court, the person selected as judge for the court is required to be an attorney under IC 33-10.1-5-7.**

SECTION 2. IC 12-23-14.5-9, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: Sec. 9. (a) As used in this section, "board" refers to the board of directors of the judicial conference of

Indiana under IC 33-13-14-2.

(b) As used in this section, "effective date" means the date established by the board after which minimum employment standards will be required for a person employed by a drug court.

(c) A drug court established under this chapter is subject to the regulatory powers of the Indiana judicial center under IC 33-13-14-7.

(d) With regard to drug courts established under this chapter, the Indiana judicial center may do the following:

(1) Ensure that drug courts comply with rules adopted under this section and applicable federal regulations.

(2) Certify drug courts established under this chapter.

(3) Revoke the certification of a drug court upon a determination that the drug court does not comply with rules adopted under this section and applicable federal regulations.

(4) Make agreements and contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state supported or private university; or

(E) a public or private agency;

to implement this chapter.

(5) Require as a condition of operation that each drug court created or funded under this chapter be certified according to rules established by the Indiana judicial center.

(6) Adopt rules ~~under IC 4-22-2~~ to implement this chapter.

(e) The board shall adopt rules concerning standards, requirements, and procedures for initial certification, recertification, and decertification of drug courts.

(f) The board may adopt rules concerning educational and occupational qualifications needed to be employed by a drug court; however, any contract service provider must be licensed by the state or approved by the judicial center. If the board adopts qualifications under this subsection:

(1) the board shall establish an effective date after which a person employed by a drug court must meet the minimum qualifications adopted under this subsection; and

(2) the minimum employment qualifications adopted under this subsection do not apply to a person who is employed:

- (A) by a certified drug court before the effective date; or
- (B) as administrative personnel.

(g) The board may delegate any of the functions described in subsections (e) and (f) to the court alcohol and drug program advisory committee or the Indiana judicial center.

SECTION 3. IC 12-23-14.5-15, AS ADDED BY P.L.168-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A drug court may follow the procedure described in this section only if:

- (1) a person pleads guilty to an offense in which the use of alcohol or drugs was a contributing factor or material element of the offense;
- (2) the court refers the person to a drug court;
- (3) the prosecuting attorney consents to the referral;
- (4) the person who pleads guilty under subdivision (1) consents to the referral;
- (5) the person who pleads guilty under subdivision (1) is eligible to participate in the drug court under section 14(b) of this chapter and the drug court accepts the referral; and
- (6) the person has not had a previous dismissal under this section.

(b) Notwithstanding IC 35-38-1-1(a), the court, without entering a judgment of conviction, may defer further proceedings and place the person in ~~the custody of the~~ a drug court ~~under subject to~~ conditions ~~as established by the drug court. determines:~~

(c) The **drug** court, the prosecuting attorney, and the participant must all agree upon the duration of the conditions established under subsection (b).

(d) ~~If the drug court determines, after a hearing, may enter a judgment of conviction if: that:~~

- (1) the person ~~violates~~ **violated** a condition established under subsection (b); or
- (2) the period of time that the conditions ~~are established under subsection (b) were~~ in effect ~~expires~~ **expired** before the person successfully ~~completes~~ **completed** each condition ~~of custody: established by the drug court;~~

the drug court may terminate the person's participation in the drug court.

(e) The court shall dismiss the charges against the person if the

When a person's participation in a drug court has been terminated by the drug court under subsection (d), the drug court shall:

- (1) enter a judgment of conviction against the person; or**
- (2) refer the case back to the court that referred the case to the drug court to allow the referring court to enter a judgment of conviction against the person.**

(f) When a person fulfills the conditions of the custody established by a drug court under subsection (b), the drug court shall:

- (1) dismiss the charges against the person; or**
- (2) refer the case back to the court that referred the case to the drug court to allow the referring court to dismiss the charges against the person.**

SECTION 4. IC 33-10.1-5-7, AS AMENDED BY P.L.196-1999, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A city court is not a court of record.

(b) A town court is not a court of record.

(c) A person selected as judge of the following courts must be an attorney in good standing under the requirements of the supreme court:

- (1) Anderson city court.
- (2) Avon town court.
- (3) Brownsburg town court.
- (4) Carmel city court.
- (5) A city or town court located in Lake County.
- (6) Muncie city court.
- (7) Noblesville city court.
- (8) Plainfield town court.
- (9) Greenwood city court.**
- (10) Martinsville city court.**

SECTION 5. **An emergency is declared for this act.**

P.L.134-2003

[S.451. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-27-3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 3. Notice and Opportunity to Repair

Sec. 1. The following definitions apply throughout this chapter:

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence or in the substantial remodeling of a residence. "Action" does not include:

(A) a claim in bankruptcy; or

(B) any civil action in tort alleging personal injury to or wrongful death of a person or persons resulting from a construction defect.

(2) "Association" means an association of co-owners (as defined in IC 32-25-2-2).

(3) "Claimant" means a home owner who or an association that asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodeling of a residence.

(4) "Construction professional" means an architect, a builder, a builder vendor, a contractor, a subcontractor, or an engineer, including but not limited to any person performing or furnishing the design, supervision, construction, or observation of the construction of any improvement to real property, whether operating as a sole proprietor, a partnership, a corporation, or another business entity that

contracts with the home owner to build the residence. A construction professional is not a home owner under this chapter unless the construction professional occupies the residence that is the basis for the claimed defect.

(5) "Defect" or "construction defect" means damage or deficiency in the residential construction, design, specifications, surveying, planning, supervision, testing, inspection, or observation of construction.

(6) "Home owner" means:

(A) any person, company, firm, partnership, corporation, association, or other business entity that:

(i) is owner of the residence; and

(ii) contracts with a construction professional for the construction, sale, or construction and sale of a residence; or

(B) a subsequent purchaser of a residence from a home owner.

(7) "Residence" means a:

(A) single family house;

(B) duplex;

(C) triplex;

(D) quadraplex; or

(E) unit in a multiple unit residential structure in which title to the individual unit is transferred to the owner under a condominium or cooperative system.

For purposes of clause (E), the term includes common areas and facilities (as defined in IC 32-25-2-4).

(8) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

(9) "Substantial remodeling" means a remodeling of a residence, the total cost of which exceeds fifty percent (50%) of the assessed value under IC 6-1.1-1-3(a)(2) of the residence at the time that the contract for the remodeling work was made.

Sec. 2. (a) At least sixty (60) days before filing a construction defect action against a construction professional, the claimant must serve written notice of claim on the construction professional. The notice of claim must state that the claimant asserts a construction defect claim against the construction professional and must

describe the claim in reasonable detail sufficient to determine the general nature of the defect.

(b) Within twenty-one (21) days after service of a notice of claim under subsection (a), the construction professional must serve a written response on the claimant. The written response must do one (1) of the following:

(1) Propose to inspect the residence that is the subject of the claim and complete the inspection within a specified time frame. A response made under this subdivision must include the statement that the construction professional shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim.

(2) Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this subdivision may include, but is not limited to, an express offer to purchase the claimant's residence that is the subject of the claim and to pay the claimant's reasonable relocation costs.

(3) State that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.

(c) If the construction professional terminates a proposal or offer under section 3(c) of this chapter, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim.

(d) A home owner is not required to serve an additional written notice for any additional defects discovered after the home owner has served an initial written notice of a construction defect in accordance with this section.

Sec. 3. (a) If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time set forth in section 2(b) of this chapter, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(b) If the construction professional makes:

(1) a proposal to inspect the residence under section 2(b)(1) of this chapter; or

(2) an offer to compromise and settle the claim by monetary payment without inspection under section 2(b)(2) of this

chapter;

and the claimant rejects the proposal or offer, the claimant must serve written notice of the rejection on the construction professional. After service of the rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim.

(c) If the construction professional does not receive from the claimant either an acceptance or rejection of the construction professional's inspection proposal or settlement offer within sixty (60) days after the claimant's receipt of the construction professional's response, the construction professional may terminate the proposal or offer by serving written notice on the claimant.

(d) If the construction professional terminates a proposal or offer under subsection (c), the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim.

Sec. 4. (a) If the construction professional makes a proposal to inspect the residence under section 2(b)(1) of this chapter and the claimant elects to allow the construction professional to inspect in accordance with the construction professional's proposal, the claimant must provide the construction professional and the construction professional's contractors or other agents reasonable access to the claimant's residence during normal working hours to inspect the premises and the claimed defect.

(b) Within fourteen (14) days after the completion of an inspection pursuant to a proposal under section 2(b)(1) of this chapter, the construction professional must serve on the claimant:

(1) a written offer to remedy the construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, and a timetable for the completion of such construction;

(2) a written offer to compromise and settle the claim by monetary payment under section 2(b)(2) of this chapter; or

(3) a written statement that the construction professional will not proceed further to remedy the defect.

(c) If the construction professional:

- (1) makes a written offer to remedy the construction defect under subsection (b)(1) but does not proceed further to remedy the construction defect within the agreed timetable; or**
- (2) fails to serve a written offer or statement on the claimant under subsection (b);**

the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(d) If the construction professional makes an offer under subsection (b)(1) or (b)(2) to remedy the construction defect or to compromise and settle the claim by monetary payment and the claimant rejects the offer, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection notice, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim.

(e) If the construction professional makes an offer under subsection (b)(1) or (b)(2) and does not receive an acceptance or rejection of the offer from the claimant within sixty (60) days after the claimant's receipt of the construction professional's response, the construction professional may terminate the offer by serving written notice on the claimant.

Sec. 5. (a) To accept the offer of a construction professional to remedy the construction defect under section (4)(b)(1) of this chapter, the claimant must serve on the construction professional a written notice of acceptance within a reasonable time period after receipt of the offer, and not later than sixty (60) days after receipt of the offer.

(b) A claimant who accepts a construction professional's offer under section 4(b)(1) of this chapter must provide the construction professional and the construction professional's contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.

(c) After the acceptance of an offer under section 4(b)(1) of this chapter, the claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of construction stated in the offer,

including but not limited to construction to repair additional defects.

Sec. 6. Any action commenced by a claimant before compliance with the requirements of this chapter is subject to dismissal without prejudice, and may not be recommenced until the claimant complies with the requirements of this section.

Sec. 7. Nothing in this section may be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform according to the timetable agreed upon under section 4(b)(1) or 5 of this chapter.

Sec. 8. (a) Before commencing any action alleging a construction defect, or after the dismissal of any action without prejudice under section 6 of this chapter, the claimant may amend the notice of claim to include construction defects discovered after the service of the original notice of claim.

(b) The service of an amended notice of claim relates back to the original notice of claim for purposes of section 2 of this chapter and the applicable statutes of limitations and repose.

Sec. 9. (a) If a claimant:

- (1)** unreasonably rejects a reasonable written offer of settlement made under this chapter; or
- (2)** does not permit the construction professional a reasonable opportunity to inspect or to repair the defect under a reasonable offer of settlement;

and thereafter commences an action governed by this chapter, the court may deny the claimant attorney's fees and costs and award attorney's fees and costs to the construction professional. However, a homeowner is not required to accept an offer to repair the defect when the defect is caused by the construction professional's noncompliance with applicable building codes.

(b) Any sums paid under a homeowners warranty, other than sums paid in satisfaction of claims that are collateral to any coverage issued to or by the construction professional, must be deducted from any recovery.

(c) If a construction professional fails to comply with the requirements of this chapter, the claimant is not obligated to comply further with the provisions of this chapter.

Sec. 10. If a construction professional unreasonably:

- (1) disputes a home owner's claim;**
- (2) fails to remedy or compromise and settle the claim;**
- (3) fails to repair the construction defect within a reasonable time, subject to the nature of the repair or some unforeseen event not caused by the construction professional; or**
- (4) fails to respond to a notice;**

and the claimant commences an action governed by this chapter and prevails in the action, the court may award attorney's fees and costs to the claimant.

Sec. 11. (a) In every action brought against a construction professional, the claimant must file with the court and serve on the defendant a list of known construction defects in accordance with this section.

(b) The list of known construction defects must contain a description of the construction that the claimant alleges to be defective. The list of known construction defects must be filed with the court and served on the defendant within sixty (60) days after the commencement of the action or within such longer period as the court in its discretion may allow.

(c) The list of known construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant.

(d) The list of known construction defects must specify, to the extent known to the claimant, the construction professional responsible for each alleged defect identified by the claimant.

(e) If a subcontractor or supplier is added as a party to an action under this section, the party making the claim against the subcontractor or supplier must serve on the subcontractor or supplier the list of construction defects in accordance with this section within sixty (60) days after service of the complaint against the subcontractor or supplier, or within such period as the court in its discretion may allow.

Sec. 12. (a) Upon entering into a contract for sale, construction, or substantial remodeling of a residence, a construction professional must provide notice to each home owner of the construction professional's right to offer to cure construction defects before a home owner may commence litigation against the construction professional. The notice must be conspicuous and may

be included as part of the underlying contract signed by the home owner.

(b) The notice required by this section must be in substantially the following form:

"IC 32-27-3 CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR OR BUILDER OF YOUR HOME. SIXTY (60) DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE CONTRACTOR OR BUILDER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR CONTRACTOR OR BUILDER THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER OR CONTRACTOR. HOWEVER, IF YOU UNREASONABLY REJECT A REASONABLE WRITTEN OFFER AND COMMENCE AN ACTION AGAINST THE BUILDER OR CONTRACTOR, A COURT MAY AWARD ATTORNEY'S FEES AND COSTS TO THE BUILDER OR CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT."

(c) This chapter does not preclude or bar any action if notice is not given to the home owner as required by this section.

Sec. 13. Nothing in this chapter shall be construed to hinder or otherwise affect the employment, agency, or contractual relationship between and among home owners and construction professionals during the process of construction or remodeling and does not preclude the termination of those relationships as allowed under current law. Nothing in this chapter shall negate or otherwise restrict a construction professional's right to access or inspection provided by law, covenant, easement, or contract.

Sec. 14. If a written notice of claim is served under section 2 of this chapter within the time prescribed for the filing of an action against a construction professional based on an alleged construction defect, the applicable statute of limitations for

construction related claims is tolled with respect to the alleged construction defect described in the notice of claim from the day on which the notice of claim is served until sixty (60) days after the period of time during which the filing of an action is barred under this chapter.

P.L.135-2003

[S.457. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-38-5-1, AS ADDED BY P.L.231-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** The state department may develop **and maintain** an immunization data registry **to collect, store, analyze, release, and report immunization data.**

(b) Data in the immunization registry may be used only for the following purposes:

(1) To assure that necessary immunizations are provided and overimmunization is avoided.

(2) To assess immunization coverage rates.

(3) To determine areas of underimmunization and other epidemiological research for disease control purposes.

(4) To document that required immunizations have been provided as required for school or child care admission.

(5) To accomplish other public health purposes as determined by the state department.

SECTION 2. IC 16-38-5-2, AS ADDED BY P.L.231-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** A provider may provide immunization data to the immunization data registry ~~with specific written authorization of~~ **in a manner prescribed by the state department and for the purposes allowed under this chapter unless:**

(1) the patient; or

(2) the patient's parent or guardian, if the patient is less than eighteen (18) years of age;

has completed and filed with the provider a written immunization data exemption form.

(b) The state department shall create and provide copies of immunization data exemption forms to:

(1) providers who are:

(A) licensed under IC 25; and

(B) authorized within the provider's scope of practice to administer immunizations; and

(2) individuals;

who request the form.

(c) The state department shall distribute to providers, upon request, written information to be disseminated to patients that describes the immunization data registry. The written information must include the following:

(1) That the provider may report immunization data to the immunization data registry.

(2) That the patient or the patient's parent or guardian, if the patient is less than eighteen (18) years of age, has a right to exempt disclosure of immunization data to the registry and may prevent disclosure by signing an immunization data exemption form.

(3) That the patient or the patient's parent or guardian, if the patient is less than eighteen (18) years of age, may have the individual's information removed from the immunization data registry.

(4) Instructions on how to have the information removed.

SECTION 3. IC 16-38-5-3, AS ADDED BY P.L.231-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Records maintained as part of the immunization data registry are confidential.

(b) The state department may release **an individual's** confidential information concerning individual immunization patient records to **the individual** or to **the individual's parent or guardian** if the individual is less than eighteen (18) years of age.

(c) Subject to subsection (d), the state department may release information in the immunization data registry concerning an

individual to the following entities:

- (1) The immunization data registry of another state. ~~or~~
- (2) A provider, if the following conditions are met:
 - ~~(1) The other state registry or provider has entered~~ (3) **A local health department.**
 - (4) **An elementary or secondary school that is attended by the individual.**
 - (5) **A child care center that is licensed under IC 12-17.2-4 in which the individual is enrolled.**
 - (6) **The office of Medicaid policy and planning or a contractor of the office of Medicaid policy and planning.**

(d) Before immunization data may be released to an entity, the entity must enter into an agreement with the state department ~~(2) The agreement that~~ provides that information that identifies a patient will not be released to any other person without the written consent of the patient.

(e) The state department may release summary statistics regarding information in the immunization data registry if the summary statistics do not reveal the identity of an individual.

SECTION 4. IC 16-38-5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) An entity described in section 3(c) of this chapter, the state department, or an agent of the state department who in good faith provides or receives immunization information is immune from civil and criminal liability for the following:**

- (1) **Providing information to the immunization data registry.**
- (2) **Using the immunization data registry information to verify that a patient or child has received proper immunizations.**
- (3) **Using the immunization data registry information to inform a patient or the child's parent or guardian of the patient or child's immunization status or that an immunization is due according to recommended immunization schedules.**

(b) A person who knowingly, intentionally, or recklessly discloses confidential information contained in the immunization data registry in violation of this chapter commits a Class A misdemeanor.

SECTION 5. IC 34-30-2-77.2 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 77.2. IC 16-38-5-4 (Concerning persons who report information to or receive information from the immunization data registry).**

P.L.136-2003

[S.485. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-6-2-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. (a) "Health care provider", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-14.

(b) "Health care provider", for purposes of IC 34-30-12.5, has the meaning set forth in IC 34-30-12.5-2.

SECTION 2. IC 34-30-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.5. Health Care: Immunity of Hospitals and Certain Persons Providing Smallpox Immunizations

Sec. 1. This chapter applies if the federal government authorizes the state department of health to implement a program providing for the administration of inoculations or other medical countermeasures against an actual or a potential bioterrorist incident or another actual or potential public health emergency under:

- (1) 42 U.S.C. 233(p)(2)(A); or
- (2) any other federal authority.

Sec. 2. As used in this chapter, "health care provider" means the following:

- (1) An individual, a partnership, a professional corporation, a facility, or an institution licensed or legally authorized by

the state to provide health care or professional services as any of the following:

- (A) A licensed physician.**
 - (B) A psychiatric hospital.**
 - (C) A hospital.**
 - (D) A health facility.**
 - (E) A nurse licensed under IC 25-23.**
 - (F) A paramedic.**
 - (G) An emergency technician.**
 - (H) An advanced emergency technician.**
- (2) An employee of an individual or entity described in subdivision (1).**
 - (3) A member of the medical staff of an individual or entity described in subdivision (1).**
 - (4) An individual who has been authorized by the governing board of an individual or entity described in subdivision (1) to provide health care services on the individual's or entity's premises or on the individual's or entity's behalf.**
 - (5) An individual who, under contract with an individual or entity described in subdivision (1), administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency under the circumstances described in section 1 of this chapter.**

Sec. 3. A health care provider who administers an inoculation or another medical countermeasure against an actual or a potential bioterrorist incident or another actual or potential public health emergency after January 23, 2003, under the circumstances described in section 1 of this chapter is immune from civil liability for any injury or damage that results from the administration of the inoculation or other countermeasure, except for an act or omission that amounts to gross negligence or willful or wanton misconduct. This section shall not affect the right of any individual to receive:

- (1) benefits to which the individual would otherwise be entitled under:**
 - (A) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or**
 - (B) any pension law; or**

(2) any benefits or compensation under any federal law.
SECTION 3. An emergency is declared for this act.

P.L.137-2003
[S.503. Approved May 1, 2003.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-6-4-1, AS AMENDED BY P.L.199-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A railroad company operating in this state shall equip every locomotive engine with a whistle and a bell, maintained in good working order, such as are used by other railroad companies. Except when approaching a crossing to which an ordinance adopted under subsection (c) applies, the engineer or other person in charge of or operating an engine upon the line of a railroad shall, when the engine approaches the crossing of a turnpike, public highway, or street in this state, beginning not less than one-fourth (1/4) mile from the crossings:

- (1) sound the whistle on the engine distinctly not less than four (4) times, which sounding shall be prolonged or repeated until the crossing is reached; and
- (2) ring the bell attached to the engine continuously from the time of sounding the whistle until the engine has fully passed the crossing.

(b) It is unlawful for an engineer or other person in charge of a locomotive to move the locomotive, or allow it to be moved, over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. It is unlawful for a railroad company to order or permit a locomotive to be moved over or across a turnpike, public highway, or street crossing if the whistle and bell are not in good working order. When a whistle or bell is not in good working order, the locomotive must stop before each crossing and

proceed only after manual protection is provided at the crossing by a member of the crew unless manual protection is known to be provided.

(c) A city, town, or county may adopt an ordinance to regulate the sounding of a whistle or the ringing of a bell under subsection (a) in the city, the town, or the county. However, an ordinance may not prohibit the sounding of a whistle or the ringing of a bell at a crossing that does not have an automatic train activated warning signal as set forth in IC 8-6-7.7-2. **An ordinance adopted after June 30, 2003, that prohibits the sounding of a whistle or the ringing of a bell at a crossing must require that signs be posted at the crossing to warn the public that trains do not sound whistles or ring bells at that crossing.** Before an ordinance adopted under this subsection goes into effect, the city, town, or county must receive the written permission of the department to regulate the sounding or the ringing. The department shall grant permission only if the department determines, based upon a study conducted by the department, that the ordinance, as applied to a particular crossing, **will not create an undue risk of harm to the rail corridor identified in the ordinance, increases the overall safety of the corridor for the public. Notwithstanding anything to the contrary in this subsection, the department shall grant permission to a city or a town to regulate the sounding of a whistle or the ringing of a bell if the city or town had an ordinance regulating the sounding of a whistle or the ringing of a bell that was approved and in effect on January 1, 1991, if the city or town amended or repealed the ordinance, and if the city or town adopts a subsequent ordinance on the same subject. In making its determination during the course of the study, the department shall consider:**

- (1) school bus routes;
- (2) emergency service routes;
- (3) hazardous materials routes;
- (4) pedestrian traffic;
- (5) trespassers;
- (6) recreational facilities;
- (7) trails; and
- (8) measures to increase safety in the corridor, including:
 - (A) four (4) quadrant gates;
 - (B) median barriers;
 - (C) crossing closures;

(D) law enforcement programs; and

(E) public education.

The study by the department required under this subsection must be completed not later than one hundred twenty (120) days after the department receives notice of the passage of the ordinance from the city, town, or county. An ordinance approved and in effect on January 1, 1991, regulating the sounding of a whistle or the ringing of a bell in a city or town remains approved and in effect.

(d) Notwithstanding a contrary provision in an ordinance adopted under subsection (c), an engineer or other person who is operating an engine shall sound the engine's whistle if, **in the determination of the engineer or other person who is operating the engine**, an apparent emergency exists.

(e) A railroad company and the employees of the railroad company are immune from criminal or civil liability for injury or property damage that results from an accident that occurs at a crossing to which an ordinance described in subsection (c) applies if the injury or property damage was proximately caused solely by the railroad company and the employees failing to sound a whistle.

(f) The Indiana department of transportation shall review crossing safety at each crossing to which an ordinance adopted under subsection (c) applies not less than one (1) time in a five (5) year period.

(g) The Indiana department of transportation may not revoke the permission granted under subsection (c) for an ordinance.

(h) The Indiana department of transportation may create pilot railroad crossing safety projects to improve railroad crossing safety.

P.L.138-2003

[H.1049. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-5-13, AS AMENDED BY P.L.109-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

- (1) that has been in existence for at least ten (10) years; and
- (2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);

or

(D) is a supervised group living facility licensed under IC 12-28-5;

(E) is an area agency on aging designated under IC 12-10-1;

(F) is a community action agency (as defined in IC 12-14-23-2);

(G) is the owner or operator of a hospice program licensed under IC 16-25-3; or

(H) is a community mental health center (as defined in IC 12-7-2-38).

(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the

request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or non-public school.

SECTION 2. IC 10-13-3-36, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and

(2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);

or

(D) is a supervised group living facility licensed under IC 12-28-5;

(E) is an area agency on aging designated under IC 12-10-1;

(F) is a community action agency (as defined in IC 12-14-23-2);

(G) is the owner or operator of a hospice program licensed under IC 16-25-3; or

(H) is a community mental health center (as defined in IC 12-7-2-38).

(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

P.L.139-2003

[H.1092. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-4-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A senior judge is entitled to **the following compensation:**

(1) **For each of the first thirty (30) days of service in a calendar year, a per diem of fifty dollars (\$50). and**

(2) **Except as provided in subsection (c), for each day the senior judge serves after serving the first thirty (30) days of service in a calendar year, a per diem of one hundred dollars (\$100).**

(3) Reimbursement for:

(A) mileage; and

(B) reasonable expenses, including but not limited to meals and lodging, incurred in performing service as a senior judge; for each day served as a senior judge.

(b) **Subject to subsection (c), the per diem and reimbursement for mileage and reasonable expenses under subsection (a) shall be paid by the state.**

(c) **The compensation under subsection (a)(2) must be paid by the state from funds appropriated to the supreme court for judicial payroll. If the payroll fund is insufficient to pay the compensation**

under subsection (a)(2), the supreme court may issue an order adjusting the compensation rate.

(d) A senior judge appointed under this chapter may not be compensated as a senior judge for more than one hundred (100) calendar days in the aggregate during a calendar year.

SECTION 2. IC 33-13-8-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) As used in this section, "judge pro tempore service" means service in Indiana as a full-time judge pro tempore appointed under Trial Rule 63(B) that:

- (1) is not covered by IC 33-13-9.1 or IC 33-13-10.1; but**
- (2) is served by a person who has other service that is covered by IC 33-13-9.1 or IC 33-13-10.1.**

(b) A participant may purchase judge pro tempore service credit if:

- (1) the participant has at least one (1) year of service in the fund;**
- (2) before the participant retires, the participant makes contributions to the fund:**

(A) that are equal to the product of the following:

- (i) the participant's salary at the time the participant actually makes a contribution for the service credit;**
- (ii) a percentage rate, as determined by the actuary of the fund, that is based on the age of the participant at the time the participant makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased; and**
- (iii) the number of years of judge pro tempore service the participant intends to purchase; and**

(B) for any accrued interest, at a rate determined by the actuary of the fund, for the period from the participant's initial membership in the fund to the date payment is made by the participant; and

- (3) the fund receives verification from the applicable court that the judge pro tempore service occurred.**

(c) A participant may not receive service credit under this section if the judge pro tempore service for which the participant requests credit also qualifies the participant for a benefit in

another retirement system.

(d) A participant who:

- (1) terminates service before satisfying the requirements for eligibility to receive a retirement benefit from the fund; or**
- (2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;**

may withdraw the participant's contributions made under this section plus accumulated interest after submitting to the fund a properly completed application for a refund.

(e) The following apply to the purchase of service credit under this section:

- (1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments are to be made.**
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations set forth in Section 415 of the Internal Revenue Code.**
- (3) A participant may not claim the service credit for purposes of determining eligibility or computing benefits unless the participant has made all payments required for the purchase of the service credit.**

(f) To the extent permitted by the Internal Revenue Code and applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.**
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.**
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.**
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.**

(g) To the extent permitted by the Internal Revenue Code and

the applicable regulations, the fund may accept, on behalf of a participant who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 3. [EFFECTIVE JULY 1, 2003] (a) IC 33-4-8-5, as amended by this act, applies only to a senior judge who is appointed after June 30, 2003.

(b) This SECTION expires July 1, 2008.

P.L.140-2003

[H.1145. Approved May 5, 2003.]

AN ACT concerning corrections.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "committee" refers to the sentencing policy study committee established by subsection (c).

(b) The general assembly finds that a comprehensive study of sentencing laws and policies is desirable in order to:

- (1) assure that sentencing laws and policies protect the public safety;
- (2) establish fairness and uniformity in sentencing laws and policies;
- (3) determine whether incarceration or alternative sanctions are appropriate for various categories of criminal offenses; and
- (4) maximize cost effectiveness in the administration of sentencing laws and policies.

(c) The sentencing policy study committee is established to evaluate sentencing laws and policies as they relate to:

- (1) the purposes of the criminal justice and corrections systems;**
- (2) the availability of sentencing options; and**
- (3) the inmate population in department of correction facilities.**

If based on the committee's evaluation under this subsection it determines changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(d) The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether it involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest.

The committee shall also consider:

(A) the nature and characteristics of the offense;

(B) the severity of the offense in relation to other offenses;

(C) the characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct;

(D) the defendant's number of prior convictions;

(E) the available resources and capacity of the department of correction, local confinement facilities, and community based sanctions; and

(F) the rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based upon:

(A) a review of existing community corrections programs;

(B) the identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions;

(C) the identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices;

(D) the identification of necessary changes in state oversight and coordination of community corrections programs;

(E) an evaluation of mechanisms for state funding and local community participation in the operation and implementation of community corrections programs; and

(F) an analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the

effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(e) The committee may study other topics assigned by the legislative council or as directed by the committee chair.

(f) The committee consists of fifteen (15) members appointed as follows:

(1) Two (2) members of the senate, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council or the executive director's designee.

(7) The executive director of the public defenders council or the executive director's designee.

(8) One (1) person with experience in administering community corrections programs appointed by the governor.

(9) One (1) person with experience in administering probation programs appointed by the governor.

(10) Two (2) judges who exercise juvenile jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(11) Two (2) judges who exercise criminal jurisdiction, not more than one (1) of whom may be affiliated with the same political party, to be appointed by the governor.

(g) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

(h) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(i) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

(j) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(k) The committee shall submit a final report of the results of its study to the legislative council before November 1, 2004.

(l) The Indiana criminal justice institute shall provide staff support to the committee.

(m) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(n) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including the final report.

(o) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this act shall be paid from appropriations to the legislative council and legislative services agency.

(p) This SECTION expires December 31, 2004.

P.L.141-2003

[H.1218. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY HEA 1813-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
- (5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
- (6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
- (7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.
- (8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.
- (9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.
- (10) A rule adopted under IC 16-19-3-5 that the executive board

of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(23) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(24) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(25) An emergency rule adopted by the Indiana board of tax

review under IC 6-1.1-4-34.

(26) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(27) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, **and IC 22-8-1.1-16.1, and IC 22-13-2-8(c)**, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under

subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. IC 22-12-1-4, AS AMENDED BY P.L.2-2002, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) "Class 1 structure" means any part of the following:

- (1) A building or structure that is intended to be or is occupied or otherwise used in any part by any of the following:
 - (A) The public.
 - (B) Three (3) or more tenants.
 - (C) One (1) or more persons who act as the employees of another.
- (2) A site improvement affecting access by persons with physical disabilities to a building or structure described in subdivision (1).
- (3) Any class of buildings or structures that the commission determines by rules to affect a building or structure described in subdivision (1), except buildings or structures described in subsections (c) through ~~(e)~~: **(f)**.

(b) Subsection (a)(1) includes a structure that contains three (3) or more condominium units (as defined in IC 32-25-2-9) or other units that:

- (1) are intended to be or are used or leased by the owner of the unit; and
- (2) are not completely separated from each other by an

unimproved space.

(c) Subsection (a)(1) does not include a building or structure that:

(1) is intended to be or is used only for an agricultural purpose on the land where it is located; and

(2) is not used for retail trade or is a stand used for retail sales of farm produce for eight (8) or less consecutive months in a calendar year.

(d) Subsection (a)(1) does not include a Class 2 structure.

(e) Subsection (a)(1) does not include a vehicular bridge.

(f) Subsection (a)(1) does not include a structure that is intended to be or is occupied solely to provide periodic maintenance or repair of:

(1) the structure; or

(2) mechanical or electrical equipment located within and affixed to the structure.

SECTION 3. IC 22-12-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. "Manufactured home" has the meaning set forth in 42 U.S.C. 5402 as it existed on January 1, ~~1984~~ **2003**.

SECTION 4. IC 22-12-4.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The term of a member is three (3) years. A member continues to serve until the member's successor is appointed. ~~or until sixty (60) days have elapsed since the member's term expired, whichever occurs first.~~

(b) The appointing authority may remove a member of the board for inefficiency or neglect of duty.

(c) If a vacancy occurs on the board, an individual appointed to fill the vacancy serves the unexpired term of the vacating member.

~~(d) An appointed member of the board may serve not more than three (3) consecutive terms. If the member was appointed to fill a vacancy under subsection (c), the part of an unexpired term filled by the member is not included in calculating a member's length of service under this subsection.~~

SECTION 5. IC 22-12-4.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The board shall meet at least ~~biannually~~ **quarterly**.

(b) A quorum of the board consists of six (6) members. The affirmative votes of at least six (6) members of the board are required

for the board to take action.

SECTION 6. IC 22-12-6-3, AS AMENDED BY P.L.3-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The statewide fire and building safety education fund is established to provide money to:

(1) local fire and building inspection departments for enrollment in education and training programs approved by the department; and

(2) **the office of the state building commissioner and the office of the state fire marshal for enrollment in education and training programs approved by the department; and**

(3) ~~the office of the state fire marshal department~~ for the sponsoring of training conferences.

(b) The department shall administer the fund. The director of the division of education and information shall distribute money from the fund in accordance with the rules adopted under IC 4-22-2 by the commission.

(c) The fund consists of:

(1) money allocated under section 6(d) of this chapter; and

(2) fees collected under subsection (e).

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

(e) ~~The office of the state fire marshal department~~ may charge a fee for a person's participation in a training conference. ~~The office of the state fire marshal department~~ shall deposit the fees collected under this subsection in the fund. ~~The state fire marshal department~~ shall pay all expenses associated with training conferences out of the fund.

SECTION 7. IC 22-12-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The appropriate person under section 1 of this chapter shall issue the following orders under IC 4-21.5-3-6:

(1) An order requiring a person to cease and correct any violation of law.

(2) An order that imposes a sanction described in section 7(4) **or 7(5)** of this chapter or that imposes a requirement under ~~IC 22-14-4-2~~ **IC 35-47.5-4-2**.

(3) Any other enforcement order.

SECTION 8. IC 22-12-7-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. An order under IC 4-21.5-3-6 or IC 4-21.5-4 may include the following, singly or in combination:

(1) Require a person who has taken a substantial step toward violating a law or has violated a law to cease and correct the violation.

(2) Require a person who has control over property that is affected by a violation to take reasonable steps to:

(A) protect persons and property from the hazards of the violation; and

(B) correct the violation.

(3) Require persons to leave an area that is affected by a violation and prohibit persons from entering the area until the violation is corrected.

(4) Impose any of the following sanctions with respect to a permit, registration, certification, release, authorization, variance, exemption, or other license issued by a person described in section 1 of this chapter:

(A) Permanently revoke the license.

(B) Suspend the license.

(C) Censure the person to whom the license is issued.

(D) Issue a letter of reprimand to a person to whom the license is issued.

(E) Place a person to whom the license is issued on probation.

(5) Impose on a person who has violated a law that may be enforced by the department a civil penalty not to exceed two hundred fifty dollars (\$250) for each day the violation occurs.

SECTION 9. IC 22-13-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The commission shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated lifting devices.

(b) **Except as provided in subsection (c)**, subject to the approval of the commission, the rules board shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated boilers and pressure vessels.

(c) **Subject to the approval of the commission, the rules board may adopt emergency rules under IC 4-22-2-37.1 only to adopt by reference all or part of the following national boiler and pressure**

vessel codes:

(1) The American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

(2) The National Board of Boiler and Pressure Vessel Inspectors Inspection Code.

(3) The American Petroleum Institute 510 Pressure Vessel Inspection Code.

(4) Any subsequent editions of the codes listed in subdivisions (1) through (3).

(d) An emergency rule adopted under subsection (c) expires on the earlier of the following dates:

(1) Not more than two (2) years after the emergency rule is accepted for filing with the secretary of state.

(2) The date a permanent rule is adopted under IC 4-22-2.

(e) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated amusement devices.

SECTION 10. IC 22-13-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The commission, or the rules board, **or the regulated amusement device safety board established by IC 22-12-4.5-2** may grant a variance to a rule that it has adopted.

(b) To qualify for a variance, an applicant must pay the fee set under IC 22-12-6-6 and submit facts demonstrating that:

(1) compliance with the rule will impose an undue hardship upon the applicant or prevent the preservation of an architecturally significant or historically significant part of a building or other structure; and

(2) either:

(A) noncompliance with the rule; or

(B) compliance with an alternative requirement approved by the body adopting the rule;

will not be adverse to the public health, safety, or welfare.

(c) A variance granted under this section is conditioned upon compliance with an alternative standard approved under subsection (b)(2)(B).

(d) A variance granted under this section takes precedence over

conflicting rules adopted by a state agency and conflicting ordinances and other regulations adopted by a political subdivision.

SECTION 11. IC 22-13-2.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The commission is not required to comply with section 2 of this chapter if a proposed rule constitutes:

- (1) the adoption or incorporation by reference of a federal statute, regulation, or rule that:
 - (A) is or will be applicable to Indiana; and
 - (B) contains no amendments that have a substantive effect on the scope or intended application of the federal statute, regulation, or rule;
- (2) a technical amendment or revision that makes no substantive change in an existing rule; ~~or~~
- (3) a substantive amendment to an existing rule that has the primary and intended purpose of clarifying the existing rule; ~~or~~
- (4) an emergency rule adopted under IC 22-13-2-8(c).**

SECTION 12. IC 22-15-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) For purposes of this section, a reference to 42 U.S.C. 5409 refers to that section as it existed on January 1, ~~1984~~ **2003**.

(b) As used in this section, "purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale.

(c) A person who violates 42 U.S.C. 5409, or any ~~rule regulation~~ or final order issued under 42 U.S.C. 5409, ~~commits a Class C infraction~~. **is liable to the department for a civil penalty not to exceed one thousand dollars (\$1,000) for each violation.** Each violation of 42 U.S.C. 5409, or any ~~rule regulation~~ or final order issued under 42 U.S.C. 5409, constitutes a separate violation with respect to:

- (1) each manufactured home; or**
- (2) with respect to each failure or refusal to allow or perform an act required by this chapter 42 U.S.C. 5409 or a rule regulation or order issued under this chapter: 42 U.S.C. 5409.**

However, the maximum judgment imposed under this subsection may not exceed one million dollars (\$1,000,000) for any related series of violations occurring within one (1) year after the date of the first violation.

(d) **The department may recover the civil penalty described in subsection (c) in a civil action commenced in any court with jurisdiction.**

(e) **Notwithstanding IC 35-50-3-2**, an individual or a director, an officer, or an agent of a corporation who knowingly violates 42 U.S.C. 5409 in a manner that threatens the health or safety of any purchaser commits a Class A misdemeanor **and shall be fined not more than one thousand dollars (\$1,000) dollars or imprisoned not more than one (1) year, or both.**

SECTION 13. IC 22-15-5-7, AS ADDED BY P.L.119-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) **After May 1, 2003**, an individual may not act as an elevator contractor unless the individual:

(1) holds an elevator contractor license issued under this chapter;
or

(2) is an employee of a partnership, a limited partnership, a corporation, or an educational institution that holds an elevator contractor license issued under this chapter.

(b) **After May 1, 2003**, a partnership, a limited partnership, a corporation, or an educational institution may not act as an elevator contractor unless it holds an elevator contractor license issued under this chapter.

(c) An individual who is an applicant for an elevator contractor license shall:

(1) hold a valid elevator contractor license issued by another state that has a licensing program that, as determined by the department or the commission, is equivalent to the elevator contractor licensing program established under this chapter; or

(2) except as otherwise provided, satisfy both of the following requirements:

(A) Have at least five (5) years of documented work experience in the elevator industry in construction, maintenance, and service or repair in Indiana.

(B) Successfully complete a written competency examination approved by the commission.

An applicant for an elevator contractor license is entitled to a license without examination if the applicant applies for the license on or before **March May 1, 2003**.

(d) A corporation or an educational institution that is an applicant for an elevator contractor license must have at least one (1) officer or employee of the corporation or an educational institution that holds a valid elevator contractor license issued under this chapter. A license granted to a corporation or an educational institution to act as an elevator contractor under this chapter becomes invalid when an officer or employee of the corporation or educational institution no longer holds a valid elevator contractor license issued under this chapter.

(e) A partnership or limited partnership that is an applicant for an elevator contractor license must have at least one (1) partner or general partner that holds a valid elevator contractor license issued under this chapter. A license granted to a partnership or limited partnership to act as an elevator contractor under this chapter becomes invalid when the partner of a partnership or general partner of a limited partnership named in the application no longer holds a valid elevator contractor license as provided by this chapter.

SECTION 14. IC 22-15-5-11, AS ADDED BY P.L.119-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) **After May 1, 2003**, an individual may not act as an elevator inspector unless the individual holds an elevator inspector license issued under this chapter.

(b) An individual who is an applicant for an elevator inspector license shall meet the standards set forth in American Society of Mechanical Engineers (ASME) American National Standard QEI-1 (Standard for the Qualification of Elevator Inspectors) or other nationally accepted standard qualifying authority that the commission has determined has equivalent requirements as ASME QEI-1 for obtaining and retaining certification.

(c) An applicant for an initial elevator inspector license must do the following:

- (1) Submit to the department an application provided by the department that contains the following information:
 - (A) The name, address, telephone number, and electronic mail address of the applicant.
 - (B) Any other information the department requires.
- (2) Submit to the department any proof of eligibility the department requires.
- (3) Demonstrate proof of insurance as required by section 14 of

this chapter.

(4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(d) An applicant for a renewal elevator inspector license shall:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Demonstrate proof of insurance as required by section 14 of this chapter.

(4) Pay the license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(e) An initial elevator inspector license issued under this chapter expires on December 31 of the second year after the license was issued.

(f) A renewal of an elevator inspector license is valid for two (2) years.

(g) An individual who engages in the business of an elevator inspector shall carry the individual's license and present the license for inspection by a representative of the department upon request.

(h) If the QEI-1 certification or other certification standard approved by the commission that made the individual eligible for an inspector license under subsection (b):

(1) is terminated;

(2) expires; or

(3) becomes invalid for any other reason;

the elevator inspector's license immediately becomes invalid.

SECTION 15. IC 22-15-5-12, AS ADDED BY P.L.119-2002,

SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) **After May 1, 2003**, an individual may not act as an elevator mechanic unless the individual holds an elevator mechanic license issued under this chapter. A license is not required for an elevator apprentice.

(b) An individual who is an applicant for an elevator mechanic license must meet one (1) of the following eligibility criteria:

(1) Hold an active elevator mechanic license issued by a state that has a licensing program that is at least equivalent to the elevator mechanic licensing program established under this chapter.

(2) Satisfy both of the following:

(A) Have at least one (1) of the following types of work experience or training:

(i) Have at least three (3) years of documented work experience in the elevator industry in construction, maintenance, and service or repair.

(ii) Have at least eighteen (18) months experience in the elevator industry in construction, maintenance, and service or repair and have at least three (3) years experience in a related field that is certified by a licensed elevator contractor.

(iii) Complete an apprenticeship program that is registered with the Bureau of Apprenticeship and Training of the United States Department of Labor or a state apprenticeship program and that the commission determines is at least equivalent to three (3) years of work experience in the elevator industry in construction, maintenance, and service or repair.

(B) Successfully complete a written competency examination approved by the commission.

(3) Successfully complete an elevator mechanic's program that consists of a combination of extensive training and a comprehensive examination that the commission has determined is at least equivalent to both the work experience required under subdivision (2)(A)(i) and the competency examination established under subdivision (2)(B).

(4) Furnish acceptable proof to the department of:

(A) at least three (3) years work experience in the elevator

industry in construction, maintenance, service or repair; and
(B) current performance of the duties of an elevator mechanic
in Indiana without direct supervision;

and apply for the license on or before ~~March~~ **May** 1, 2003.

(c) An applicant for an initial elevator mechanic license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit to the department any proof of eligibility the department requires.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(d) An applicant for a renewal elevator mechanic license must do the following:

(1) Submit to the department an application provided by the department that contains the following information:

(A) The name, business address, telephone number, and electronic mail address of the applicant.

(B) Any other information the department requires.

(2) Submit proof of completion of the continuing education required by section 15 of this chapter.

(3) Pay the nonrefundable and nontransferable license fee established under IC 22-12-6-6.

(4) Affirm under penalty of perjury that all information provided to the department is true to the best of the applicant's knowledge and belief.

(e) An initial elevator mechanic license issued under this chapter expires on December 31 of the second year after the license was issued.

(f) A renewal of an elevator mechanic license is valid for two (2) years.

(g) An individual engaged in the business of an elevator mechanic shall carry the individual's license and present the license for inspection

by a representative of the department upon request.

SECTION 16. IC 22-15-6-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. This chapter applies to a regulated boiler and pressure vessel as set forth in rules adopted by the rules board under IC 4-22-2.**

SECTION 17. IC 22-15-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Sections 2 through 3 of this chapter do not apply to any of the following: **regulated boiler or pressure vessel exempted by a rule adopted by the rules board under IC 4-22-2.**

- (1) Any regulated boiler or pressure vessel located on a farm and used solely for agricultural purposes:
- (2) Any steam boiler or water heating boiler:
 - (A) located in an owner occupied residence; a residential structure with fewer than seven (7) apartments; or a place other than a place of public assembly;
 - (B) operated for heating purposes at a pressure not exceeding fifteen (15) pounds per square inch gauge; if qualifying as a steam boiler; and operated at a pressure not exceeding thirty (30) pounds per square inch gauge; if qualifying as a water heating boiler; and
 - (C) having a gross output rating not exceeding two hundred fifteen thousand (215,000) British Thermal Units per hour; if not located in a place of public assembly:
- (3) Any pressure vessel:
 - (A) containing only water under pressure for domestic supply purposes; including one containing air; if the compressed air serves only as a cushion or as part of an airlift pumping system; and
 - (B) located in an owner occupied residence or a residential structure with less than seven (7) apartments:
- (4) Any pressure vessel used as an integral part of an electrical circuit breaker:

SECTION 18. IC 22-15-6-2, AS AMENDED BY P.L.119-2002, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The office shall conduct a program of periodic inspections of regulated boilers and pressure vessels.

(b) The office or a boiler and pressure vessel inspector acting under section 4 of this chapter shall issue a regulated boiler and pressure vessel operating permit to an applicant who qualifies under this section.

~~(b)~~ **(c)** Except as provided in subsection ~~(d)~~, **(f)**, a permit issued under this section expires one (1) year after it is issued. The permit terminates if it was issued by an insurance company acting under section 4 of this chapter and the applicant ceases to insure the boiler or pressure vessel covered by the permit against loss by explosion with an insurance company authorized to do business in Indiana.

~~(c)~~ **(d)** To qualify for a permit **or to renew a permit** under this section, an applicant must **do the following**:

(1) Demonstrate through an inspection that the regulated boiler or pressure vessel covered by the application complies with the rules adopted by the rules board. ~~and~~

(2) Pay the fee set under IC 22-12-6-6(a)(8).

(e) After June 30, 2004, an inspection under subsection (d)(2) shall be conducted as follows:

(1) An inspection for an initial permit shall be conducted by:

(A) the office; or

(B) an owner or user inspection agency.

(2) An inspection for a renewal permit shall be conducted by one (1) of the following:

(A) An insurance company inspection agency, if the vessel is insured under a boiler and pressure vessel insurance policy and the renewal inspection is not conducted by an owner or user inspection agency.

(B) An owner or user inspection agency.

(C) The office, if the owner or user of a vessel is not licensed as an owner or user inspection agency and the vessel is not insured under a boiler and pressure vessel insurance policy.

~~(d)~~ **(f)** The rules board may, by rule adopted under IC 4-22-2, specify a period between inspections of more than one (1) year. However, the rules board may not set an inspection period of greater than five (5) years for regulated pressure vessels or steam generating equipment that is an integral part of a continuous processing unit.

~~(e)~~ **(e)** The office may inspect a device listed under IC 22-12-1-20(b) if the owner or operator of the device requests that the office make an

~~inspection.~~

SECTION 19. IC 22-15-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) As used in this ~~section;~~ **chapter**, "inspection agency" means:

(1) an insurance company ~~engaged in insuring and inspecting regulated boilers and pressure vessels in Indiana;~~ **inspection agency**; or

(2) an owner or user inspection agency; ~~registered~~ **licensed** under section 6 of this chapter.

(b) A boiler and pressure vessel inspector licensed under section 5 of this chapter and employed by an inspection agency may perform any of the following:

(1) An inspection required by section 3 of this chapter.

(2) The issuance of a permit under section 3 of this chapter.

(3) The issuance of an appropriate order under IC 22-12-7 when an equipment law has been violated.

(c) The authority of an inspector acting under this chapter is limited to enforcement related to regulated boilers or pressure vessels insured, owned, or operated by the inspection agency employing the inspector.

(d) Unless an annual report is substituted under subsection (e), an inspection agency shall, within thirty (30) days after the completion of an inspection, submit to the office the report required by the rules board. **In addition to any other information required by the rules board, the inspector conducting the inspection shall cite on the report any violation of the equipment law applicable to the regulated boiler or pressure vessel.**

(e) In the case of boilers or pressure vessels inspected by an owner or user inspection agency, an annual report filed on or before such annual date as the rules board may prescribe for each report may be substituted. An annual report of owner or user inspection agency must list, by number and abbreviated description necessary for identification, each boiler and pressure vessel inspected during the covered period, the date of the last inspection of each unit, and for each pressure vessel the approximate date for its next inspection under the rules of the rules board. Each annual report of an owner or user inspection must also contain the certificate of a professional engineer registered under IC 25-31 and having supervision over the inspections reported, swearing or affirming under penalty of perjury that each inspection was

conducted in conformity with the equipment laws.

(f) An owner or user inspection agency shall pay the fee set under IC 22-12-6 with a report under subsection (e).

(g) In addition to the reports required by subsections (d) and (e), **an owner, a user, or** an inspection agency shall immediately notify the office when ~~the inspection agency has reason to believe that a violation of an equipment law applicable to regulated boilers or pressure vessels has occurred.~~ **an incident occurs to render a boiler or pressure vessel inoperative.**

(h) An inspection agency, **an owner, or a user** that violates this section is subject to a disciplinary action under IC 22-12-7.

SECTION 20. IC 22-15-6-6, AS AMENDED BY P.L.119-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The office shall issue a license to act as an owner or user boiler and pressure vessel inspection agency **to an applicant** who qualifies under this section.

(b) A license issued under this section expires if the bond required by subsection (c)(3) becomes invalid.

(c) To qualify for a license under this section an applicant must:

- (1) submit the name and address of the applicant;
- (2) submit proof that inspections will be supervised by one (1) or more professional engineers licensed under IC 25-31 and regularly employed by the applicant;
- (3) provide a surety bond issued by a surety qualified to do business in Indiana for ~~five~~ **one hundred** thousand dollars (~~\$5,000~~), (**\$100,000**), made payable to the office and conditioned upon compliance with the equipment laws applicable to inspections and the true accounting for all funds due to the office; and
- (4) pay the fee set under IC 22-12-6-6(a)(9).

(d) ~~★ An owner or user boiler and pressure vessel inspection agency~~ licensee under this section shall maintain with the office the most current name and address of the licensee and the name of the professional engineer supervising the licensee's inspections and notify the office of any changes within thirty (30) days after the change occurs. An inspection agency that violates this subsection is subject to a disciplinary action under IC 22-12-7.

(e) **The rules board may establish standards for the operation of**

inspection agencies.

(f) An inspection agency that violates this section is subject to a disciplinary action under IC 22-12-7.

SECTION 21. IC 22-15-7-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) The office may not issue a permit under this chapter until the applicant has filed with the office a certificate of insurance indicating that the applicant has liability insurance:

(1) in effect with an insurer that is authorized to write insurance in Indiana on the operation of regulated amusement devices; and
 (2) **except for an applicant that is subject to the provisions of IC 34-13-3**, that provides coverage to a limit of at least:

(A) one million dollars (\$1,000,000) per occurrence and five million dollars (\$5,000,000) in the annual aggregate;

(B) five hundred thousand dollars (\$500,000) per occurrence and two million dollars (\$2,000,000) in the annual aggregate if the applicant operates only:

(i) a ski lift;

(ii) a surface lift or tow; or

(iii) both items (i) and (ii); or

(C) one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the annual aggregate if the applicant operates only regulated amusement devices that are designed to be used and are ridden by persons who are not more than forty-two (42) inches in height.

(b) An insurance policy required under this section may include a deductible clause if the clause provides that any settlement made by the insurance company with an injured person or a personal representative must be paid as though the deductible clause did not apply.

(c) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer may not cancel the policy without:

(1) thirty (30) days written notice; and

(2) a complete report of the reasons for the cancellation to the office.

(d) An insurance policy required under this section must provide by the policy's original terms or an endorsement that the insurer shall report to the office within twenty-four (24) hours after the insurer pays

a claim or reserves any amount to pay an anticipated claim that reduces the liability coverage to a limit of less than one million dollars (\$1,000,000) because of bodily injury or death in an occurrence.

(e) If an insurance policy required under this section:

(1) is canceled during the policy's term;

(2) lapses for any reason; or

(3) has the policy's coverage fall below the required amount;

the permittee shall replace the policy with another policy that complies with this section.

(f) If a permittee fails to file a certificate of insurance for new or replacement insurance, the permittee:

(1) must cease all operations under the permit immediately; and

(2) may not conduct further operations until the permittee receives the approval of the office to resume operations after the permittee complies with the requirements of this section.

SECTION 22. IC 22-15-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The commission shall adopt rules under IC 4-22-2 to define appropriate training for a person who inspects regulated amusement devices.

(b) The rules required under this section must, at a minimum, provide the following:

(1) The adoption by reference of: ~~the following ASTM standards:~~

(A) ASTM F 698 (1994 edition) ("Specification for Physical Information to be Provided to Amusement Rides and Devices");

(B) ASTM F 770 (1993 edition) ("Practice for Operation Procedures for Amusement Rides and Devices");

(C) ASTM F 846 (1992 edition) ("Guide for Testing Performance of Amusement Rides and Devices");

(D) ASTM F 853 (1993 edition) ("Practice for Maintenance Procedures for Amusement Rides and Devices");

(E) ASTM F 893 (1987 edition) ("Guide for Inspection of Amusement Rides and Devices");

(F) ASTM F 1305 (1994 edition) ("Standard Guides for the Classification of Amusement Ride and Device Related Injuries and Illnesses"); **or**

(G) any subsequent published editions of the ASTM standards described in clauses (A) through (F).

(2) A requirement that inspectors employed or contracted by the office:

- (A) have and maintain at least a Level 1 certification from the National Association of Amusement Ride Safety Officials; and
- (B) conduct inspections that conform to the rules of the commission.

(3) A requirement that regulated amusement devices be operated and maintained in accordance with the rules of the commission.

(4) After July 1, 2005, the commission's chief inspector or supervisor of regulated amusement device inspectors must have and maintain at least:

- (A) a Level I certification if the chief inspector or supervisor has not more than five (5) years of service as the chief inspector or a supervisor; and**
- (B) a Level II certification if the chief inspector or supervisor has more than five (5) years of service as the chief inspector or a supervisor.**

SECTION 23. IC 22-12-1-20 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 24. P.L.119-2002, SECTION 33, IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 25. [EFFECTIVE JULY 1, 2003] **(a) As used in IC 22-12, "regulated boiler or pressure vessel" refers to any part of a boiler or pressure vessel not described in subsection (b).**

(b) The term does not include any of the following:

- (1) Water heaters commonly known as domestic water heaters having a size and heat input that does not exceed that specified by the rules board.**
- (2) Pressure vessels other than nuclear vessels operated entirely full of water or other liquid that the rules board specifically finds to be not materially more hazardous than water, if the temperature of the vessel's contents does not exceed one hundred eighty (180) degrees Fahrenheit.**
- (3) Boilers and pressure vessels under federal regulation.**
- (4) Pressure vessels meeting the requirements of the Interstate Commerce Commission for shipment of liquids or gases under pressure.**
- (5) Air tanks located on vehicles operating under the rules of**

other state authorities and that are also used for carrying passengers or freight.

(6) Air tanks installed on the right-of-way of railroads and used directly in the operation of trains.

(7) Pressure vessels that were installed before July 1, 1971, and that have a volume of:

(A) fifteen (15) cubic feet or less if located in a place other than a place of public assembly; and

(B) five (5) cubic feet or less if located in a place of public assembly.

(8) Pressure vessels, other than nuclear vessels that were installed after June 30, 1971, and that have a volume of:

(A) fifteen (15) cubic feet or less if adequately protected by pressure relieving devices set to function at three hundred (300) pounds per square inch or less and located in a place other than a place of public assembly;

(B) five (5) cubic feet or less if adequately protected by pressure relieving devices set to function at two hundred fifty (250) pounds per square inch or less and located in a place of public assembly; or

(C) one and one-half (1 1/2) cubic feet or less regardless of pressure or location, unless otherwise covered by IC 22-12.

(9) Pressure vessels, other than nuclear vessels protected by adequate pressure relieving devices, set to function at not over fifteen (15) pounds per square inch gauge.

(10) Pressure vessels containing liquefied petroleum gases and regulated by the commission.

(11) Surgical sterilizers, coffee urns, and steam jacketed food cookers that do not exceed size limits specified by the rules board.

(12) Commercial toy boilers and miniature model boilers constructed as a hobby that do not exceed a size specified by the board.

(13) Pressure vessels containing anhydrous ammonia, used in transportation, distribution, or use storage of the product as a liquid fertilizer, and for which a general scheme of construction, installation, and safety requirements has been adopted by statute or rule of another state agency. This exemption does not apply to vessels in refineries or in

manufacturing or processing plants.

(14) Nuclear vessels for the collection and disposal of nuclear waste from a nuclear energy system that are not subject to pressures greater than would prevail if they were vented to the atmosphere.

(15) Standard and miniature traction engine boilers and other boilers used solely for exhibition purposes.

(16) A locomotive boiler used only on a railway that is used as a tourist attraction.

(c) This SECTION expires upon the earlier of the following dates:

(1) The date the boiler and pressure vessel rules board adopts rules creating a definition of "regulated boiler or pressure vessel".

(2) January 1, 2005.

SECTION 26. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 22-15-6, IC 22-15-6-2 through IC 22-15-6-3 do not apply to any of the following:

(1) Any regulated boiler or pressure vessel located on a farm and used solely for agricultural purposes.

(2) Any steam boiler or water heating boiler:

(A) located in an owner occupied residence, a residential structure with fewer than seven (7) apartments, or a place other than a place of public assembly;

(B) operated for heating purposes at a pressure not exceeding fifteen (15) pounds per square inch gauge, if qualifying as a steam boiler, and operated at a pressure not exceeding thirty (30) pounds per square inch gauge, if qualifying as a water heating boiler; and

(C) having a gross output rating not exceeding two hundred fifteen thousand (215,000) British Thermal Units per hour, if not located in a place of public assembly.

(3) Any pressure vessel:

(A) containing only water under pressure for domestic supply purposes, including one containing air, if the compressed air serves only as a cushion or as part of an airlift pumping system; and

(B) located in an owner occupied residence or a residential structure with less than seven (7) apartments.

(4) Any pressure vessel used as an integral part of an electrical circuit breaker.

(b) This SECTION expires on the earlier of the following dates:

(1) The date the boiler and pressure rules board adopts rules under IC 4-22-2 exempting some regulated boilers and pressure vessels from IC 22-15-6-2 and IC 22-15-6-3.

(2) January 1, 2005.

SECTION 27. An emergency is declared for this act.



P.L.142-2003

[H.1331. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 10-14-2-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) For purposes of this section, "member of the military or public safety officer" means an individual who is:**

(1) a member of a fire department (as defined in IC 36-8-1-8);

(2) an emergency medical service provider (as defined in IC 16-41-10-1);

(3) a member of a police department (as defined in IC 36-8-1-9);

(4) a correctional officer (as defined in IC 5-10-10-1.5);

(5) a state police officer;

(6) a county police officer;

(7) a police reserve officer;

(8) a county sheriff;

(9) a deputy sheriff;

(10) an excise police officer;

(11) a conservation enforcement officer;

(12) a town marshal;

- (13) a deputy town marshal;**
- (14) a university police officer appointed under IC 20-12-3.5;**
- (15) a probation officer;**
- (16) a paramedic;**
- (17) a volunteer firefighter (as defined in IC 36-8-12-2);**
- (18) an emergency medical technician or a paramedic working in a volunteer capacity;**
- (19) a member of the armed forces of the United States;**
- (20) a member of the Indiana Air National Guard; or**
- (21) a member of the Indiana Army National Guard.**

(b) For purposes of this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a member of the military or public safety officer, in the member of the military's or public safety officer's official capacity, is obligated or authorized by rule, regulation, condition of employment or services, or law to perform in the course of performing the member of the military's or public safety officer's duty.

(c) If a member of the military or public safety officer dies in the line of duty, a state flag shall be presented to:

- (1) the surviving spouse;**
- (2) the surviving children if there is no surviving spouse; or**
- (3) the surviving parent or parents if there is no surviving spouse and there are no surviving children.**

(d) The state emergency management agency shall administer this section and may adopt rules under IC 4-22-2 to implement this section.

P.L.143-2003

[H.1470. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning gaming.

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

SECTION 1. IC 4-33-4-3, AS AMENDED BY HEA 1902-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The commission shall do the following:

(1) Adopt rules that the commission determines necessary to protect or enhance the following:

(A) The credibility and integrity of gambling operations authorized by this article.

(B) The regulatory process provided in this article.

(2) Conduct all hearings concerning civil violations of this article.

(3) Provide for the establishment and collection of license fees and taxes imposed under this article.

(4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.

(5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's inspectors and agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through

IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(9) Adopt rules to establish and implement a voluntary exclusion program that meets the requirements of subsection (c).

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

(c) Rules adopted under subsection (a)(9) must provide the following:

(1) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program agrees to refrain from entering a riverboat or other facility under the jurisdiction of the commission.

(2) That the name of a person participating in the program will be included on a list of persons excluded from all facilities under the jurisdiction of the commission.

(3) Except as provided by rule of the commission, a person who participates in the voluntary exclusion program may not petition the commission for readmittance to a facility under the jurisdiction of the commission.

(4) That the list of patrons entering the voluntary exclusion program is confidential and may only be disseminated by the commission to the owner of a facility under the jurisdiction of the commission for purposes of enforcement.

(5) That the personal information of a person who participates in the voluntary exclusion program is confidential.

(6) That an owner of a facility under the jurisdiction of the commission shall make all reasonable attempts as determined by the commission to cease all direct marketing efforts to a person participating in the program.

(7) That an owner of a facility under the jurisdiction of the commission may not cash the check of a person participating in the program or extend credit to the person in any manner. However, the voluntary exclusion program does not preclude an owner from seeking the payment of a debt accrued by a person before entering the program.

SECTION 2. IC 4-33-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The commission may eject or exclude or authorize the ejection or exclusion of a person from riverboat gambling facilities if:

(1) **the person's name is on the list of persons voluntarily excluding themselves from all riverboats in a program established under the rules of the commission;**

(2) the person violates this article; or

(~~2~~) (3) the commission determines that the person's conduct or reputation is such that the person's presence within the riverboat gambling facilities may:

(A) call into question the honesty and integrity of the gambling operations; or

(B) interfere with the orderly conduct of the gambling operations.

(b) A person, **other than a person participating in a voluntary exclusion program**, may petition the commission for a hearing on the person's ejection or exclusion under this section.

SECTION 3. IC 4-33-4-8, AS AMENDED BY HEA 1902-2003, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If a licensee, an operating agent, or an employee of a licensee or an operating agent violates this article or engages in a fraudulent act, the commission may do any combination of the following:

(1) Suspend, revoke, or restrict the license of the licensee, or suspend, revoke, or restrict the gambling operations of an operating agent.

(2) Require the removal of a licensee or an employee of a licensee.

(3) Impose a civil penalty of not more than five thousand dollars (\$5,000) against an individual who has been issued an occupational license ~~or a person who has been issued a supplier's license~~ for each violation of this article.

(4) Impose a civil penalty of not more than the greater of:

(A) ten thousand dollars (\$10,000); or

(B) an amount equal to the licensee's or operating agent's daily gross receipts for the day of the violation;

against an owner or operating agent for each violation of this

article.

(5) Impose a civil penalty of not more than twenty-five thousand dollars (\$25,000) against a person who has been issued a supplier's license for each violation of this article.

SECTION 4. IC 12-23-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a)** For each state fiscal year, the division may not spend more than an amount equal to five percent (5%) of the total amount received by the division from the fund established under section 2 of this chapter for the administrative costs associated with the use of money received from the fund.

(b) The division shall allocate at least twenty-five percent (25%) of the funds derived from the riverboat admissions tax under IC 4-33-12-6 to the prevention and treatment of compulsive gambling.

(c) The division shall reimburse the Indiana gaming commission for the costs incurred in administering a voluntary exclusion program established under the rules of the Indiana gaming commission. The division shall pay the reimbursement from funds derived from the riverboat admissions tax under IC 4-33-12-6.

P.L.144-2003

[H.1473. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 36-1-6-2, AS AMENDED BY P.L.50-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity to bring the property into compliance. If **the municipal**

corporation takes action to bring compliance, is taken by the municipal corporation, the expense involved the expenses incurred by the municipal corporation to bring compliance may be made constitute a lien against the property. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) two thousand five hundred dollars (\$2,500) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ten thousand dollars (\$10,000) for all other real property not described in subdivision (1).

(b) If the violation described in subsection (a) is a violation that is located outdoors and does not involve a building or structure, the municipal corporation may also issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

P.L.145-2003

[H.1515. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

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

SECTION 1. IC 25-1-2-2.1, AS AMENDED BY P.L.162-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

- (1) Certified public accountants, public accountants, and accounting practitioners.
- (2) Architects and landscape architects.
- (3) Dry cleaners.
- (4) Professional engineers.
- (5) Land surveyors.
- (6) Real estate brokers.
- (7) Real estate agents.
- (8) Security dealers' licenses issued by the securities commissioner.
- (9) Dental hygienists.
- (10) Dentists.
- (11) Veterinarians.
- (12) Physicians.
- (13) Chiropractors.
- (14) Physical therapists.
- (15) Optometrists.
- (16) Pharmacists and assistants, drugstores or pharmacies.
- (17) Motels and mobile home park licenses.
- (18) Nurses.

- (19) Podiatrists.
- (20) Occupational therapists and occupational therapy assistants.
- (21) Respiratory care practitioners.
- (22) Social workers, marriage and family therapists, and mental health counselors.
- (23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
- (24) Wholesale legend drug distributors.
- (25) Physician assistants.
- (26) Dietitians.
- (27) Hypnotists.
- (28) Athlete agents.
- (29) Manufactured home installers.

(30) Home inspectors.

SECTION 2. IC 25-1-2-6, AS AMENDED BY P.L.162-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.

- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.
- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) Attorney general (only for the regulation of athlete agents).
- (41) Manufactured home installer licensing board.
- (42) **Home inspectors licensing board.**
- (43) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the

notice.

SECTION 3. IC 25-1-6-3, AS AMENDED BY P.L.162-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- (11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- (12) Private detectives licensing board (IC 25-30-1-5.1).
- (13) State board of registration for land surveyors (IC 25-21.5-2-1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).**

(b) Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter, nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 4. IC 25-1-7-1, AS AMENDED BY P.L.162-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

- (1) licensed, certified, or registered by a board listed in this section; and
- (2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15-9).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Indiana state board of nursing (IC 25-23-1).
- (14) Indiana optometry board (IC 25-24).
- (15) Indiana board of pharmacy (IC 25-26).
- (16) Indiana plumbing commission (IC 25-28.5-1-3).
- (17) Board of podiatric medicine (IC 25-29-2-1).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

- (24) Respiratory care committee (IC 25-34.5).
- (25) Private detectives licensing board (IC 25-30-1-5.1).
- (26) Occupational therapy committee (IC 25-23.5).
- (27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (29) State board of registration for land surveyors (IC 25-21.5-2-1).
- (30) Physician assistant committee (IC 25-27.5).
- (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- (34) Indiana physical therapy committee (IC 25-27).
- (35) Manufactured home installer licensing board (IC 25-23.7).
- (36) **Home inspectors licensing board (IC 25-20.2-3-1).**
- (37) Any other occupational or professional agency created after June 30, 1981.

SECTION 5. IC 25-1-8-1, AS AMENDED BY SEA 257-2003, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Mining board (IC 22-10-1.5-2).

- (14) Indiana state board of nursing (IC 25-23-1).
- (15) Indiana optometry board (IC 25-24).
- (16) Indiana board of pharmacy (IC 25-26).
- (17) Indiana plumbing commission (IC 25-28.5-1-3).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2-1).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
- (23) Department of insurance (IC 27-1).
- (24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
- (25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (26) Private detectives licensing board (IC 25-30-1-5.1).
- (27) Occupational therapy committee (IC 25-23.5-2-1).
- (28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
- (29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (30) State board of registration for land surveyors (IC 25-21.5-2-1).
- (31) Physician assistant committee (IC 25-27.5).
- (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- (33) Board of podiatric medicine (IC 25-29-2-1).
- (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- (35) Indiana physical therapy committee (IC 25-27).
- (36) Manufactured home installer licensing board (IC 25-23.7).
- (37) **Home inspectors licensing board (IC 25-20.2-3-1).**
- (38) Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-11-1, AS AMENDED BY P.L.162-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).

- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).**

SECTION 7. IC 25-20.2 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 20.2. HOME INSPECTIONS

Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who conducts home inspections for compensation.

(b) This article does not apply to the following:

(1) An individual who is acting within the scope of the individual's employment as:

(A) a code enforcement official for the state or a political subdivision of the state; or

(B) a representative of a state or local housing agency or authority acting under the authority of the United States Department of Housing and Urban Development.

(2) An individual who is:

(A) either:

(i) registered as an architect under IC 25-4;

(ii) registered as a professional engineer under IC 25-31;

or

(iii) licensed as a plumbing contractor or journeyman

plumber under IC 25-28.5; and

(B) acting within the scope of the individual's registration or license.

(3) An individual who is licensed under IC 25-34.1 as a real estate broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license.

(4) An individual who is licensed or certified under IC 25-34.1 as a real estate appraiser and is acting within the scope of the individual's license or certificate.

(5) An individual who holds a certificate of authority under IC 27-1-27-2 as a public adjuster and is acting within the scope of the individual's certificate.

(6) An individual who holds a permit, certificate, or license to:

(A) use and apply pesticides; or

(B) make diagnostic inspections and reports for wood destroying pests;

under IC 15-3-3.6 and is acting within the scope of the individual's certificate or license.

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-6-3.

Sec. 3. "Applicant" means an individual who applies for a license as a home inspector.

Sec. 4. "Board" refers to the home inspectors licensing board established by IC 25-20.2-3-1.

Sec. 5. "Client" means an individual who hires or seeks to hire a licensed home inspector to obtain a home inspection or home inspection report.

Sec. 6. "Home inspection" means a visual analysis for the purpose of providing a professional opinion of the condition of a residential dwelling and the dwelling's carports or garages, any reasonably accessible installed components, and the operation of the dwelling's systems, including any controls normally operated by the owner of the dwelling, for the following components:

- (1) Heating systems.**
- (2) Cooling systems.**
- (3) Electrical systems.**
- (4) Plumbing systems.**
- (5) Structural components.**
- (6) Foundations.**
- (7) Roof coverings.**
- (8) Exterior and interior components.**
- (9) Any other site aspects that affect the residential dwelling.**

The term does not include a code compliance inspection.

Sec. 7. "Home inspection report" means a legibly written report prepared for compensation and issued after a home inspection. The report must include the following:

- (1) A report on any system or component inspected that, in the professional opinion of the inspector, is significantly deficient or near the end of the system or component's service life. A report under this subdivision must include the reason why the system or component is significantly deficient or near the end of the system or component's service life, unless the reason is self-evident.**
- (2) The inspector's recommendation to remedy or monitor a deficiency reported under subdivision (1).**
- (3) A list of any systems or components that were designated for inspection in the standards of performance adopted by the board but that were not inspected.**
- (4) The reason a system or component listed under subdivision (3) was not inspected.**
- (5) A statement that the report does not address environmental hazards, including:**
 - (A) lead-based paint;**
 - (B) radon;**
 - (C) asbestos;**
 - (D) cockroaches;**
 - (E) rodents;**
 - (F) pesticides;**
 - (G) treated lumber;**
 - (H) mold;**
 - (I) mercury;**
 - (J) carbon monoxide; or**

(K) other similar environmental hazards.

(6) A statement that the report does not address wood destroying insects and organisms.

(7) A statement that the report does not address subterranean systems or system components (operational or nonoperational), including:

(A) sewage disposal;

(B) water supply; or

(C) fuel storage or delivery.

Sec. 8. "Licensed home inspector" means an individual who is licensed under this article as a home inspector.

Sec. 9. "Licensee" means a person who performs home inspections and who is licensed under this article as a home inspector.

Sec. 10. "Residential dwelling" means a structure consisting of at least one (1) but not more than five (5) units, each designed for occupancy by a single family, whether the units are occupied or unoccupied.

Chapter 3. Home Inspectors Licensing Board

Sec. 1. The home inspectors licensing board is established.

Sec. 2. (a) The board is composed of seven (7) members appointed by the governor as follows:

(1) Four (4) members, each of whom:

(A) is licensed in Indiana as a home inspector; and

(B) has been actively engaged in performing home inspections in Indiana for at least five (5) years immediately before the member's appointment to the board.

(2) One (1) member who:

(A) is a home builder; and

(B) has been actively engaged in home building in Indiana for at least five (5) years immediately before the member's appointment to the board.

(3) One (1) member who:

(A) is a licensed real estate salesperson under IC 25-34.1-3-3.1 or a licensed real estate broker under IC 25-34.1-3-4.1; and

(B) has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, listing,

or appraising residential real estate in Indiana for at least five (5) years immediately before the member's appointment to the board.

(4) One (1) member who represents the public at large and is not associated with the home inspection, home building, or real estate business other than as a consumer.

(b) The members of the board must be residents of Indiana.

Sec. 3. (a) Each member of the board serves a term of three (3) years and until a successor is appointed and qualified.

(b) The governor may remove a board member at any time for incompetency, neglect of duty, or unprofessional conduct.

(c) If a vacancy occurs in the membership of the board, the governor shall appoint an individual to serve for the remainder of the unexpired term.

(d) A member may not serve on the board for more than six (6) consecutive years.

Sec. 4. (a) Each year the board shall elect a member as chairperson and a member as vice chairperson.

(b) The chairperson and the vice chairperson shall serve in their respective capacities for one (1) year and until a successor is elected.

(c) The chairperson and the vice chairperson may not serve in those capacities for more than two (2) consecutive years.

Sec. 5. (a) The chairperson shall preside at all meetings at which the chairperson is present. The vice chairperson shall preside at meetings in the absence of the chairperson and shall perform other duties as the chairperson directs.

(b) If the chairperson and vice chairperson are absent from a meeting of the board when a quorum exists, the members who are present may elect a presiding officer who shall serve as acting chairperson until the conclusion of the meeting or until the arrival of the chairperson or vice chairperson.

Sec. 6. (a) The board shall meet at least two (2) times each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

(b) The chairperson shall establish the date, time, and place for each meeting.

(c) A majority of the current members of the board constitutes a quorum.

(d) The affirmative vote of a majority of the members appointed to the board is necessary for the board to take official action.

Sec. 7. Each member of the board is entitled to the minimum salary per diem as provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 8. The board shall:

- (1) administer and enforce this article;**
- (2) adopt rules under IC 4-22-2 that are reasonably necessary or appropriate for the administration and enforcement of this article;**
- (3) prescribe the requirements for and the form of licenses, applications, and other documents that are required by this article;**
- (4) grant, deny, suspend, and revoke approval of examinations and courses of study;**
- (5) issue, deny, suspend, and revoke licenses in accordance with this article;**
- (6) in accordance with IC 25-1-7, investigate complaints concerning licensees or persons the board has reason to believe should be licensees, including complaints concerning failure to comply with this article or rules adopted under this article, and, when appropriate, take action under IC 25-20.2-8;**
- (7) bring actions in the name of the state in an appropriate circuit court in order to enforce compliance with this article or rules adopted under this article;**
- (8) establish fees in accordance with IC 25-1-8;**
- (9) inspect the records of a licensee in accordance with rules adopted by the board;**
- (10) conduct or designate a member or other representative to conduct public hearings on any matter for which a hearing is required under this article and exercise all powers granted under IC 4-21.5;**
- (11) adopt a seal containing the words "Indiana Home Inspectors Licensing Board" and, through the board's**

secretary, certify copies and authenticate all acts of the board;
(12) in accordance with IC 25-1-6:

- (A) use counsel, consultants, and other persons;
- (B) enter into contracts; and
- (C) authorize expenditures;

that are reasonably necessary or appropriate to administer and enforce this article and rules adopted under this article;

(13) establish continuing education requirements for licensed home inspectors in accordance with IC 25-1-4;

(14) maintain the board's office, files, records, and property in the city of Indianapolis; and

(15) exercise all other powers specifically conferred on the board by this article.

Sec. 9. The board shall adopt rules under IC 4-22-2 establishing:

- (1) standards for the competent performance of home inspections;
- (2) a code of ethics for licensed home inspectors; and
- (3) standards for home inspection reports prepared by licensed home inspectors.

Chapter 4. Licensing Agency; Board Secretary

Sec. 1. The agency shall provide the board with a competent person to serve as secretary of the board. The secretary is not a member of the board. The secretary, through the agency, shall:

- (1) provide reasonable notice to board members of the date, time, and place of each meeting and provide notice in compliance with IC 5-14-1.5;
- (2) keep a complete and accurate record of all:
 - (A) meetings;
 - (B) votes taken by the board; and
 - (C) other proceedings, transactions, communications, official acts, and records of the board;
- (3) keep a current file of all licenses and licensees; and
- (4) perform any other duties assigned by the board.

Sec. 2. The agency shall provide the board with clerical or other assistants, including investigators, necessary for the proper performance of the board's duties.

Sec. 3. The secretary shall receive and account for all money collected under this article and, at the end of each month, report to the auditor of state and deposit the money into the state general

fund with the treasurer of state.

Sec. 4. All expenses incurred in the administration of this article shall be paid from the state general fund.

Chapter 5. Licensing Requirements

Sec. 1. Unless exempt under this article, a person may not conduct a home inspection for compensation without first obtaining a license as a home inspector.

Sec. 2. (a) An individual who applies for a license as a home inspector must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has graduated from high school or earned an Indiana general educational development (GED) diploma; and

(C) has not been:

(i) convicted of an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(ii) convicted of a crime that has a direct bearing on the individual's ability to perform competently and fully as a licensee;

(iii) listed on a national or state registry of sex offenders;
or

(iv) the subject of a disciplinary or enforcement action by another state or a local jurisdiction in connection with the performance of home inspections or the licensing or certification of home inspectors.

(2) Verify the information submitted on the application form.

(3) Complete a board approved training program or course of study involving the performance of home inspections and the preparation of home inspection reports and pass an examination prescribed or approved by the board.

(4) Submit to the board a certificate of insurance or other evidence of financial responsibility that is acceptable to the board and that:

(A) is issued by an insurance company or other legal entity authorized to transact business in Indiana;

(B) provides for general liability coverage of at least one hundred thousand dollars (\$100,000);

(C) lists the state as an additional insured;

(D) states that cancellation and nonrenewal of the underlying policy or other evidence of financial responsibility is not effective until the board receives at least ten (10) days prior written notice of the cancellation or nonrenewal; and

(E) contains any other terms and conditions established by the board.

(5) Pay a licensing fee established by the board.

(b) An individual applying for a license as a home inspector must apply on a form prescribed and provided by the board.

Sec. 3. (a) The other licensing requirements of this chapter may be waived for an individual moving to Indiana from another jurisdiction, and the individual may be granted a license as a home inspector if the individual meets the following requirements:

(1) The other jurisdiction grants the same privileges to licensees of Indiana as Indiana grants to licensees of that other jurisdiction.

(2) The individual is licensed in the other jurisdiction.

(3) The licensing requirements of the other jurisdiction are substantially similar to the requirements of this article.

(4) The individual states that the individual has studied, is familiar with, and will abide by this article and the rules adopted by the board under this article.

(b) An individual seeking a license as a home inspector under this section must:

(1) apply on a form prescribed and provided by the board; and

(2) pay the applicable licensing fee established by the board.

Sec. 4. (a) A nonresident whom the board determines meets the requirements of this article and who files the written consent described in subsection (b) may be licensed as a home inspector in Indiana.

(b) A nonresident applicant shall file with the board a written consent stating that, if licensed:

(1) the applicant agrees to the commencement of any action arising out of the conduct of the applicant's business in Indiana in the county in which the events giving rise to the cause of action occurred;

(2) the applicant:

- (A) agrees to provide to the board the name and address of an agent to receive service of process in Indiana; or**
- (B) consents to the board acting as the applicant's agent for the purpose of receiving service of process, if:**
 - (i) an agent's name and address have not been filed with the board; or**
 - (ii) the agent's name and address on file with the board are incorrect; and**
- (3) the applicant agrees that service of process in accordance with the Indiana Rules of Trial Procedure is proper service and subjects the applicant to the jurisdiction of Indiana courts.**

Sec. 5. All licenses issued by the board remain the property of the board.

Sec. 6. A licensee shall notify the board immediately of any change of:

- (1) name;**
- (2) name under which the licensee conducts business; or**
- (3) business address.**

Chapter 6. License Renewal

Sec. 1. A license for a home inspector issued under this article expires two (2) years after the date of issuance.

Sec. 2. An individual who applies to renew a license as a licensed home inspector must:

- (1) furnish evidence showing successful completion of the continuing education requirements of this chapter; and**
- (2) pay the renewal fee established by the board.**

Sec. 3. (a) Renewal notices must be sent in accordance with IC 25-1-2-6(c).

(b) The renewal fee must be paid in accordance with IC 25-1-8-2(d).

Sec. 4. Before the end of each license period, each licensee must complete the continuing education required by the board. This requirement may not exceed twenty (20) hours per year.

Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

- (1) Establish procedures for approving organizations that provide continuing education.**

(2) Establish a fee for each hour of continuing education that is required after a license is issued or renewed.

(3) Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of home inspectors.

Chapter 7. Authority of Other Jurisdictions to License Home Inspectors

Sec. 1. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 2. An agency or political subdivision of the state (other than the board) may not:

(1) impose a registration or licensing requirement; or

(2) charge a license, an employment, or another fee;

on individuals licensed under this article for activities defined in this article.

Chapter 8. Disciplinary Proceedings; Enforcement

Sec. 1. The board may take disciplinary actions against or impose sanctions on a licensee under IC 25-1-11 for any of the following:

(1) Disclosing information concerning the results of a home inspection without the approval of a client or the client's legal representative, except under a court order.

(2) Accepting compensation for the same service from more than one (1) party without the consent of all interested parties.

(3) Accepting commissions or allowances, directly or indirectly, from other parties dealing with the licensee's client in connection with any repair work recommended in the licensee's home inspection report.

(4) Accepting compensation, directly or indirectly, from the licensee's client in connection with any repair work recommended in the licensee's home inspection report.

(5) Failing to disclose to a client information about a business interest of the licensee that may affect the client in connection with any work for which the licensee is responsible.

(6) Knowingly making a false or misleading representation about:

(A) the condition of a residential dwelling for which the licensee has performed or has contracted to perform a home inspection; or

- (B) the extent of the services the licensee has performed or will perform.**
- (7) Committing a felony in the course of the practice of home inspection or committing any act constituting a violation of IC 25-20.2-5-2(a)(1)(C).**
- (8) Violating any provisions of this article or rules adopted by the board under this article.**
- (9) Making a false or misleading representation:**
 - (A) in a license or renewal application form; or**
 - (B) in information provided to the board.**
- (10) Failing to pay any fees or fines required by this article.**
- (11) Failing to continuously maintain the insurance or other evidence of financial responsibility required by this article.**
- (12) Communicating to the public false or misleading information about the type of license held by the licensee.**
- (13) Engaging in a course of lewd or immoral conduct in connection with the delivery of services to clients.**
- (14) Failing to complete the continuing education requirements established by the board.**

Sec. 2. The procedures set forth in IC 4-21.5 govern the board's conduct of disciplinary hearings.

Sec. 3. The board may summarily suspend a license for up to ninety (90) days before a final adjudication or during an appeal of the board's determination if the board finds that the licensee would represent a clear and immediate danger to the public's health, safety, or property if allowed to perform home inspections. The summary suspension may be renewed upon a hearing before the board for up to ninety (90) days.

Sec. 4. (a) If the board determines that an individual not licensed under this article is engaged in or believed to be engaged in activities for which a license is required under this article, the board may issue an order to that individual requiring the individual to show cause why the individual should not be ordered to cease and desist from such activities. The show cause order must set forth a date, time, and place for a hearing at which the affected individual may appear and show cause why the individual should not be subject to licensing under this article.

(b) If the board, after a hearing, determines that the activities in which the individual is engaged are subject to licensing under

this article, the board may issue a cease and desist order that identifies the individual and describes activities that are the subjects of the order.

(c) A cease and desist order issued under this section is enforceable in circuit courts.

Sec. 5. (a) An individual who:

- (1) performs or offers to perform home inspections for compensation without being licensed as a home inspector and without being exempt from licensing under law;
- (2) presents as the individual's own the license of another;
- (3) intentionally gives false or materially misleading information to the board or to a board member in connection with licensing matters;
- (4) impersonates another licensee;
- (5) uses an expired, a suspended, a revoked, or an otherwise restricted license; or
- (6) otherwise violates this article;

commits a Class B infraction.

(b) When entering a judgment for an infraction under this section, the court shall add to any penalty imposed the amount of any fee or other compensation earned by the individual in the commission of the infraction.

(c) Each transaction involving activities defined by this article constitutes a separate violation of this section.

Sec. 6. In all actions for the collection of a fee or other compensation for performing home inspections, the party seeking relief must allege and prove that, at the time the cause of action arose, the party seeking relief was not in violation of section 5 of this chapter.

Sec. 7. An individual who applies for a license or a licensee who is aggrieved by an order or a determination of the board is entitled to a judicial review under IC 4-21.5.

Sec. 8. The attorney general shall act as the legal adviser for the board and provide any legal assistance necessary to carry out this article.

Chapter 9. Liability and Immunity From Liability

Sec. 1. An action for damages, whether brought in contract or tort or on any other basis, based upon professional services that were rendered or that should have been rendered by a licensed

home inspector may not be brought, commenced, or maintained unless the action is filed not more than two (2) years after the date the cause of action accrues.

Sec. 2. A licensed home inspector is not liable to a person for damages that arise from an act or omission relating to a home inspection if the person is not a party to the contract under which the home inspection is conducted.

Sec. 3. A person who in good faith recommends or endorses a licensed home inspector without compensation, remuneration, rebate, or other form of consideration is not liable for the actions of the licensed home inspector, including errors, omissions, the failure to perform contracted duties of a home inspection, or the failure to meet the standards of performance, report writing standards, or code of ethics established by the board.

SECTION 8. IC 25-34.1-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may:

- (1) administer and enforce the provisions of this article;
- (2) adopt rules in accordance with IC 4-22-2 and prescribe forms for licenses, applications, principal broker certifications, and other documents which are necessary or appropriate for the administration and enforcement of this article;
- (3) issue, deny, suspend, and revoke licenses in accordance with this article, which licenses shall remain the property of the commission;
- (4) subject to IC 25-1-7, investigate complaints concerning licensees or persons the commission has reason to believe should be licensees, including complaints respecting failure to comply with this article or the rules, and, when appropriate, take action pursuant to IC 25-34.1-6;
- (5) bring actions, in the name of the state of Indiana, in an appropriate circuit court in order to enforce compliance with this article or the rules;
- (6) inspect the records of a licensee in accordance with rules and standards prescribed by the commission;
- (7) conduct, or designate a member or other representative to conduct, public hearings on any matter for which a hearing is required under this article and exercise all powers granted in

IC 4-21.5;

(8) adopt a seal containing the words "Indiana Real Estate Commission" and, through its executive director, certify copies and authenticate all acts of the commission;

(9) utilize counsel, consultants, and other persons who are necessary or appropriate to administer and enforce this article and the rules;

(10) enter into contracts and authorize expenditures that are necessary or appropriate, subject to IC 25-1-6, to administer and enforce this article and the rules;

(11) maintain the commission's office, files, records, and property in the city of Indianapolis;

(12) grant, deny, suspend, and revoke approval of examinations and courses of study as provided in IC 25-34.1-5;

(13) provide for the filing and approval of surety bonds which are required by IC 25-34.1-5; and

(14) adopt rules in accordance with IC 4-22-2 necessary for the administration of the investigative fund established under IC 25-34.1-8-7.5; and

(15) exercise other specific powers conferred upon the commission by this article.

SECTION 9. IC 25-34.1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a) Except as provided in subsection (b),** all funds collected under this article shall, at the end of each month, be reported to the auditor of state and deposited with the treasurer of state for deposit in the general fund. All expenses incurred in the administration of this article shall be paid from the general fund.

(b) The commission shall establish a fee of not more than ten dollars (\$10) for real estate brokers and salespersons to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. All funds collected under this subsection shall be deposited in the investigative fund established by IC 25-34.1-8-7.5.

SECTION 10. IC 25-34.1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall establish fees under IC 25-1-8-2 to implement section 8 of this

chapter.

(b) Notwithstanding IC 25-1-8-2, a fee ~~described in subsection (a) established under IC 25-1-8-2 to implement section 8 of this chapter~~ may not be less than fifty dollars (\$50).

(c) The commission shall establish fees to provide funding for the investigative fund established by IC 25-34.1-8-7.5. The fees under this subsection may not be more than ten dollars (\$10).

~~(c)~~ (d) The board may collect a fee required by federal law and transmit the fees to the federal government as required by federal law.

~~(d)~~ (e) A fee described in subsection (a) is in addition to any fees required by federal law.

SECTION 11. IC 25-34.1-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board shall submit recommendations to the commission concerning the following:

(1) Implementation and operation of the real estate appraiser licensure and certification program under IC 25-34.1-3-8.

(2) Rules governing real estate appraisers licensed and certified under IC 25-34.1-3-8.

(3) Establishing a fee in an amount necessary to fund the investigative fund established by section 7.5 of this chapter but not more than ten dollars (\$10).

(4) Rules governing the administration of the investigative fund established by section 7.5 of this chapter.

SECTION 12. IC 25-34.1-8-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7.5. (a) The investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. The fund shall be administered by the attorney general and the professional licensing agency.**

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon licensed or certified appraisers and real estate brokers and salespersons under IC 25-34.1-2-6 and IC 25-34.1-3-9.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the investigative fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general and the professional licensing agency shall divide the money in the fund equally.

SECTION 13. IC 25-34.1-8-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15. The office of the attorney general and the professional licensing agency may use the investigative fund established by section 7.5 of this chapter to hire investigators and other employees to administer and enforce the provisions of this article and to investigate and prosecute real estate fraud and real estate appraisal fraud.**

SECTION 14. IC 34-30-2-98.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 98.8. IC 25-20.2-9-1 through IC 25-20.2-9-3 (Concerning actions of home inspectors).**

SECTION 15. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "board" refers to the home inspectors licensing board established by IC 25-20.2-3-1, as added by this act.**

(b) An individual who performs home inspections after June 30, 2003, does not violate IC 25-20.2-5-1 or IC 25-20.2-8-5(a)(1), both as added by this act, and may not be disciplined or sanctioned for failure to have a home inspector's license if the person obtains a home inspector's license not later than July 1, 2005.

(c) Notwithstanding the requirements of IC 25-20.2-5-2, as added by this act, before July 1, 2005, the board may issue to an individual, upon the individual's application and payment of fees, a home inspector license if the individual:

(1) meets the requirements of IC 25-20.2-5-2(a), as added by

this act, excluding IC 25-20.2-5-2(a)(3);

(2) has been engaged in the practice of home inspections for at least six (6) months; and

(3) documents the performance of at least twenty-five (25) home inspections performed for compensation in the previous twelve (12) months or at least one hundred (100) home inspections performed for compensation in the individual's career.

(d) The board may consider and accept the successful completion of equivalent licensing requirements in another state instead of one (1) or more of the requirements of IC 25-20.2-5-2(a), as added by this act.

(e) This SECTION expires January 1, 2006.

SECTION 16. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the home inspectors licensing board established by IC 25-20.2-3-1, as added by this act.

(b) Before July 1, 2004, the governor shall make the initial appointments to the board. In making each initial appointment, the governor shall indicate the length of the term for which the individual is appointed.

(c) Notwithstanding IC 25-20.2-3-3, as added by this act, the initial terms of office for the seven (7) individuals appointed to the board by the governor are as follows:

(1) Three (3) members for a term of three (3) years.

(2) Two (2) members for a term of two (2) years.

(3) Two (2) members for a term of one (1) year.

(d) The initial terms begin July 1, 2004.

(e) An individual who does not meet all the requirements of IC 25-20.2-5-2(a), as added by this act, may be appointed to the board under IC 25-20.2-3-2(a)(1), as added by this act, if the individual:

(1) meets the requirements of IC 25-20.2-5-2(a)(1)(A) through IC 25-20.2-5-2(a)(1)(C), as added by this act;

(2) has been performing home inspections for at least six (6) months immediately before the person's appointment; and

(3) documents the performance of at least twenty-five (25) home inspections performed for compensation in the previous twelve (12) months or at least one hundred (100) home inspections performed for compensation in the individual's

career.

(f) A board member appointed in accordance with subsection (e) must obtain the requisite license in accordance with IC 25-20.2-5-2, as added by this act, on or before July 1, 2005. If a board member does not obtain the requisite license on or before July 1, 2005, the board member shall be considered to have resigned from the board on July 1, 2005, and the governor shall fill the vacancy in accordance with IC 25-20.2-3-3(c), as added by this act. If a board member resigns under this SECTION for failure to obtain a home inspector's license, the acts of the board member and the board before July 1, 2005, are legal and valid.

(g) Not later than January 1, 2005, the board shall adopt rules under IC 4-22-2 to carry out this act.

(h) This SECTION expires June 30, 2007.

SECTION 17. An emergency is declared for this act.



P.L.146-2003

[H.1521. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-30-3-16, AS AMENDED BY P.L.118-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) If a person has been found to have committed a traffic offense, the court may do the following:

- (1) Require the person to attend and satisfactorily complete a driver improvement course that has been approved by the court and the bureau or by the bureau.
- (2) Place the person on probation for up to one (1) year.
- (3) Suspend the person's driver's license for up to thirty (30) days.

(b) A driver improvement course required under subsection (a) may be financed by assessing a **reasonable charge that covers the direct cost of the course. However, the charge may not exceed:**

(1) ~~thirty dollars (\$30)~~ for a classroom presentation; or
(2) ~~forty dollars (\$40)~~ for a distance learning presentation: as determined by the course provider and approved by the bureau.



P.L.147-2003

[S.13. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-50-2-9, AS AMENDED BY P.L.1-2003, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is a mentally retarded individual.

(b) The aggravating circumstances are as follows:

(1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:

- (A) Arson (IC 35-43-1-1).
- (B) Burglary (IC 35-43-2-1).
- (C) Child molesting (IC 35-42-4-3).
- (D) Criminal deviate conduct (IC 35-42-4-2).
- (E) Kidnapping (IC 35-42-3-2).
- (F) Rape (IC 35-42-4-1).

- (G) Robbery (IC 35-42-5-1).
 - (H) Carjacking (IC 35-42-5-2).
 - (I) Criminal gang activity (IC 35-45-9-3).
 - (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- (2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure person or damage property.
- (3) The defendant committed the murder by lying in wait.
- (4) The defendant who committed the murder was hired to kill.
- (5) The defendant committed the murder by hiring another person to kill.
- (6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:
- (A) the victim was acting in the course of duty; or
 - (B) the murder was motivated by an act the victim performed while acting in the course of duty.
- (7) The defendant has been convicted of another murder.
- (8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.
- (9) The defendant was:
- (A) under the custody of the department of correction;
 - (B) under the custody of a county sheriff;
 - (C) on probation after receiving a sentence for the commission of a felony; or
 - (D) on parole;
- at the time the murder was committed.
- (10) The defendant dismembered the victim.
- (11) The defendant burned, mutilated, or tortured the victim while the victim was alive.
- (12) The victim of the murder was less than twelve (12) years of age.
- (13) The victim was a victim of any of the following offenses for which the defendant was convicted:
- (A) Battery as a Class D felony or as a Class C felony under IC 35-42-2-1.

- (B) Kidnapping (IC 35-42-3-2).
- (C) Criminal confinement (IC 35-42-3-3).
- (D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

- (A) into an inhabited dwelling; or
- (B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(c) The mitigating circumstances that may be considered under this section are as follows:

- (1) The defendant has no significant history of prior criminal conduct.
- (2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
- (3) The victim was a participant in or consented to the defendant's conduct.
- (4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
- (5) The defendant acted under the substantial domination of another person.
- (6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.
- (7) The defendant was less than eighteen (18) years of age at the time the murder was committed.
- (8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all

the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of good time credit and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (k) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

- (1) the aggravating circumstances alleged; or
- (2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

- (1) the death penalty; or
- (2) life imprisonment without parole;

only if it makes the findings described in subsection ~~(k)~~ **(l)**. If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

- (1) sentence the defendant to death; or
- (2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection ~~(k)~~ **(l)**.

(h) If a court sentences a defendant to death, the court shall order

the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

- (1) conviction or sentence was in violation of the:
 - (A) Constitution of the State of Indiana; or
 - (B) Constitution of the United States;
- (2) sentencing court was without jurisdiction to impose a sentence; and
- (3) sentence:
 - (A) exceeds the maximum sentence authorized by law; or
 - (B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a

written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(I) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

- (1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and
- (2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.

P.L.148-2003

[S.160. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 10-8-3-3, AS ADDED BY P.L.143-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Before a person may transport high level radioactive waste in Indiana, the person who is responsible for the shipment must submit the following to the director:

- (1) A notice that includes:

(A) the highway or railway route, date, and time of the shipment of high level radioactive waste; and

(B) other information required under 10 CFR 71.5(a) and 10 CFR 73.37(f).

(2) A transportation fee of one thousand dollars (\$1,000) for each **total shipment cask** of nuclear waste **in the shipment**.

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

SECTION 2. IC 10-14-8-3, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Before a person may transport high level radioactive waste in Indiana, the person who is responsible for the shipment must submit the following to the director:

(1) A notice that includes:

(A) the highway or railway route, date, and time of the shipment of high level radioactive waste; and

(B) other information required under 10 CFR 71.5(a) and 10 CFR 73.37(f).

(2) A transportation fee of one thousand dollars (\$1,000) for each **total shipment cask** of nuclear waste **in the shipment**.

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

SECTION 3. IC 10-14-8-3.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.1. (a) Before a person may transport low level radioactive waste (as defined in IC 13-11-2-121(a)) in Indiana, the person who is responsible for the shipment must submit a transportation fee of one hundred dollars (\$100) for each total shipment of low level radioactive waste to the director.**

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

SECTION 4. IC 10-14-8-6, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The nuclear response fund is established to provide appropriate education, training, and equipment to local emergency responders:

(1) in counties that will be affected by the transportation of high level radioactive waste under this chapter; and

- (2) to:**
(A) prevent;
(B) prepare for; and
(C) respond to;
acts of terrorism.

(b) Sources of money for the fund consist of transportation fees deposited under section 3(b) of this chapter.

(c) The state emergency management agency shall administer the fund. Money in the fund is annually appropriated to the state emergency response commission to be used for purposes described in subsection (a).

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

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

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

SECTION 5. IC 10-14-8-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. A person that transports:**

- (1) low level radioactive waste (as defined in IC 13-11-2-121(a)); or**
(2) high level radioactive waste;

in Indiana shall reimburse each governmental entity that provides security for a shipment for reasonable and necessary expenses incurred by the governmental entity in providing the security.

P.L.149-2003

[S.176. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning gaming.

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

SECTION 1. IC 4-33-6-1, AS AMENDED BY HEA 1902-2003, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The commission may issue to a person a license to own ~~one~~ ~~(1)~~ a riverboat subject to the numerical and geographical limitation of owner's licenses under this section, **section 3.5 of this chapter**, and IC 4-33-4-17. However, not more than ten (10) owner's licenses may be in effect at any time. Except as provided in subsection (b), those ten (10) licenses are as follows:

(1) Two (2) licenses for a riverboat that operates from the largest city located in the counties described under IC 4-33-1-1(1).

(2) One (1) license for a riverboat that operates from the second largest city located in the counties described under IC 4-33-1-1(1).

(3) One (1) license for a riverboat that operates from the third largest city located in the counties described under IC 4-33-1-1(1).

(4) One (1) license for a city located in the counties described under IC 4-33-1-1(1). This license may not be issued to a city described in subdivisions (1) through (3).

(5) A total of five (5) licenses for riverboats that operate upon the Ohio River from counties described under IC 4-33-1-1(2). The commission may not issue a license to an applicant if the issuance of the license would result in more than one (1) riverboat operating from a county described in IC 4-33-1-1(2).

(b) If a city described in subsection (a)(2) or (a)(3) conducts two (2) elections under section 20 of this chapter, and the voters of the city do not vote in favor of permitting riverboat gambling at either of those elections, the license assigned to that city under subsection (a)(2) or (a)(3) may be issued to any city that:

- (1) does not already have a riverboat operating from the city; and
- (2) is located in a county described in IC 4-33-1-1(1).

(c) In addition to its power to issue owner's licenses under subsection (a), the commission may also enter into a contract under IC 4-33-6.5 with respect to the operation of one (1) riverboat on behalf of the commission in a historic hotel district.

SECTION 2. IC 4-33-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The commission may not issue an owner's license under this chapter to a person if:

- (1) the person has been convicted of a felony under Indiana law, the laws of any other state, or laws of the United States;
- (2) the person has knowingly or intentionally submitted an application for a license under this chapter that contains false information;
- (3) the person is a member of the commission;
- (4) the person is an officer, a director, or a managerial employee of a person described in subdivision (1) or (2);
- (5) the person employs an individual who:
 - (A) is described in subdivision (1), (2), or (3); and
 - (B) participates in the management or operation of gambling operations authorized under this article;
- (6) the person owns an ownership interest of more than ~~ten percent (10%)~~ **in more than one (1) other person holding an owner's license issued under the total amount of ownership interest permitted under section 3.5 of this chapter;** or
- (7) a license issued to the person:
 - (A) under this article; or
 - (B) to own or operate gambling facilities in another jurisdiction;
 has been revoked.

SECTION 3. IC 4-33-6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) For purposes of this section, a person is considered to have an ownership interest in a riverboat owner's license if the interest is owned directly or indirectly by the person or by an entity controlled by the person.**

(b) A person may have up to a one hundred percent (100%) ownership interest in not more than two (2) riverboat licenses

issued under this chapter.

(c) A person may not have an ownership interest in more than two (2) riverboat owner's licenses issued under this chapter.

(d) This section may not be construed to increase the maximum number of licenses permitted under section 1 of this chapter or the number of riverboats that may be owned and operated under a license under section 10 of this chapter.



P.L.150-2003

[S.201. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-4-1003 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1003. (a) Each decision of the legislative body under section 918.6 of this chapter or the board of zoning appeals is subject to review by certiorari. Each person aggrieved by a decision of the board of zoning appeals or the legislative body may ~~present~~, **to file with** the circuit or superior court of the county in which the premises affected are located, a verified petition setting forth that the decision is illegal in whole or in part and specifying the grounds of the illegality. No change of venue from the county in which the premises affected are located may be had in any cause arising under this section.

(b) ADVISORY. The person shall ~~present file~~ the petition ~~to with~~ the court within thirty (30) days after the date of that decision of the board of zoning appeals.

(c) AREA. The person shall ~~present file~~ the petition ~~to with~~ the court within thirty (30) days after the ~~entry date~~ of that decision of the board of zoning appeals.

(d) METRO. The person shall ~~present file~~ the petition ~~to with~~ the court after the expiration of the period within which an official designated by the metropolitan development commission may file an

appeal under section 922 of this chapter but within thirty (30) days after the date of that decision of the board of zoning appeals. However, if the official files an appeal, then only the decision of the metropolitan development commission sitting as a board of zoning appeals is subject to review by certiorari, in accordance with this section. The official or department of metropolitan development may not seek review by certiorari of a decision of a board of zoning appeals or the commission sitting as a board of zoning appeals.

SECTION 2. IC 36-7-4-1005 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1005. (a) On filing a petition for a writ of certiorari with the clerk of the court, the petitioner **for the writ of certiorari shall give notice of the petition as follows:**

(1) If the petitioner is the applicant or petitioner for the use, special exception, or variance, the petitioner shall have a notice served by the sheriff of the county on each adverse party as shown by the record of the case in the office of the board of zoning appeals.

(2) If the petitioner is not the applicant for the use, special exception, or variance and is a person aggrieved by the decision of a board of zoning appeals as set forth in section 1003 of this chapter, the petitioner shall have a notice served by the sheriff of the county on:

(A) each applicant or petitioner for the use, special exception, or variance; and

(B) each owner of the property that is the subject of the application or petition for the use, special exception, or variance.

The service of the notice by the sheriff on the chairman or secretary of the board of zoning appeals constitutes notice of the filing of the petition to the board of zoning appeals, to the municipality or county, and to any municipal or county official or board charged with the enforcement of the zoning ordinance. No other summons or notice is necessary when filing a petition.

(b) An adverse party under this section is any property owner whose interests are opposed to the petitioner for the writ of certiorari and who appeared at the hearing before the board of zoning appeals either in person or by a written remonstrance or other document that is part of the hearing record. If the petitioner was an unsuccessful appellant in

the administrative appeal, or an unsuccessful petitioner or applicant for a variance, special exception, or special or conditional use, and the record shows a written remonstrance or other document opposing the interest of the petitioner that contains more than three (3) names, the petitioner shall have notice served on the three (3) property owners whose names appear first on the remonstrance or document. Notice to the other persons named is not required.

(c) Notice given under subsection (a) must state:

- (1) that a petition for a writ of certiorari, asking for a review of the decision of the board of zoning appeals, has been filed in the court;
- (2) the premises affected; and
- (3) the date of the decision.

(d) An adverse party who is entitled to notice of a petition for writ of certiorari under subsection (a) is not required to be named as a party to the petition for writ of certiorari.

SECTION 3. IC 36-7-4-1006 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1006. ~~On presentation of a petition for a writ of certiorari,~~ The court shall direct the board of zoning appeals, within twenty (20) days after the date ~~of~~ the petition is **filed**, to show cause why a writ of certiorari should not issue. If the board fails to show to the satisfaction of the court that a writ should not issue, then the court may allow a writ of certiorari directed to the board. The writ must prescribe the time in which a return shall be made to it. This time must not be less than ten (10) days from the date of issuance of the writ, and the court may extend the time.

SECTION 4. IC 36-7-4-1210.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1210.6. (a) ADVISORY. This section applies to an advisory plan commission that is:**

- (1) created through a joinder agreement; and**
- (2) composed of nine (9) members, some of whom are appointed from a legislative branch of local government.**

(b) Notwithstanding any other provision, if:

- (1) there is a vacancy in the membership of a plan commission that is required by statute to be filled by a member of a legislative body of local government; and**
- (2) no member of the legislative body of local government will**

accept an appointment to fill the vacancy; the appointing authority may appoint a person from the community who is not an elected official to serve on the advisory plan commission for a term of one (1) year.

(c) The person appointed under subsection (b) may be reappointed to successive terms.

P.L.151-2003

[S.202. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-28-3-1, AS AMENDED BY P.L.101-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A contractor, a subcontractor, a mechanic, a lessor leasing construction and other equipment and tools, whether or not an operator is also provided by the lessor, a journeyman, a laborer, or any other person performing labor or furnishing materials or machinery, including the leasing of equipment or tools, for:

- (1) the erection, alteration, repair, or removal of:
 - (A) a house, mill, manufactory, or other building; or
 - (B) a bridge, reservoir, system of waterworks, or other structure; ~~or~~
- (2) the construction, alteration, repair, or removal of a walk or sidewalk located on the land or bordering the land, a stile, a well, a drain, a drainage ditch, a sewer, or a cistern; or
- (3) any other earth moving operation;

may have a lien as set forth in this section.

(b) A person described in subsection (a) may have a lien separately or jointly upon the:

- (1) house, mill, manufactory, or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth:

(A) that the person erected, altered, repaired, moved, or removed; or

(B) for which the person furnished materials or machinery of any description; and

(2) on the interest of the owner of the lot or parcel of land:

(A) on which the structure or improvement stands; or

(B) with which the structure or improvement is connected;

to the extent of the value of any labor done or the material furnished, or both, including any use of the leased equipment and tools.

(c) All claims for wages of mechanics and laborers employed in or about a shop, mill, wareroom, storeroom, manufactory or structure, bridge, reservoir, system of waterworks or other structure, sidewalk, walk, stile, well, drain, drainage ditch, cistern, or any other earth moving operation shall be a lien on all the:

(1) machinery;

(2) tools;

(3) stock;

(4) material; or

(5) finished or unfinished work;

located in or about the shop, mill, wareroom, storeroom, manufactory or other building, bridge, reservoir, system of waterworks, or other structure, sidewalk, walk, stile, well, drain, drainage ditch, sewer, cistern, or earth used in a business.

(d) If the person, firm, limited liability company, or corporation described in subsection (a) is in failing circumstances, the claims described in this section shall be preferred debts whether a claim or notice of lien has been filed.

(e) Subject to subsection (f), a contract: ~~for the construction, alteration, or repair of:~~

(1) **for the construction, alteration, or repair of** a Class 2 structure (as defined in IC 22-12-1-5);

(2) **for the construction, alteration, or repair of** an improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5); ~~or~~

(3) **for the construction, alteration, or repair of** property that is:

(A) owned, operated, managed, or controlled by a:

(i) public utility (as defined in IC 8-1-2-1);

- (ii) municipally owned utility (as defined in IC 8-1-2-1);
 - (iii) joint agency (as defined in IC 8-1-2.2-2);
 - (iv) rural electric membership corporation formed under IC 8-1-13-4;
 - (v) rural telephone cooperative corporation formed under IC 8-1-17; or
 - (vi) not-for-profit utility (as defined in IC 8-1-2-125);
- regulated under IC 8; and
- (B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public; **or**

(4) to prepare property for Class 2 residential construction; may include a provision or stipulation in the contract of the owner and principal contractor that a lien may not attach to the real estate, building, structure or any other improvement of the owner.

(f) A contract containing a provision or stipulation described in subsection (e) must meet the requirements of this subsection to be valid against subcontractors, mechanics, journeymen, laborers, or persons performing labor upon or furnishing materials or machinery for the property or improvement of the owner. The contract must:

- (1) be in writing;
- (2) contain specific reference by legal description of the real estate to be improved;
- (3) be acknowledged as provided in the case of deeds; and
- (4) be filed and recorded in the recorder's office of the county in which the real estate, building, structure, or other improvement is situated not more than five (5) days after the date of execution of the contract.

A contract containing a provision or stipulation described in subsection (e) does not affect a lien for labor, material, or machinery supplied before the filing of the contract with the recorder.

(g) Upon the filing of a contract under subsection (f), the recorder shall:

- (1) record the contract at length in the order of the time it was received in books provided by the recorder for that purpose;
- (2) index the contract in the name of the:
 - (A) contractor; and
 - (B) owner;

in books kept for that purpose; and

(3) collect a fee for recording the contract as is provided for the recording of deeds and mortgages.

(h) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit any material, labor, or machinery for the alteration or repair of an owner occupied single or double family dwelling or the appurtenances or additions to the dwelling to:

(1) a contractor, subcontractor, mechanic; or

(2) anyone other than the occupying owner or the owner's legal representative;

must furnish to the occupying owner of the parcel of land where the material, labor, or machinery is delivered a written notice of the delivery or work and of the existence of lien rights not later than thirty (30) days after the date of first delivery or labor performed. The furnishing of the notice is a condition precedent to the right of acquiring a lien upon the lot or parcel of land or the improvement on the lot or parcel of land.

(i) A person, firm, partnership, limited liability company, or corporation that sells or furnishes on credit material, labor, or machinery for the original construction of a single or double family dwelling for the intended occupancy of the owner upon whose real estate the construction takes place to a contractor, subcontractor, mechanic, or anyone other than the owner or the owner's legal representatives must:

(1) furnish the owner of the real estate:

(A) as named in the latest entry in the transfer books described in IC 6-1.1-5-4 of the county auditor; or

(B) if IC 6-1.1-5-9 applies, as named in the transfer books of the township assessor;

with a written notice of the delivery or labor and the existence of lien rights not later than sixty (60) days after the date of the first delivery or labor performed; and

(2) file a copy of the written notice in the recorder's office of the county not later than sixty (60) days after the date of the first delivery or labor performed.

The furnishing and filing of the notice is a condition precedent to the right of acquiring a lien upon the real estate or upon the improvement

constructed on the real estate.

(j) A lien for material or labor in original construction does not attach to real estate purchased by an innocent purchaser for value without notice of a single or double family dwelling for occupancy by the purchaser unless notice of intention to hold the lien is recorded under section 3 of this chapter before recording the deed by which the purchaser takes title.

SECTION 2. IC 32-29-1-11, AS ADDED BY P.L.2-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This chapter does not limit:

- (1) the right to assign, mortgage, or pledge the rents and profits arising from real estate;
- (2) the right of an assignee, a mortgagee, or a pledgee to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge; or
- (3) the power of a court of equity to appoint a receiver to take charge of real estate to collect rents and profits for application in accordance with an assignment, a mortgage, or a pledge.

(b) A person may enforce an assignment, a mortgage, or a pledge of rents and profits arising from real property:

- (1) whether the person has or does not have possession of the real estate; and
- (2) regardless of the:
 - (A) adequacy of the security; or
 - (B) solvency of the assignor, mortgagor, or pledgor.

(c) If a person:

- (1) enforces an assignment, a mortgage, or a pledge of rents and profits arising from real estate; and
- (2) does not have possession of the real estate;

the obligations of a mortgagee in possession of real estate may not be imposed on the holder of the assignment, mortgage, or pledge.

(d) Except for those instances involving liens defined in IC 32-28-3-1, a mortgagee seeking equitable subrogation with respect to a lien may not be denied equitable subrogation solely because:

- (1) the mortgagee:**
 - (A) is engaged in the business of lending; and**
 - (B) had constructive notice of the intervening lien over**

- which the mortgagee seeks to assert priority;
(2) the lien for which the mortgagee seeks to be subrogated was released; or
(3) the mortgagee obtained a title insurance policy.
(e) Subsection (d) does not apply to a municipal sewer lien under IC 36-9-23.

SECTION 3. An emergency is declared for this act.

P.L.152-2003

[S.227. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-9-2-76.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 76.5. "Long term foster parent", for purposes of IC 31-34-21-4 and IC 31-34-21-4.6, has the meaning set forth in IC 31-34-21-4.6(a).**

SECTION 2. IC 31-34-21-4, AS AMENDED BY P.L.217-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. (a)** Except as provided in subsection (f), at least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the county office of family and children shall send notice of the review to each of the following:

- (1) The child's parent, guardian, or custodian.
- (2) An attorney who has entered an appearance on behalf of the child's parent, guardian, or custodian.
- (3) A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
 - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner

required by IC 31-19-9 and filed with the county office of family and children;

(B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.

(4) Any other person who:

(A) the county office of family and children has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 12-17.4 to provide care for the child.

(5) Any other suitable relative or person who the county office knows has had a significant or caretaking relationship to the child.

(b) At least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the county office of family and children shall provide notice of the review to the child's foster parent **or long term foster parent by the same process prescribed under Indiana Trial Rule 4.1. The county office of family and children shall present proof of service of the notice at the case review.**

~~(1) certified mail; or~~

~~(2) face to face contact by the county office of family and children caseworker.~~

(c) The court shall provide to a person described in subsection (a) or (b) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes: ~~the right of a person described in subsection (a) or (b) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsections (a) and (b), may be made a part of the court record:~~

(1) the right of a person described in subsection (a) or (b) to submit a written statement to the court that, if served upon all

parties to the child in need of services proceeding and the persons described in subsection (a) or (b), may be made a part of the court record; and

(2) the right to present oral testimony to the court and cross examine any of the witnesses at the hearing.

(d) Except as provided in subsection (f), this section does not exempt the county office of family and children from sending a notice of the review to each party to the child in need of services proceeding.

(e) The court shall continue the review if, at the time of the review, the county office of family and children has not provided the court with signed verification from the child's foster parent **or long term foster parent**, as obtained through subsection (b), that the foster parent **or long term foster parent**, has been notified of the review at least five (5) business days before the review. However, the court is not required to continue the review if the child's foster parent **or long term foster parent** appears for the review.

(f) If the parent of an abandoned child does not disclose the parent's name as allowed by IC 31-34-2.5-1(c), the parent is not required to be notified of a proceeding described in subsection (a).

SECTION 3. IC 31-34-21-4.5, AS ADDED BY P.L.133-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) Except as provided in subsection (b) a foster parent, **long term foster parent, or a person who has been a foster parent** may petition the court to request intervention as a party to a proceeding described in this chapter.

(b) A foster parent who has been:

(1) the subject of a substantiated report of child abuse or neglect;
or

(2) convicted of a felony listed in IC 12-17.4-4-11;

may not petition the court to intervene under this section.

(c) A court may grant a petition filed under this section if the court determines that intervention of the petitioner is in the best interests of the child.

SECTION 4. IC 31-34-21-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.6. As used in this section, "long term foster parent" means a foster parent who has provided care and supervision for a child for at least:**

- (1) the twelve (12) most recent months; or**
(2) fifteen (15) months of the most recent twenty-two (22) months.



P.L.153-2003

[S.267. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person who lays out a subdivision of lots or lands outside the corporate boundaries of any municipality shall record a correct plat of the subdivision in the office of the recorder of the county before selling any lots in the subdivision. The plat must show public places, public ways, and the length, width, and size of each lot. Lots shown on the plat must be regularly numbered.

(b) The certificate of a registered land surveyor certifying the correctness of the plat must be attached to the plat. This certificate must include a description, by metes and bounds, of the location of the plat.

(c) Before offering a plat for record under this section, a person must acknowledge it before an officer authorized by law to take and certify ~~acknowledgements~~ **acknowledgments** of deeds. The officer shall then attach to the plat a certificate of the acknowledgment, which must be recorded with the plat.

(d) Before offering a plat for recording under this section, a person must file a copy of the plat in the county auditor's office and must submit the plat for the approval of the county executive. The county recorder may record the plat only if a certificate showing the approval of the county executive is attached to it. If the record of a plat is not executed and approved as required by this subsection, it is void.

(e) Except as provided in subsection (f), the county executive

may approve or disapprove a subdivision plat only on the basis of whether the plat complies with the requirements set forth in subsections (a) through (c).

(f) The county executive may approve or disapprove a subdivision plat based upon whether the plat complies with standards for development of subdivisions within the county executive's jurisdiction. The standards shall be set by the county executive, shall be reasonable, and may include a minimum lot size. The county executive shall rely only upon the following criteria in establishing the standards for development:

(1) The standards must protect and provide for the public health, safety, and welfare of the county.

(2) The standards must ensure that public facilities and services are available to support the subdivision.

(g) The county executive may not approve or disapprove a subdivision plat based upon the standards for development until the county executive has had at least one (1) public hearing on the issue. The county executive shall publish notice of a hearing in accordance with IC 5-3-1. The notice must set forth the following information:

(1) A legal description of the property where the proposed subdivision will be located.

(2) The date, time, and location of the hearing.

(3) The name of the applicant submitting the plat for the approval of the county executive.

(4) A statement that the county executive will consider at the hearing whether to approve the plat based upon whether the plat is in accordance with the county's development standards.

(h) If, after a hearing, the county executive disapproves the plat, the county executive shall make written findings that set forth its reasons and a decision denying approval and shall provide the applicant with a copy.

P.L.154-2003

[S.286. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-12-9, AS AMENDED BY P.L.116-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. An offender who knowingly or intentionally:

- (1) fails to register under this chapter; **or**
- (2) **fails to complete and submit a new registration form as required under section 8(a) of this chapter;**

commits a Class D felony. However, the offense is a Class C felony if the offender has a prior unrelated offense under this section.

SECTION 2. IC 36-2-13-5.5, AS ADDED BY P.L.116-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) The sheriffs shall jointly establish and maintain a sex offender web site, known as the Indiana sheriffs' sex offender registry, to inform the general public about the identity, location, and appearance of every sex offender residing within Indiana. The web site must provide information regarding each sex offender, organized by county of residence. **The web site shall be updated at least every seven (7) days.**

(b) The sex offender web site must include the following information:

- (1) A recent photograph of every sex offender who has registered with a sheriff after the effective date of this chapter.
- (2) The home address of every sex offender.
- (3) The information required to be included in the sex offender directory (IC 5-2-12-6).

(c) Every time a sex offender submits a new registration form to the sheriff, but at least once per year, the sheriff shall photograph the sex offender. The sheriff shall place this photograph on the sex offender web site.

(d) The photograph of a sex offender described in subsection (c) must meet the following requirements:

(1) The photograph must be full face, front view, with a plain white or off-white background.

(2) The image of the offender's face, measured from the bottom of the chin to the top of the head, must fill at least seventy-five percent (75%) of the photograph.

(3) The photograph must be in color.

(4) The photograph must show the offender dressed in normal street attire, without a hat or headgear that obscures the hair or hairline.

(5) If the offender normally and consistently wears prescription glasses, a hearing device, wig, or a similar article, the photograph must show the offender wearing those items. A photograph may not include dark glasses or nonprescription glasses with tinted lenses unless the offender can provide a medical certificate demonstrating that tinted lenses are required for medical reasons.

(6) The photograph must have sufficient resolution to permit the offender to be easily identified by a person accessing the sex offender web site.

(e) The sex offender web site may be funded from:

(1) the jail commissary fund (IC 36-8-10-21);

(2) a grant from the criminal justice institute; and

(3) any other source, subject to the approval of the county fiscal body.

P.L.155-2003

[S.308. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning business and other associations.

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

SECTION 1. IC 23-7-8-2, AS AMENDED BY P.L.135-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person may not act as a professional fundraiser consultant or professional solicitor for a charitable organization unless the person has first registered with the division. A person who applies for registration shall disclose the following information while under oath:

- (1) The names and addresses of all officers, employees, and agents who are actively involved in fundraising or related activities.
- (2) The names and addresses of all persons who own a ten percent (10%) or more interest in the registrant.
- (3) A description of any other business related to fundraising conducted by the registrant or any person who owns ten percent (10%) or more interest.
- (4) The name or names under which it intends to solicit contributions.
- (5) Whether the organization has ever had its registration denied, suspended, revoked, or enjoined by any court or other governmental authority.

(b) A registrant shall notify the division in writing within one hundred eighty (180) days of any change in the information contained in the registration. However, if requested by the division, the solicitor has fifteen (15) days to notify the division of any change in the information.

~~(c) Each registration is valid for one (1) year and may be renewed for additional one (1) year periods upon application to the division and payment of the renewal fee.~~

(~~d~~) (c) Before acting as a professional fundraiser consultant for a particular charitable organization, the consultant must enter into a written contract with the organization and file this contract with the division. The contract must identify the services that the professional fundraiser consultant is to provide, including whether the professional fundraiser consultant will at any time have custody of contributions.

(~~e~~) (d) Before a professional solicitor engages in a solicitation, the professional solicitor must have a contract which is filed with the division. This contract must specify the percentage of gross contributions which the charitable organization will receive or the terms upon which a determination can be made as to the amount of the gross revenue from the solicitation campaign that the charitable organization will receive. **The amount that the charitable organization will receive must be expressed as a fixed percentage of the gross revenue or as a reasonable estimate of the gross revenue: of gross revenue from the solicitation campaign that the charitable organization will receive must be expressed as a fixed percentage of the gross revenue or expressed as a reasonable estimate of the percentage of the gross revenue. If a reasonable estimate is used, the contract must clearly disclose the assumptions or a formula upon which the estimate is based.** If a fixed percentage is used, the percentage must exclude any amount that the charitable organization is to pay as expenses of the solicitation campaign, including the cost of the merchandise or services sold. If requested by the charitable organization, the person who solicits must at the conclusion of a charitable appeal provide to the charitable organization the names and addresses of all contributors, the amount of each contribution, and a final accounting of all expenditures. Such information may not be used in violation of any trade secret laws. The contract must disclose the average percentage of gross contributions collected on behalf of charitable organizations that the charitable organizations received from the professional solicitor for the three (3) years preceding the year in which the contract is formed.

(~~f~~) (e) Before beginning a solicitation campaign, a professional solicitor must file a solicitation notice with the division. The notice must include the following:

- (1) A copy of the contract described in subsection (~~e~~): (d).
- (2) The projected dates when soliciting will begin and end.

(3) The location and telephone number from where solicitation will be conducted.

(4) The name and residence address of each person responsible for directing and supervising the conduct of the campaign. However, the division shall not divulge the residence address unless ordered to do so by a court of competent jurisdiction, or in furtherance of the prosecution of a violation under this chapter.

(5) If the solicitation is one described under section 7(a)(2) of this chapter, the solicitation notice must include a copy of the required written authorization.

~~(g)~~ **(f)** Not later than ninety (90) days after a solicitation campaign ~~other than a campaign for which a written authorization has been filed under subsection (f)(5)~~, has ended **and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year**, a professional solicitor shall submit the following information concerning the campaign to the division:

(1) The total gross amount of money raised by the professional solicitor and the charitable organization from donors.

(2) The total amount of money paid to or retained by the professional solicitor.

(3) The total amount of money, not including the amount identified under ~~subsection (g)(2)~~, **subdivision (2)**, paid by the charitable organization as expenses as part of the solicitation campaign.

(4) The total amount of money paid to or retained by the charitable organization after the amounts identified under ~~subsection (g)(2)~~ **subdivision (2)** and ~~(g)(3)~~ **(3)** are deducted.

The division may deny or revoke the registration of a professional solicitor who fails to comply with this subsection.

~~(h)~~ **(g)** The charitable organization on whose behalf the professional solicitor is acting must certify that the information filed under subsections ~~(f)~~ **(e)** and ~~(g)~~ **(f)** is true and complete to the best of its knowledge.

~~(i)~~ **(h)** At the beginning of each solicitation call, a professional fundraiser consultant and a professional solicitor must state all of the following:

(1) The name of the company for whom the professional

fundraiser consultant or professional solicitor is calling.

(2) The name of the professional fundraiser consultant or professional solicitor.

(3) The phone number and address of the location from which the professional fundraiser consultant or professional solicitor is making the telephone call.

(4) The percentage of the charitable contribution that will be expended for charitable purposes after administrative costs and the costs of making the solicitation have been satisfied.

SECTION 2. IC 23-7-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who solicits charitable contributions may not:

(1) use the fact of registration as an endorsement by the state;

(2) **misrepresent that the person is an officer or employee of a public safety agency;**

(3) use the name "police", "law enforcement", "trooper", "rescue squad", "firemen", or "firefighter" unless a bona fide police, law enforcement, rescue squad, or fire department authorizes its use in writing;

~~(3)~~ (4) misrepresent to anyone that the contribution will be used for a charitable purpose if the person has reason to believe the contribution will not be used for a charitable purpose;

~~(4)~~ (5) misrepresent to anyone that another person endorses the solicitation unless that person has consented in writing to the use of the person's name for the purpose of endorsing the solicitation;

~~(5)~~ (6) misrepresent to anyone that the contribution is solicited on behalf of anyone other than the charitable organization that authorized the solicitation; or

~~(6)~~ (7) collect or attempt to collect a contribution in person or by means of a courier unless:

(A) the solicitation is made in person and the collection or attempt to collect is made at the time of the solicitation; or

(B) the contributor has agreed to purchase goods or items in connection with the solicitation, and the collection or attempt to collect is made at the time of delivery of the goods or items.

(b) A person who solicits charitable contributions shall not represent that tickets to events will be donated for use by another, unless the following requirements have been met:

(1) The paid solicitor has commitments, in writing, from charitable organizations stating that they will accept donated tickets and specifying the number of tickets they are willing to accept.

(2) No more contributions for donated tickets are solicited than the number of ticket commitments received from charitable organizations.



P.L.156-2003

[S.311. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.1-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Limited criminal history" means information with respect to any arrest criminal charge, which must include a disposition. However, information about any arrest or criminal charge which occurred less than one (1) year before the date of a request shall be considered a limited criminal history even if no disposition has been entered.

(2) "Bias crime" means an offense in which the person who committed the offense knowingly or intentionally:

(A) selected the person who was injured; or

(B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

(3) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children less than eighteen (18) years of age.

(4) "Council" means the security and privacy council created under section 11 of this chapter.

(5) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term consists of the following:

(A) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(B) Information regarding a sex and violent offender (as defined in IC 5-2-12-4) obtained through sex and violent offender registration under IC 5-2-12.

(C) Any disposition, including sentencing, and correctional system intake, transfer, and release.

(6) "Certificated employee" has the meaning set forth in IC 20-7.5-1-2.

(7) "Criminal justice agency" means any agency or department of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. The term includes the office of the attorney general. The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations;
or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of

government.

(8) "Department" means the state police department.

(9) "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

(10) "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

(11) "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

(12) "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders. The term includes the office of the attorney general.

(13) "National criminal history background check" means the criminal history record system maintained by the Federal Bureau of Investigation based on fingerprint identification or any other method of positive identification.

(14) "No contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under:

- (A) IC 31-32-13;
- (B) IC 31-34-17;
- (C) IC 31-34-20;
- (D) IC 31-37-16;
- (E) IC 31-37-19-1;
- (F) IC 31-37-19-6;
- (G) IC 33-14-1-7;
- (H) IC 35-33-8-3.2; or
- (I) IC 35-38-2-2.3.

(15) "Noncertificated employee" has the meaning set forth in IC 20-7.5-1-2.

(16) "Protective order" has the meaning set forth in IC 5-2-9-2.1. The term includes a foreign protection order (as defined in IC 34-6-2-48.5).

(17) "Qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services, including a business or an organization that licenses or certifies others to provide care or care placement services.

(18) "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

(19) "Reportable offenses" means all felonies and those ~~Class A~~ misdemeanors which the superintendent may designate.

(20) "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

(A) reasonably ensures the identification of the subject of the inquiry; and

(B) contains a statement of the purpose for which the information is requested.

(21) "School corporation" has the meaning set forth in IC 20-10.1-1-1.

(22) "Special education cooperative" has the meaning set forth in IC 20-1-6-20.

(23) "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

(24) "Workplace violence restraining order" means an order issued under IC 34-26-6.

SECTION 2. IC 5-2-5-7, AS AMENDED BY P.L.116-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, **if the agency has complied with the reporting requirements in section 2 of this chapter**, and the department shall do the following:

(1) Require a form, provided by them, to be completed. This form shall be maintained for a period of two (2) years and shall be available to the record subject upon request.

(2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is

information which:

- (1) has been requested; and
- (2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the sex and violent offender directory under IC 5-2-6 or concerns a person required to register as a sex and violent offender under IC 5-2-12.

SECTION 3. IC 5-2-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) For each person arrested and charged by information or indictment with a ~~felony or with a Class A misdemeanor~~ **reportable offense (as defined in IC 10-13-3-18)** there shall be filed with the court having jurisdiction over the case:

- (1) a fingerprint sample taken from the arrested person; and
- (2) an affidavit, attached to or as an integral part of the fingerprint sample, from an employee of the law enforcement agency effecting the arrest that identifies the sample as taken from the arrested person.

(b) The failure to file a fingerprint sample or an affidavit under subsection (a) is not a ground for the dismissal of a criminal action or the continuance of a criminal action.

SECTION 4. IC 10-13-3-18, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. As used in this chapter, "reportable offenses" means all felonies and those ~~Class A~~ misdemeanors the superintendent designates.

SECTION 5. IC 10-13-3-30, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may, **if the agency has complied with the reporting requirements in section 24 of this chapter**, and the department shall do the following:

- (1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.
- (2) Collect a three dollar (\$3) fee to defray the cost of processing a request for inspection.

(3) Collect a seven dollar (\$7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.

(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:

- (1) has been requested; and
- (2) is limited criminal history information.

(c) The fee required under subsection (a) shall be waived if the request relates to the sex and violent offender directory under IC 5-2-6 or concerns a person required to register as a sex and violent offender under IC 5-2-12.

P.L.157-2003

[H.1171. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-25-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The bureau may not revoke the driving license or registration plates of the owner or operator of a motor vehicle who has been involved in a motor vehicle accident resulting in bodily injury or death or in damage to property in excess of ~~seven hundred fifty one thousand~~ dollars (~~\$750~~) (**\$1,000**) solely because of failure to provide evidence of financial responsibility whenever the:

- (1) owner or operator was insured by an insurance company for public liability and property damage at the time of the accident; and
- (2) insurance company becomes insolvent after the accident or within fifteen (15) days before the accident;

if the insurance company was authorized and qualified to do business

in Indiana on the effective date of the policy.

SECTION 2. IC 9-25-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person who **knowingly:**

- (1) operates; or
- (2) permits the operation of;

a motor vehicle on a public highway in Indiana commits a Class A infraction unless financial responsibility is in effect with respect to the motor vehicle under IC 9-25-4-4. **However, the offense is a Class C misdemeanor if the person knowingly or intentionally violates this section and has a prior unrelated conviction or judgment under this section.**

(b) Subsection (a)(2) applies to:

- (1) the owner of a rental company that is referred to in IC 9-25-6-3(e)(1); and
- (2) an employer that is referred to in IC 9-25-6-3(e)(2).

(c) In addition to any other penalty imposed on a person for violating this section, the court may recommend the suspension of the person's driving privileges for one (1) year. However, if, within the five (5) years preceding the conviction under this section, the person had a prior unrelated conviction under this section, the court shall recommend the suspension of the person's driving privileges for one (1) year.

(d) Upon receiving the recommendation of the court under subsection (c), the bureau shall suspend the person's driving privileges for the period recommended by the court.

SECTION 3. IC 9-26-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The driver of a vehicle involved in an accident that does not result in injury or death of a person but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

- (1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.
- (2) Immediately return to and remain at the scene of the accident until the driver does the following:
 - (A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.
 - (B) Upon request, exhibits the driver's license of the driver to

the driver or occupant of or person attending each vehicle involved in the accident.

(3) If the accident results in total property damage to an apparent extent of at least ~~seven hundred fifty one thousand~~ dollars (~~\$750~~), **(\$1,000)**, forward a written report of the accident to the state police department within ten (10) days after the accident.

SECTION 4. IC 9-26-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A law enforcement officer shall investigate each motor vehicle accident that results in any of the following:

- (1) The injury or death of a person.
- (2) Total property damage to an apparent extent of at least ~~seven hundred fifty one thousand~~ dollars (~~\$750~~), **(\$1,000)**.

SECTION 5. IC 9-26-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A law enforcement officer shall enforce IC 9-21 and IC 9-25 against the parties to a motor vehicle accident on private property if the accident:

- (1) occurs on commercial or other private property that is open to the public; and
- (2) results in:
 - (A) personal injury or death; or
 - (B) property damage to an apparent extent greater than ~~seven hundred fifty one thousand~~ dollars (~~\$750~~), **(\$1,000)**.

(b) This section does not affect the power of a local government unit to contract with the owner or lessee of a shopping center or private business property under IC 9-21-18-4.

SECTION 6. [EFFECTIVE JULY 1, 2003] **IC 9-25-8-2, as amended by this act, applies only to offenses committed after June 30, 2003.**

P.L.158-2003

[H.1437. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 10-13-3-36, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

- (1) that has been in existence for at least ten (10) years; and
- (2) that:

- (A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

- (B) is a home health agency licensed under IC 16-27-1;

- (C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);

or

- (D) is a supervised group living facility licensed under IC 12-28-5.

(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:

- (1) made through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana; and**
- (2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).**

SECTION 2. IC 25-1-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, **at the practitioner's own expense**, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

SECTION 3. IC 25-1-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.**

SECTION 4. IC 25-23-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) There is established the Indiana state board of nursing consisting of ~~eight (8)~~ **nine (9)** members appointed by the governor, each to serve a term of

four (4) years subject to death, resignation, or removal by the governor.

(b) Five (5) Six (6) of the board members must be registered nurses who are committed to advancing and safeguarding the nursing profession as a whole. Two (2) of the board's members must be licensed practical nurses. One (1) member of the board, to represent the general public, must be a resident of this state and not be associated with nursing in any way other than as a consumer.

~~(b)~~ **(c)** Each appointed board member may serve until the member's successor has been appointed and qualified. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. Members of the board may be appointed for more than one (1) term. However, no person who has served as a member of the board for more than six (6) consecutive years may be reappointed. Reappointments of persons who have served six (6) consecutive years as a member of the board may be made after three (3) years have elapsed.

SECTION 5. IC 25-23-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The board shall meet annually. At its first meeting of the calendar year, it shall elect from the membership a president, a vice president, and a secretary. It shall hold such other meetings during the year as may be necessary for the transaction of its business.

~~(b) Three (3) registered nurse members, including one (1) officer of the board, constitute a quorum for consideration of all matters pertaining to registered nursing. A majority vote of the quorum is required for action of the board.~~

~~(c) One (1) licensed practical nurse member and three (3) registered nurse members of the board, including one (1) officer, constitute a quorum for consideration of all matters pertaining to practical nursing. A majority vote of the quorum is required for action of the board.~~

(b) Five (5) members of the board constitute a quorum. An affirmative vote of a majority of the members appointed to the board is required for action of the board.

SECTION 6. IC 25-23-1-7, AS AMENDED BY P.L.181-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The board shall do the following:

- (1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.

- (2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.
 - (3) Provide for surveys of such programs at such times as it considers necessary.
 - (4) Accredite such programs as meet the requirements of this chapter and of the board.
 - (5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.
 - (6) Examine, license, and renew the license of qualified applicants.
 - (7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.
 - (8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.
 - (9) Adopt rules under IC 4-22-2 that do the following:
 - (A) Prescribe standards for the competent practice of registered, practical, and advanced practice nursing.
 - (B) Establish with the approval of the medical licensing board created by IC 25-22.5-2-1 requirements that advanced practice nurses must meet to be granted authority to prescribe legend drugs and to retain that authority.
 - (C) Establish, with the approval of the medical licensing board created by IC 25-22.5-2-1, requirements for the renewal of a practice agreement under section 19.4 of this chapter, which shall expire on October 31 in each odd-numbered year.**
 - (10) Keep a record of all its proceedings.
 - (11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.
 - (12) Adopt rules and administer the interstate nurse licensure compact under IC 25-23.2.
- (b) The board may do the following:
- (1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons appointed to a subcommittee serve for terms as determined by the

board.

(2) Utilize the appropriate subcommittees so as to assist the board with its responsibilities. The assistance provided by the subcommittees may include the following:

(A) Recommendation of rules necessary to carry out the duties of the board.

(B) Recommendations concerning educational programs and requirements.

(C) Recommendations regarding examinations and licensure of applicants.

(3) Appoint nurses to serve on each of the ad hoc subcommittees.

(4) Withdraw from the interstate compact under ~~IC 25-32-2~~
IC 25-23.2.

(c) Nurses appointed under subsection (b) must:

(1) be committed to advancing and safeguarding the nursing profession as a whole; and

(2) represent nurses who practice in the field directly affected by a subcommittee's actions.

SECTION 7. IC 25-23-1-19.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19.8. (a) Before December 31 of an even-numbered year, the bureau or the bureau's designee shall randomly audit at least one percent (1%) but not more than ten percent (10%) of the practice agreements of advanced practice nurses with authority to prescribe legend drugs under section 19.5 of this chapter to determine whether the practice agreement meets the requirements of this chapter or rules adopted by the board.**

(b) The bureau shall establish an audit procedure, which may include the following:

(1) Requiring the advanced practice nurse to provide the bureau with a copy of verification of attendance at or completion of a continuing education course or program the advanced practice nurse attended during the previous two (2) years.

(2) Requiring the advanced practice nurse and the licensed practitioner who have entered into a practice agreement to submit information on a form prescribed by the bureau that must include a sworn statement signed by the advanced

practice nurse and the licensed practitioner that the parties are operating within the terms of the practice agreement and the requirements under this chapter or rules adopted by the board.

(3) Reviewing patient health records and other patient information at the practice location or by requiring the submission of accurate copies to determine if the parties are operating within the terms of the practice agreement and the requirements under this chapter or rules adopted by the board.

(4) After a reasonable determination that the advanced practice nurse and the licensed practitioner who have entered into a practice agreement are not operating within the terms of the practice agreement, requiring the parties to appear before the bureau or the bureau's designee to provide evidence of compliance with the practice agreement.

(c) Not more than sixty (60) days after the completion of the audit required in subsection (a), the bureau shall provide the board with the following:

(1) A summary of the information obtained in the audit.

(2) A statement regarding whether an advanced practice nurse and a licensed practitioner who have entered into a practice agreement that is audited under subsection (a) are operating within the terms of the practice agreement.

The bureau shall also provide a copy of the information described in this subsection to the board that regulates the licensed practitioner.

(d) The bureau may cause to be served upon the advanced practice nurse an order to show cause to the board as to why the board should not impose disciplinary sanctions under IC 25-1-9-9 on the advanced practice nurse for the advanced practice nurse's failure to comply with:

(1) an audit conducted under this section; or

(2) the requirements of a practice agreement under this chapter.

(e) The board shall hold a hearing in accordance with IC 4-21.5 and state the date, time, and location of the hearing in the order served under subsection (d).

(f) The board that regulates the licensed practitioner may cause

to be served upon the licensed practitioner an order to show cause to the board as to why the board should not impose disciplinary sanctions under IC 25-1-9-9 on the licensed practitioner for the licensed practitioner's failure to comply with:

- (1) an audit conducted under this section; or**
- (2) the requirements of a practice agreement under this chapter.**

(g) The board that regulates the licensed practitioner shall hold a hearing in accordance with IC 4-21.5 and state the date, time, and location of the hearing in the order served under subsection (f).

(h) An order to show cause issued under this section must comply with the notice requirements of IC 4-21.5.

(i) The licensed practitioner may divulge health records and other patient information to the bureau or the bureau's designee. The licensed practitioner is immune from civil liability for any action based upon release of the patient information under this section.

SECTION 8. IC 25-29-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A license to practice podiatric medicine expires ~~four (4)~~ years after the license is issued on a date established by the bureau under IC 25-1-5-4 in each odd-numbered year.

SECTION 9. IC 34-30-2-99.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 99.4. IC 25-23-1-19.8(i) (Concerning licensed practitioners who release health records and patient information to the health professions bureau).**

P.L.159-2003

[H.1469. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-13.6-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 9. Use of Energy Efficient Technology

Sec. 1. As used in this chapter, "energy efficient technology" refers to any of the following:

- (1) Geothermal heating and cooling.**
- (2) Geothermal hot water generation.**
- (3) Solar hot water generation.**
- (4) Photovoltaic power generation.**
- (5) Wind power generation.**
- (6) Combined heat and power.**
- (7) Heat recovery chillers.**
- (8) Condensing boilers and low temperature heat.**
- (9) Air to air energy recovery devices.**
- (10) Autoclaved aerated concrete.**
- (11) Automated meter readers.**
- (12) Any other energy technology that has long term environmental value, energy efficiency, and cost effectiveness.**

Sec. 2. The division shall examine and consider energy efficient technologies for a public works project using a life cycle analysis.

Sec. 3. To the extent technically and economically feasible, the division shall consider the use of energy efficient technology in the plans and specifications for the public works project.

Sec. 4. The division shall keep a record of the following in the public works contract file:

- (1) The contacts the division makes with persons that provide energy efficient technology to implement this chapter.**

(2) An analysis of the feasibility of using energy efficient technology in the public works project.

SECTION 2. IC 5-16-12.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 12.2. Use of Energy Efficient Technology

Sec. 1. As used in this chapter, "contracting agency" refers to the agency, board, commission, officer, or trustee that enters into a public works contract covered by this article.

Sec. 2. As used in this chapter, "energy efficient technology" refers to any of the following:

- (1) Geothermal heating and cooling.**
- (2) Geothermal hot water generation.**
- (3) Solar hot water generation.**
- (4) Photovoltaic power generation.**
- (5) Wind power generation.**
- (6) Combined heat and power.**
- (7) Heat recovery chillers.**
- (8) Condensing boilers and low temperature heat.**
- (9) Air to air energy recovery devices.**
- (10) Autoclaved aerated concrete.**
- (11) Automated meter readers.**
- (12) Any other energy technology that has long term environmental value, energy efficiency, and cost effectiveness.**

Sec. 3. The contracting agency shall examine and consider energy efficient technologies for a public works project using a life cycle analysis.

Sec. 4. To the extent technically and economically feasible, the contracting agency shall consider the use of energy efficient technology in the plans and specifications for the public works project.

Sec. 5. The contracting agency shall keep a record of the following in the public works contract file:

- (1) The contacts the contracting agency makes with persons that provide energy efficient technology to implement this chapter.**
- (2) An analysis of the feasibility of using energy efficient technology in the public works project.**

SECTION 3. IC 36-1-12.7 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 12.7. Use of Energy Efficient Technology

Sec. 1. The definitions in IC 36-1-12 apply throughout this chapter.

Sec. 2. As used in this chapter, "energy efficient technology" refers to any of the following:

- (1) Geothermal heating and cooling.**
- (2) Geothermal hot water generation.**
- (3) Solar hot water generation.**
- (4) Photovoltaic power generation.**
- (5) Wind power generation.**
- (6) Combined heat and power.**
- (7) Heat recovery chillers.**
- (8) Condensing boilers and low temperature heat.**
- (9) Air to air energy recovery devices.**
- (10) Autoclaved aerated concrete.**
- (11) Automated meter readers.**
- (12) Any other energy technology that has long term environmental value, energy efficiency, and cost effectiveness.**

Sec. 3. The board shall examine and consider energy efficient technologies for a public works project using a life cycle analysis.

Sec. 4. To the extent technically and economically feasible, the board shall consider the use of energy efficiency technology in the plans and specifications for the public works project.

Sec. 5. The board shall keep a record of the following in the public works contract file:

- (1) The contacts the board makes with persons that provide energy efficient technology to implement this chapter.**
- (2) An analysis of the feasibility of using energy efficient technology in the public works project.**

P.L.160-2003

[H.1545. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 6-8-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. The following may be an account administrator under this chapter:

- (1) A federal or state chartered:
 - (A) bank;
 - (B) savings association;
 - (C) savings bank; or
 - (D) credit union.
- (2) A trust company authorized to act as a fiduciary.
- (3) An insurance company or a health maintenance organization authorized to do business in Indiana under IC 27.
- (4) A broker-dealer, an agent, or an investment advisor registered under IC 23-2-1.
- (5) A person (A) that holds a certificate of registration is licensed as an insurance administrator or
 (B) for whom the insurance commissioner has waived the requirement of a certificate of registration as an insurance administrator;
 under ~~IC 27-1-25-11~~ IC 27-1-25.
- (6) An employee welfare benefit plan that is governed by the federal Employee Retirement Income Security Act, 29 U.S.C. 1001 et seq.
- (7) An employer that participates in the medical care savings account program.

SECTION 2. IC 27-1-15.8-4, AS ADDED BY P.L.132-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) During the period that a resident surplus lines producer's license is in effect, the licensee shall keep in force a bond in the penal sum of not less than twenty thousand dollars

(\$20,000) with an authorized corporate surety approved by the commissioner. The aggregate liability of the surety for any and all claims on a bond does not exceed the penal sum of the bond. A bond may not be terminated unless written notice of termination is provided by the surety to the licensee and the commissioner not less than thirty (30) days before termination. Upon termination of a **resident** license for which a bond was in effect, the commissioner shall notify the surety of the termination within ten (10) business days. All surety protection under this section inures to the benefit of the state of Indiana to assure the payment of all premium taxes.

(b) A **resident** surplus lines producer shall, at the time of an initial filing under subsection (c), file with the commissioner proof of the bond in the amount required under subsection (a). In each subsequent calendar year, the **resident** surplus lines producer shall file proof that the bond remains in effect. A subsequent filing under this subsection shall be made in conjunction with the annual filing required under subsection (e).

(c) In addition to all other charges, fees, and taxes that may be imposed by law, a surplus lines producer licensed under this chapter shall, on or before February 1 and August 1 of each year, collect from the insured and remit to the department for the use and benefit of the state of Indiana an amount equal to two and one-half percent (2 1/2%) of all gross premiums upon all policies and contracts procured by the surplus lines producer under the provisions of this section during the preceding six (6) month period ending December 31 and June 30, respectively. The declarations page of a policy referred to in this subsection must itemize the amounts of all charges for taxes, fees, and premiums.

(d) A licensed surplus lines producer shall execute and file with the department of insurance on or before the twentieth day of each month an affidavit that specifies all transactions, policies, and contracts procured during the preceding calendar month, including:

- (1) the description and location of the insured property or risk and the name of the insured;
- (2) the gross premiums charged in the policy or contract;
- (3) the name and home office address of the insurer whose policy or contract is issued, and the kind of insurance effected; and
- (4) a statement that:

(A) the licensee, after diligent effort, was unable to procure from any insurer authorized to transact the particular class of insurance business in Indiana the full amount of insurance required to protect the insured; and

(B) the insurance placed under this chapter is not placed for the purpose of procuring it at a premium rate lower than would be accepted by an insurer authorized and licensed to transact insurance business in Indiana.

(e) A licensed surplus lines producer shall file with the department, not later than March 31 of each year, the financial statement, dated as of December 31 of the preceding year, of each unauthorized insurer from whom the surplus lines producer has procured a policy or contract. The insurance commissioner may, in the commissioner's discretion, after reviewing the financial statement of the unauthorized insurer, order the surplus lines producer to cancel an unauthorized insurer's policies and contracts if the commissioner is of the opinion that the financial statement or condition of the unauthorized insurer does not warrant continuance of the risk.

(f) A licensed surplus lines producer shall keep a separate account of all business transacted under this section. The account may be inspected at any time by the commissioner or the commissioner's deputy or examiner.

(g) An insurer that issues a policy or contract to insure a risk under this section is considered to have appointed the commissioner as the insurer's attorney upon whom process may be served in Indiana in any suit, action, or proceeding based upon or arising out of the policy or contract.

(h) The commissioner may revoke or refuse to renew a surplus lines producer's license for failure to comply with this section.

(i) A surplus lines producer licensed under this chapter may accept and place policies or contracts authorized under this section for an insurance producer duly licensed in Indiana, and may compensate the insurance producer even though the insurance producer is not licensed under this chapter.

(j) If a surplus lines producer does not remit an amount due to the department within the time prescribed in subsection (c), the commissioner shall assess the surplus lines producer a penalty of ten percent (10%) of the amount due. The commissioner shall assess a

further penalty of an additional one percent (1%) of the amount due for each month or portion of a month that any amount due remains unpaid after the first month. Penalties assessed under this subsection are payable by the surplus lines producer and are not collectible from an insured.

SECTION 3. IC 27-1-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. At the time of filing its annual statement, an alien or foreign company shall submit, on a form prescribed by the department, a condensed statement of its assets and liabilities as of December 31 of the preceding year. If the department, on examination of such statement, determines from information available to it that it is true and correct, it shall cause such statement to be published in a newspaper in this state selected by the department. In the event the department determines that the statement submitted by a company is inaccurate or incorrect, it shall, after giving the company notice of the proposed changes and an opportunity to be heard, certify the corrected statement and proceed with its publication as above provided. The company shall bear the expenses of the publication, but in no event shall an amount exceeding forty dollars (\$40) be charged for such publication. **Any cost of publication that exceeds forty dollars (\$40) must be borne by the newspaper publishing the statement.**

SECTION 4. IC 27-1-25-1, AS AMENDED BY P.L.132-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

(a) "Administrator", except as provided in section 7.5 of this chapter, means a person who **directly or indirectly and on behalf of an insurer underwrites**, collects charges or premiums from, or ~~who~~ adjusts or settles claims on residents of Indiana in connection with life, **annuity**, or health coverage ~~or annuities, whether offered or provided for by an insurer. or a self-funded plan.~~ The term "administrator" does not include the following persons:

- (1) An employer ~~for its or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees or for the employees of:~~ a
 - (A) **the employer;**
 - (B) **the subsidiary;** or
 - (C) **an affiliated corporation of the employer.**

- (2) A union **acting** for its members.
- (3) An insurer. ~~including:~~
 - (A) ~~an insurer operating a health maintenance organization or a limited service health maintenance organization; and~~
 - (B) ~~the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.~~
- (4) ~~A life or health~~ **An insurance agent producer:**
 - (A) ~~that is licensed under IC 27-1-15.6;~~
 - (B) ~~that has:~~
 - (i) ~~a life; or~~
 - (ii) ~~an accident and health or sickness;~~
 - qualification under IC 27-1-15.6-7; and**
 - (C) ~~whose activities are limited exclusively to the sale of insurance.~~
- (5) A creditor **acting** for its debtors regarding insurance covering a debt between them.
- (6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.
- (7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:
 - (A) the trustees and employees acting pursuant to that trust; or
 - (B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.
- (8) A financial institution that is subject to supervision or examination by federal or state banking authorities **to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.**
- (9) A credit card issuing company that:
 - (A) advances for; and
 - (B) **collects from, when a credit card holder authorizes the collection;****credit card holders of the credit card issuing company, insurance premiums or charges. from its credit cardholders as**

long as that company does not adjust or settle claims.

(10) ~~An individual who~~ **A person that** adjusts or settles claims in the normal course of ~~his the person's~~ practice or employment as an attorney at law and ~~who that~~ does not collect charges or premiums in connection with life, **annuity**, or health ~~insurance~~ coverage. ~~or annuities.~~

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(13) A mortgage lender to the extent that the mortgage lender collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(14) A person that:

(A) is licensed as a managing general agent as required under IC 27-1-33; and

(B) acts exclusively within the scope of activities provided for under the license referred to in clause (A).

(15) A person that:

(A) directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage provided by an insurer;

(B) is affiliated with the insurer; and

(C) performs the duties specified in clause (A) only according to a contract between the person and the insurer for the direct and assumed life, annuity, or health coverage provided by the insurer.

(b) "Certificate of registration" refers to the certificate required by section 11 of this chapter.

(b) "Affiliate" means an entity or a person that:

(1) directly or indirectly through an intermediary controls or is controlled by; or

(2) is under common control with;

a specified entity or person.

(c) "Church plan" has the meaning set forth in IC 27-8-10-1.

(d) "Commissioner" refers to the **insurance** commissioner ~~of insurance~~ appointed under IC 27-1-1-2.

(d) (e) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether:

- (1) through ownership of voting securities;**
- (2) by contract other than a commercial contract for goods or nonmanagement services; or**
- (3) otherwise;**

unless the power is the result of an official position with the person or a corporate office held by the person. Control is presumed to exist if a person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing not less than ten percent (10%) of the voting securities of another person.

(f) "Covered individual" means an individual who is covered under a benefit program provided by an insurer.

(g) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

(e) (h) "GAAP" refers to consistently applied United States generally accepted accounting principles.

(i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

(j) "Home state" means the District of Columbia or any state or territory of the United States in which an administrator is incorporated or maintains the administrator's principal place of business. If the place in which the administrator is incorporated or maintains the administrator's principal place of business is not governed by a law that is substantially similar to this chapter, the administrator's home state is another state:

- (1) in which the administrator conducts the business of the administrator; and**
- (2) that the administrator declares is the administrator's home state.**

(k) "Insurance producer" has the meaning set forth in IC 27-1-15.6-2.

(l) "Insurer" means:

- (1) a person who obtains a certificate of authority under:**
 - (A) IC 27-1-3-20;**
 - (B) IC 27-13-3; or**
 - (C) IC 27-13-34; or**

- (2) an employer that provides life, health, or annuity coverage in Indiana under a governmental plan or a church plan.
- (m) "NAIC" refers to the National Association of Insurance Commissioners.
- (n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.
- (o) "Nonresident administrator" means a person that applies for or holds a license under section 12.2 of this chapter.
- (p) "Person" means an individual; a corporation; a partnership; a limited liability company; or an unincorporated association.
- (g) "Self-funded plan" means a plan for providing benefits for life, health, or annuity coverage by a person who is not an insurer: has the meaning set forth in IC 27-1-15.6-2.
- (q) "Sell" has the meaning set forth in IC 27-1-15.6-2.
- (r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.
- (s) "Underwrite" refers to the:
- (1) acceptance of a group application or an individual application for coverage of an individual in accordance with the written rules of the insurer; or
 - (2) planning and coordination of a benefit program provided by an insurer.
- (t) "Uniform application" means the current version of the NAIC uniform application for third party administrators.

SECTION 5. IC 27-1-25-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) An administrator may act only if there is a written agreement between the administrator and an insurer, employer, employee group, or any other group using the services of an administrator. This agreement must conform to the requirements of sections 4 through 9 of this chapter, which apply to the functions performed by the administrator.

(b) An agreement between an administrator and an insurer, employer, employee group, or any other group must be retained by both parties as part of their official records for a period of not less than five (5) years after the termination of the agreement.

(c) When a policy is issued to a trustee, a copy of the trust agreement and all amendments to it must be:

- (1) furnished by the administrator to the insurer, employer, employee group, or any other group with which it holds a contract the administrator has a written agreement; and

(2) retained as part of the official records of the administrator for a period of not less than five (5) years after the termination of the trust.

- (d) The written agreement **required under subsection (a)** must:
- (1) include a statement of functions that the administrator will perform on behalf of the insurer;**
 - (2) specify the lines, classes, or types of coverage that the administrator is authorized to administer on behalf of the insurer; and**
 - (3) contain provisions concerning the standard of underwriting required by the insurer. ~~employer; employee group; or any other group that is a party to the agreement.~~**

(e) The commissioner may require any written agreement executed by an administrator and an insurer ~~employer; employee group; or any other group~~ to be filed with the department of insurance at the time the administrator applies for a ~~certificate of registration; as required by section 11 of license~~ **under** this chapter. The commissioner may require any written agreement executed subsequent to the original issue of the ~~certificate of registration license~~ to the administrator to be filed with the department at the time the administrator is applying for renewal of the ~~certificate of registration license.~~

(f) An administrator or insurer may, with written notice, terminate a written agreement for cause as provided in the written agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of a dispute regarding the cause for termination of the written agreement. The insurer shall fulfill lawful obligations with respect to coverage affected by the written agreement, regardless of a dispute described in this subsection.

SECTION 6. IC 27-1-25-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If an insurer utilizes the services of an administrator:

- (1) the payment to the administrator of premiums or charges for insurance coverage paid by or on behalf of the insured covered individual are ~~presumed considered~~ to have been received by the insurer when paid to the administrator; and**
- (2) the payment of claims or return premiums paid by the insurer to the administrator are not ~~presumed considered~~ to have been**

paid to the ~~insured~~ **covered individual** or claimant until the payment is received by the ~~insured~~ **covered individual** or claimant.

(b) This section does not limit the rights of an insurer against an administrator resulting from the failure of the administrator to make payments to the insurer, ~~insured parties;~~ **covered individuals**, or claimants.

SECTION 7. IC 27-1-25-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) ~~For the duration of the agreement and for five (5) years after the termination of an agreement;~~ An administrator: ~~or successor administrator:~~

(1) shall maintain at its principal administrative office books and records of all transactions between it ~~the administrator and insurers employers; employee group; or any other group using the services of an administrator for at least five (5) years after the creation of the books and records;~~ or

(2) may transfer the books and records of transactions between the administrator and an insurer with which the administrator has entered into a written agreement under section 2 of this chapter to a new administrator if:

(A) the agreement between the administrator and the insurer is canceled; and

(B) a written agreement for a transfer of the books and records is made between the administrator and the insurer.

If the books and records are transferred to a new administrator under subdivision (2), the new administrator shall acknowledge in writing that the new administrator is responsible for retaining the books and records of the prior administrator as required under subdivision (1). The books and records must be maintained in accordance with generally accepted standards of insurance bookkeeping: record keeping.

(b) The commissioner is entitled to inspect all books and records of the administrator for the purpose of examinations and audits. Trade secrets contained within those books and records, including the identity and addresses of policyholders and certificate holders, **financial information concerning the administrator, and the business plan of the administrator**, are to remain confidential. However, the

commissioner may use that confidential information in proceedings instituted against the administrator.

(c) Any insurer, employer, employee group, or any other group using the services of the administrator is entitled to inspect the books and records of the administrator to the extent necessary for it to fulfill all of its contractual obligations to insured or covered persons. The right of the insurer, employer, employee group, or other group using the services of an administrator under this subsection is subject to any restrictions contained in the written agreement between such party and administrator.

(c) An insurer is the owner of records that:

- (1) are generated by an administrator with which the insurer has entered into a written agreement under section 2 of this chapter; and**
- (2) pertain to the insurer.**

However, the administrator retains the right to continuing access to books and records necessary to fulfill the administrator's contractual obligations to covered individuals, claimants, and the insurer.

(d) An administrator that is licensed under section 11.1 of this chapter shall make available for inspection by the commissioner copies of written agreements with insurers.

(e) An administrator that is licensed under section 11.1 of this chapter shall:

- (1) produce the administrator's accounts, records, and files for examination; and**
- (2) make the administrator's officers available to provide information concerning the affairs of the administrator;**

whenever reasonably required by the commissioner.

(f) An administrator that is licensed under section 11.1 of this chapter shall immediately notify the commissioner of a material change in:

- (1) the ownership or control of the administrator; or**
- (2) another fact or circumstance that affects the administrator's qualification for a license.**

The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.

(g) An administrator that is licensed under section 11.1 of this

chapter and that administers a governmental plan or a church plan shall maintain a bond:

(1) for the use and benefit of:

(A) the commissioner; and

(B) the insurance regulator of any state in which the administrator is authorized to conduct business; and

(2) that covers an individual and a person that has remitted premiums, insurance, charges, or other money to the administrator in the course of the administrator's business;

in an amount equal to the greater of one hundred thousand dollars (\$100,000) or ten percent (10%) of the total of funds administered in connection with governmental plans or church plans in Indiana and all other states in which the administrator is authorized to conduct business.

SECTION 8. IC 27-1-25-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. An administrator may use advertising relating to the business underwritten by an insurer only to the extent that the advertising has been approved **in writing** by that insurer **before the advertising is used.**

SECTION 9. IC 27-1-25-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. **(a) If an insurer uses the services of an administrator, the insurer is responsible for:**

(1) determining the:

(A) benefits;

(B) premium rates;

(C) underwriting criteria; and

(D) claims payment procedures;

that apply to the coverage; and

(2) securing reinsurance.

(b) An insurer shall provide to an administrator, with the written agreement required under section 2 of this chapter:

(1) the rules that the administrator must follow in administering the coverage, as determined under subsection (a); and

(2) the responsibilities of the administrator as to administering the coverage.

(c) An insurer that uses the services of an administrator has sole

responsibility for the competent administration of benefit programs provided by the insurer.

(d) If an administrator administers benefits for more than one hundred (100) covered individuals on behalf of an insurer, the insurer shall, not less than semiannually, review the operations of the administrator. At least one (1) of the semiannual reviews must be an onsite audit of the operations of the administrator.

SECTION 10. IC 27-1-25-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An administrator is a fiduciary in collecting or returning premiums or charges for the **party insurer** with whom it has a written agreement for administrative services.

(b) Funds collected by the administrator shall be immediately remitted to the person entitled to the funds or deposited in a fiduciary **bank** account, which shall be established and maintained by the administrator **in a federally insured or state insured financial institution.**

(c) The administrator shall maintain records clearly showing the deposits and withdrawals from the fiduciary **bank** account for each **party insurer** with whom it has a written agreement for administrative services. The administrator shall furnish to the **party insurer:**

- (1) upon his the insurer's request, copies of the required records; and**
- (2) at intervals specified in the written agreement, a periodic accounting of transactions performed by the administrator pertaining to the business underwritten by the insurer.**

(d) Subject to the written agreement required by section 2 of this chapter, withdrawals from the fiduciary **bank** account shall only be made for the following:

- (1) Remittance to an insurer entitled to the funds.
- (2) Deposit in an account maintained in the name of the **party insurer** with whom the administrator has a written agreement.
- (3) Transfer to and deposit in a claims paying account, with claims to be paid as required under section 7 of this chapter.
- (4) Payment to a group policyholder for remittance to the insurer entitled to the funds.
- (5) Payment to the administrator for its commission, fees, or charges.

(6) Remittance of return premiums to the person entitled to the funds.

(e) An administrator may not pay any claim with money withdrawn from a fiduciary account established under subsection (b) in which premiums or charges are deposited.

SECTION 11. IC 27-1-25-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. All claims paid by an administrator from funds collected on behalf of an insurer shall only be paid on drafts **or checks** authorized by the insurer. ~~All claims paid by the administrator from funds collected on behalf of an employer, an employee group, or any other group shall only be paid on drafts authorized by that party.~~

SECTION 12. IC 27-1-25-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~When an administrator adjusts or settles claims under a policy the administrator's compensation for that policy may not be contingent on claim experience. However, the compensation for an administrator may be based on premiums or charges collected or on the number of claims paid or processed.~~ **(a) An administrator may not enter into an agreement or understanding with an insurer if the effect of the agreement or understanding is to make the amount of a:**

- (1) commission;**
- (2) fee; or**
- (3) charge;**

that is payable to the administrator contingent on savings effected in the adjustment, settlement, and payment of losses covered by the insurer's obligations.

(b) This section does not prevent an administrator from receiving performance based compensation for providing hospital auditing services or other auditing services.

SECTION 13. IC 27-1-25-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. Policies, certificates, booklets, termination notices, or other written communications delivered by an insurer to an administrator for delivery to its ~~policyholders~~ **covered individuals** shall be delivered by the administrator promptly after receipt of instructions from the insurer to do so.

SECTION 14. IC 27-1-25-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An administrator having a written agreement with an insurer shall provide written notice, which must first be approved by the insurer, to ~~the insured covered~~ persons advising them of the relationship among the administrator, the ~~policyholder covered person~~, and the insurer.

(b) An administrator having a written agreement with an employer, an employee group, or any other group shall provide written notice, which must first be approved by that party, to the insured persons advising them of the relationship among the administrator, the policyholder, and the employer, the employee group, or any other group.

(c) (b) When the administrator collects premiums or charges, the administrator shall state separately the amount of any premium or charge for insurance coverage specified by the insurer to the person paying the premium or charge. **Additional charges may not be made for a service to the extent that the charge for the service has been paid by the insurer.**

(c) The administrator shall disclose to the insurer:

- (1) charges;
- (2) fees; and
- (3) commissions;

received by the administrator in connection with the provision of administrative services for the insurer, including fees or commissions paid by insurers that provide reinsurance.

SECTION 15. IC 27-1-25-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.1. (a) **If the home state of a person is Indiana, the person shall:**

- (1) apply to act as an administrator in Indiana upon the uniform application; and
 - (2) receive a license from the commissioner;
- before performing the function of an administrator in Indiana.**

(b) **The uniform application must include or be accompanied by the following:**

- (1) **Basic organizational documents of the applicant, including:**
 - (A) **articles of incorporation;**
 - (B) **articles of association;**

- (C) partnership agreement;
 - (D) trade name certificate;
 - (E) trust agreement;
 - (F) shareholder agreement;
 - (G) other applicable documents; and
 - (H) amendments to the documents specified in clauses (A) through (G).
- (2) Bylaws, rules, regulations, or other documents that regulate the internal affairs of the applicant.
- (3) The NAIC biographical affidavits for individuals who are responsible for the conduct of affairs of the applicant, including:
- (A) members of the applicant's:
 - (i) board of directors;
 - (ii) board of trustees;
 - (iii) executive committee; or
 - (iv) other governing board or committee;
 - (B) principal officers, if the applicant is a corporation;
 - (C) partners or members, if the applicant is:
 - (i) a partnership;
 - (ii) an association; or
 - (iii) a limited liability company;
 - (D) shareholders or members that hold, directly or indirectly, at least ten percent (10%) of the:
 - (i) voting stock;
 - (ii) voting securities; or
 - (iii) voting interest;of the applicant; and
 - (E) any other person who exercises control or influence over the affairs of the applicant.
- (4) Financial information reflecting a positive net worth, including:
- (A) audited annual financial statements prepared by an independent certified public accountant for the two (2) most recent fiscal years; or
 - (B) if the applicant has been in business for less than two (2) fiscal years, financial statements or reports that are:
 - (i) prepared in accordance with GAAP; and
 - (ii) certified by an officer of the applicant;

for any completed fiscal years and for any month during the current fiscal year for which financial statements or reports have been completed.

If an audited financial statement or report required under clause (A) or (B) is prepared on a consolidated basis, the statement or report must include a columnar consolidating or combining worksheet that includes the amounts shown on the consolidated audited financial statement or report, separately reported on the worksheet for each entity included on the statement or report, and an explanation of consolidating and eliminating entries.

(5) Information determined by the commissioner to be necessary for a review of the current financial condition of the applicant.

(6) A description of the business plan of the applicant, including:

(A) information on staffing levels and activities proposed in Indiana and nationwide; and

(B) details concerning the applicant's ability to provide a sufficient number of experienced and qualified personnel for:

(i) claims processing;

(ii) record keeping; and

(iii) underwriting.

(7) Any other information required by the commissioner.

(c) An administrator that applies for licensure under this section shall make copies of written agreements with insurers available for inspection by the commissioner.

(d) An administrator that applies for licensure under this section shall:

(1) produce the administrator's accounts, records, and files for examination; and

(2) make the administrator's officers available to provide information concerning the affairs of the administrator;

whenever reasonably required by the commissioner.

(e) The commissioner may refuse to issue a license under this section if the commissioner determines that:

(1) the administrator or an individual who is responsible for the conduct of the affairs of the administrator:

(A) is not:

- (i) competent;**
- (ii) trustworthy;**
- (iii) financially responsible; or**
- (iv) of good personal and business reputation; or**

(B) has had an:

- (i) insurance certificate of authority or insurance license;**
or
- (ii) administrator certificate of authority or administrator license;**
denied or revoked for cause by any jurisdiction;
- (2) the financial information provided under subsection (b)(4) does not reflect that the applicant has a positive net worth; or**
- (3) any of the grounds set forth in section 12.4 of this chapter exists with respect to the administrator.**

(f) An administrator that applies for a license under this section shall immediately notify the commissioner of a material change in:

- (1) the ownership or control of the administrator; or**
- (2) another fact or circumstance that affects the administrator's qualification for a license.**

The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.

(g) An administrator that applies for a license under this section and will administer a governmental plan or a church plan shall obtain a bond as required under section 4(g) of this chapter.

(h) A license that is issued under this section is valid until:

- (1) the license is:**
 - (A) surrendered; or**
 - (B) suspended or revoked by the commissioner; or**
- (2) the administrator:**
 - (A) ceases to do business in Indiana; or**
 - (B) is not in compliance with this chapter.**

SECTION 16. IC 27-1-25-12.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.2. (a) An administrator that:**

- (1) performs the duties of an administrator in Indiana; and**
- (2) does not hold a license issued under section 11.1 of this chapter;**

shall obtain a nonresident administrator license under this section by filing a uniform application with the commissioner.

(b) Unless the commissioner verifies the nonresident administrator's home state license status through an electronic data base maintained by the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform application filed under subsection (a) must be accompanied by a letter of certification from the nonresident administrator's home state, verifying that the nonresident administrator holds a resident administrator license in the home state.

(c) A nonresident administrator is not eligible for a nonresident administrator license under this section unless the nonresident administrator is licensed as a resident administrator in a home state that has a law or regulation that is substantially similar to this chapter.

(d) Except as provided in subsections (b) and (h), the commissioner shall issue a nonresident administrator license to a nonresident administrator that makes a filing under subsections (a) and (b) upon receipt of the filing.

(e) Unless a nonresident administrator is notified by the commissioner that the commissioner is able to verify the nonresident administrator's home state licensure through an electronic data base described in subsection (b), the nonresident administrator shall:

- (1) on September 15 of each year, file a statement with the commissioner affirming that the nonresident administrator maintains a current license in the nonresident administrator's home state; and
- (2) pay a filing fee as required by the commissioner.

(f) A nonresident administrator that applies for licensure under this section shall:

- (1) produce the accounts of the nonresident administrator;
- (2) produce the records and files of the nonresident administrator for examination; and
- (3) make the officers of the nonresident administrator available to provide information with respect to the affairs of the nonresident administrator;

when reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a

nonresident administrator license in Indiana if the nonresident administrator's function in Indiana is limited to the administration of life, health, or annuity coverage for a total of not more than one hundred (100) Indiana residents.

(h) The commissioner may refuse to issue or may delay the issuance of a nonresident administrator license if the commissioner determines that:

- (1) due to events occurring; or**
- (2) based on information obtained;**

after the nonresident administrator's home state's licensure of the nonresident administrator, the nonresident administrator is unable to comply with this chapter or grounds exist for the home state's revocation or suspension of the nonresident administrator's home state license.

(i) If the commissioner makes a determination described in subsection (h), the commissioner:

- (1) shall provide written notice of the determination to the insurance regulator of the nonresident administrator's home state; and**
- (2) may delay the issuance of a nonresident administrator license to the nonresident administrator until the commissioner determines that the nonresident administrator is able to comply with this chapter and that grounds do not exist for the home state's revocation or suspension of the nonresident administrator's home state license.**

SECTION 17. IC 27-1-25-12.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.3. (a) An administrator that is licensed under section 11.1 of this chapter shall, not later than July 1 of each year unless the commissioner grants an extension of time for good cause, file a report for the previous calendar year that complies with the following:

- (1) The report must contain financial information reflecting a positive net worth prepared in accordance with section 11.1(b)(4) of this chapter.**
- (2) The report must be in the form and contain matters prescribed by the commissioner.**
- (3) The report must be verified by at least two (2) officers of the administrator.**

(4) The report must include the complete names and addresses of insurers with which the administrator had a written agreement during the preceding fiscal year.

(5) The report must be accompanied by a filing fee determined by the commissioner.

(b) The commissioner shall review a report filed under subsection (a) not later than September 1 of the year in which the report is filed. Upon completion of the review, the commissioner shall:

(1) issue a certification to the administrator:

(A) indicating that:

(i) the financial statement reflects a positive net worth; and

(ii) the administrator is currently licensed and in good standing; or

(B) noting deficiencies found in the report; or

(2) update an electronic data base that is maintained by the NAIC or by an affiliate or a subsidiary of the NAIC:

(A) indicating that the administrator is solvent and in compliance with this chapter; or

(B) noting deficiencies found in the report.

SECTION 18. IC 27-1-25-12.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.4. (a) The commissioner shall deny, suspend, or revoke a license issued under this chapter if the commissioner determines that the administrator:**

(1) is in unsound financial condition;

(2) engages in methods or practices in the conduct of the administrator's business so as to render the administrator's continued transaction of business in Indiana hazardous or injurious to covered persons or the public; or

(3) fails to pay a judgment rendered against the administrator in Indiana not more than sixty (60) days after the judgment is final and all appeals have been exhausted.

(b) The commissioner may deny, suspend, or revoke a license issued under this chapter if the commissioner determines that:

(1) the administrator has violated a lawful rule or order of the commissioner or a provision of the insurance laws of Indiana;

(2) the administrator refuses to be examined or to produce the

administrator's accounts, records, and files for examination;
(3) an individual who is responsible for the conduct of the affairs of the administrator, including:

- (A) a member of the administrator's:**
 - (i) board of directors;**
 - (ii) board of trustees;**
 - (iii) executive committee; or**
 - (iv) other governing board or committee;**
- (B) a principal officer, if the administrator is a corporation;**
- (C) a partner or member, if the administrator is:**
 - (i) a partnership;**
 - (ii) an association; or**
 - (iii) a limited liability company;**
- (D) a shareholder or member that holds, directly or indirectly, ten percent (10%) or more of the:**
 - (i) voting stock;**
 - (ii) voting securities; or**
 - (iii) voting interest;**
- of the administrator; or**
- (E) any other person who exercises control or influence over the affairs of the administrator;**

refuses to provide information with respect to the administrator's business or to perform another legal obligation with respect to an examination when required by the commissioner;

- (4) the administrator, without just cause:**
 - (A) refuses to pay proper claims or to perform services arising under a written agreement;**
 - (B) causes a covered individual to accept less than the amount due to the covered individual; or**
 - (C) causes a covered individual to employ an attorney or bring suit against the administrator to secure full payment or settlement of a proper claim;**
- (5) the administrator fails to meet a qualification for which issuance of the administrator's license could have been refused if the failure had existed and been known by the commissioner at the time of license issuance;**
- (6) an individual who is responsible for the conduct of the**

affairs of the administrator, including:

- (A) a member of the administrator's:**
 - (i) board of directors;**
 - (ii) board of trustees;**
 - (iii) executive committee; or**
 - (iv) other governing board or committee;**
- (B) a principal officer, if the administrator is a corporation;**
- (C) a partner or member, if the administrator is:**
 - (i) a partnership;**
 - (ii) an association; or**
 - (iii) a limited liability company;**
- (D) a shareholder or member that holds, directly or indirectly, ten percent (10%) or more of the:**
 - (i) voting stock;**
 - (ii) voting securities; or**
 - (iii) voting interest;**
- of the administrator; or**
- (E) any other person who exercises control or influence over the affairs of the administrator;**

is convicted of or enters a plea of guilty or nolo contendere to a felony, without regard to whether adjudication is withheld;

(7) the administrator's license has been suspended or revoked in another state; or

(8) the administrator fails to timely file the:

- (A) report required under section 12.3 of this chapter; or**
- (B) statement and pay the filing fee required under section 12.2(e) of this chapter.**

(c) The commissioner may, in the commissioner's discretion and without advance notice or hearing, immediately suspend the license of an administrator if the commissioner finds one (1) or more of the following:

- (1) The administrator is insolvent or financially impaired.**
- (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state.**
- (3) The financial condition or business practices of the administrator pose an imminent threat to the public health, safety, or welfare of residents of Indiana.**

(d) If the commissioner determines that cause exists for the suspension or revocation of a license issued under this chapter, the commissioner may, instead of suspension or revocation, impose a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per act or violation upon the administrator. A civil penalty imposed under this subsection may be enforced in the same manner as a civil judgment. Civil penalties collected under this subsection shall be deposited in the state general fund.

SECTION 19. IC 27-1-25-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided by section 4(b) of this chapter, and except that all provisions of the written agreement between the administrator and an insurer ~~employer, employee group, or any other group using the services of an administrator~~ shall be treated by the commissioner as confidential and shall not be open to any member of the public for inspection or copying, all documents submitted to the commissioner under this chapter are public documents:

- (1) when filed by the commissioner; or
- (2) thirty (30) days after their receipt by the department.

(b) Any financial information concerning an administrator submitted by an administrator to the commissioner must remain confidential and is not open to any member of the public for inspection or copying. However, the commissioner may use the financial information in a proceeding under section ~~11(b)~~ **12.4** of this chapter.

SECTION 20. IC 27-1-25-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) An administrator acting without ~~the certificate of registration required under section 11~~ **of a license issued under** this chapter commits a Class C infraction.

(b) The commissioner shall notify the prosecuting attorney or the attorney general of Indiana of violations **under subsection (a)**.

SECTION 21. IC 27-1-25-16 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16. (a) A presumption of control arising under section 1(e) of this chapter may be rebutted by a showing made in the manner provided under IC 27-1-23-3(k) that control does not exist in fact.**

(b) In the absence of a presumption that control exists in fact,

the commissioner may determine that control exists in fact after:

- (1) providing notice and an opportunity to be heard under IC 4-21.5 to all interested parties; and**
- (2) making specific findings of fact to support the determination.**

SECTION 22. IC 27-1-25.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 25.1. Certain Insurer Responsibilities

Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 27-1-25-1(b).

Sec. 2. As used in this chapter, "insurer" has the meaning set forth in IC 27-1-25-1(l).

Sec. 3. As used in this chapter, "person" refers to a person described in IC 27-1-25-1(a)(15).

Sec. 4. The insurer with which a person is affiliated is responsible for:

- (1) the acts of the person; and**
- (2) providing the person's books and records to the commissioner.**

SECTION 23. IC 27-1-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** If an insurer refuses to renew a policy of insurance written by the insurer, the insurer shall provide written notice of nonrenewal to the insured:

- (1) at least forty-five (45) days before the expiration date of the policy, if the coverage provided is for one (1) year, or less; or**
- (2) at least forty-five (45) days before the anniversary date of the policy, if the coverage provided is for more than one (1) year.**

(b) A notice of nonrenewal is not required if:

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;**
- (2) the transfer results in the same or broader coverage; and**
- (3) the insured approves the transfer.**

SECTION 24. IC 27-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance

notice of its intention not to renew. In the event such policy was procured by an agent duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to such agent at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by such agent.

This section shall not apply: (a) if the insurer has manifested its willingness to renew; nor (b) in case of nonpayment of premium: Provided, That, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies. **A notice of intention not to renew is not required if:**

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;**
- (2) the transfer results in the same or broader coverage; and**
- (3) the insured approves the transfer.**

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

SECTION 25. IC 27-8-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "claim review agent" means any entity performing medical claims review on behalf of an insurance company, a health maintenance organization, or another benefit program providing payment, reimbursement, or indemnification for health care costs to an enrollee.

(b) The term does not include the following:

- (1) An insurance company authorized under IC 27-1-3 or IC 27-1-17 to do business in Indiana or the company's affiliated companies.
- (2) An entity acting on behalf of the federal or state government. However, an agent described in this subdivision who performs medical claims review for a person other than the federal or state government is a claim review agent who is subject to the requirements of this chapter.
- (3) A health maintenance organization or limited service health maintenance organization that holds a certificate of authority to

operate under IC 27-13.

(4) An insurance administrator that ~~holds a certificate of registration issued is licensed~~ under IC 27-1-25.

(5) An individual qualified and acting as an expert witness under the Indiana Rules of Trial Procedure.

SECTION 26. IC 27-8-16-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) As used in this chapter, "claim review consultant" means a person who:

(1) makes a recommendation or provides consultation to:

(A) an entity engaged in performing medical claims review; or

(B) an insurance company, a health maintenance organization, or another benefit program providing payment, reimbursement, or indemnification for health care costs to an enrollee;

concerning the appropriateness of a health care service or the amount charged for a health care service delivered to an enrollee in Indiana; and

(2) is not an employee of an entity referred to in subdivision (1)(A) or (1)(B).

(b) Making a recommendation or providing consultation concerning a health care service does not render a person a claim review consultant under this section if the recommendation or consultation concerns:

(1) coverage provided; or

(2) medical services rendered;

under IC 22.

(c) The term "claim review consultant" does not include the following:

(1) An insurance company authorized under IC 27 to do business in Indiana.

(2) An entity acting on behalf of the federal or state government. However, an agent described in this subdivision who performs medical claims review for a person other than the federal or state government is a claim review agent who is subject to the requirements of this chapter.

(3) A health maintenance organization or limited service health maintenance organization that holds a certificate of authority to operate under IC 27-13.

(4) An insurance administrator ~~who holds a certificate of~~

~~registration issued~~ **that is licensed** under IC 27-1-25.

(5) An individual qualified and acting as an expert witness under the Indiana Rules of Trial Procedure.

(6) A person who engages in the prospective, concurrent, or retrospective utilization review of health care services.

(7) A person who engages in the identification of alternative, optional medical care that:

(A) requires the approval of the enrollee or covered individual; and

(B) does not affect coverage or benefits if rejected by the enrollee or covered individual.

(8) An individual who is a licensed health care provider who makes a recommendation or provides consultation concerning the appropriateness of health care service. However, this exception does not apply if the individual:

(A) makes any recommendations or provides consultation concerning the amount charged for a health care service delivered in Indiana;

(B) makes any recommendations or provides consultation concerning the appropriateness of hospital services provided by a hospital licensed under IC 12-25 or IC 16-21;

(C) is employed by or under contract with an entity that is required to be registered under this chapter; or

(D) has received more than five thousand dollars (\$5,000) in compensation during the present calendar year for providing consultation services concerning the appropriateness of health care services delivered to enrollees in Indiana.

(9) A claim review agent under section 1 of this chapter.

SECTION 27. IC 35-43-5-1, AS AMENDED BY SEA 320-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or as a computer generated document, including the following:

(1) An account.

- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.
- (11) A receipt for payment.
- (12) A physician's records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and
- (2) in return for the insertion or deposit of a coin, bill, or token automatically:
 - (A) to offer, provide, or assist in providing; or
 - (B) to permit the acquisition of;
some property.

(d) "Credit card" means an instrument or device (whether known as a credit card or charge plate, or by any other name) issued by an issuer for use by or on behalf of the credit card holder in obtaining property.

(e) "Credit card holder" means the person to whom or for whose benefit the credit card is issued by an issuer.

(f) "Customer" means a person who receives or has contracted for a utility service.

(g) "Entrusted" means held in a fiduciary capacity or placed in charge of a person engaged in the business of transporting, storing, lending on, or otherwise holding property of others.

(h) "Identifying information" means information that identifies an individual, including an individual's:

- (1) name, address, date of birth, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental

entity;

(2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access that may be used to:

(A) obtain money, goods, services, or any other thing of value; or

(B) initiate a transfer of funds.

(i) "Insurance policy" includes the following:

(1) An insurance policy.

(2) A contract with a health maintenance organization (as defined in IC 27-13-1-19).

(3) ~~An administrator contract~~ **A written agreement** entered into under IC 27-1-25.

(j) "Insurer" has the meaning set forth in IC 27-1-2-3(x).

(k) "Manufacturer" means a person who manufactures a recording. The term does not include a person who manufactures a medium upon which sounds or visual images can be recorded or stored.

(l) "Make" means to draw, prepare, complete, counterfeit, copy or otherwise reproduce, or alter any written instrument in whole or in part.

(m) "Metering device" means a mechanism or system used by a utility to measure or record the quantity of services received by a customer.

(n) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes poor relief, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(o) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

- (B) compact disc;
- (C) wire;
- (D) tape;
- (E) audio cassette;
- (F) video cassette; or
- (G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(p) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(q) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

(r) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 27-1-25-11; IC 27-1-25-12.

SECTION 29. [EFFECTIVE JULY 1, 2003] **(a) An administrator that has a certificate of registration issued under IC 27-1-25, before amendment by this act, on June 30, 2003, is considered to be licensed under IC 27-1-25, as amended by this act, until the expiration of the certificate of registration.**

(b) This SECTION expires June 30, 2006.

P.L.161-2003

[H.1620. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-5-2-7, AS AMENDED BY P.L.272-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A school corporation, including a school township, shall adopt a policy concerning criminal history information for individuals who:

- (1) apply for:
 - (A) employment with the school corporation; or
 - (B) employment with an entity with which the school corporation contracts for services;
- (2) seek to enter into a contract to provide services to the school corporation; or
- (3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;

if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a school township, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section may require any of the following:

- (1) The school corporation, including a school township, may request limited criminal history information concerning each applicant for noncertificated employment or certificated employment from a local or state law enforcement agency before or not later than three (3) months after the applicant's employment by the school corporation.
- (2) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation to request under IC 5-2-5 limited criminal history information or a national criminal history

background check concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation may require the individual to provide a set of fingerprints and pay any fees required for a national criminal history background check.

(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in IC 5-2-5-1(1)) to the school corporation.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under IC 5-2-5;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 5-2-5-1(6)) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in ~~subdivision (4)(A) and (4)(B)~~. ~~The school corporation either may require that the individual or the contractor comply with the procedures described in subdivision (4)(C) or (5)~~. **subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a**

school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation. Failure to comply with subdivisions (2), (4), and (5), as required by the school corporation, is grounds for termination of the contract. An entity that enters into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.

(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(d) Information obtained under this section must be used in accordance with IC 5-2-5-6.

SECTION 2. IC 20-6.1-3-7, AS AMENDED BY P.L.37-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) On the written recommendation of the state superintendent, the board may **suspend or** revoke a license for:

- (1) immorality;
- (2) misconduct in office;
- (3) incompetency; or
- (4) willful neglect of duty.

However, for each **suspension or** revocation, the board shall comply with IC 4-21.5-3.

(b) **This subsection applies when a prosecuting attorney knows that a licensed employee of a public school (as defined in IC 20-10.1-1-2) or a nonpublic school has been convicted of an offense listed in subsection (d). The prosecuting attorney shall immediately give written notice of the conviction to the following:**

- (1) **The state superintendent.**
- (2) **Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority for the nonpublic school.**
- (3) **The presiding officer of the governing body of the school**

corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(c) The superintendent of a school corporation, **presiding officer of the governing body**, or equivalent authority for ~~an accredited a~~ nonpublic school shall immediately notify the state superintendent when the person knows that a current or former licensed employee of the **public school corporation** or ~~accredited~~ nonpublic school has been convicted of an offense listed in subsection ~~(c):~~ **(d)**.

~~(c)~~ **(d)** The board, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the board to have been convicted of any of the following ~~offenses:~~ **felonies:**

(1) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(2) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.

~~(2)~~ **(4) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.**

~~(3)~~ **(5) Child molesting (IC 35-42-4-3).**

~~(4)~~ **(6) Child exploitation (IC 35-42-4-4(b)).**

~~(5)~~ **(7) Vicarious sexual gratification (IC 35-42-4-5).**

~~(6)~~ **(8) Child solicitation (IC 35-42-4-6).**

~~(7)~~ **(9) Child seduction (IC 35-42-4-7).**

~~(8)~~ **(10) Sexual misconduct with a minor (IC 35-42-4-9).**

~~(9)~~ **(11) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.**

(12) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).

(13) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).

(14) Dealing in a schedule IV controlled substance (IC 35-48-4-3).

(15) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(16) Dealing in a counterfeit substance (IC 35-48-4-5).

(17) Dealing in marijuana, hash oil, or hashish

(IC 35-48-4-10(b)).

~~(d)~~ (e) A license may be suspended by the state superintendent as specified in IC 20-6.1-4-13.

SECTION 3. IC 20-6.1-4-10, AS AMENDED BY P.L.228-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An indefinite contract with a permanent teacher may be canceled in the manner specified in section 11 of this chapter ~~for only~~ **for one (1) or more of** the following grounds:

- (1) Immorality.
- (2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.
- (3) Neglect of duty.
- (4) Incompetency.
- (5) Justifiable decrease in the number of teaching positions.
- (6) A conviction for
 - (A) rape (IC 35-42-4-1); if the victim is less than eighteen (18) years of age;
 - (B) criminal deviate conduct (IC 35-42-4-2); if the victim is less than eighteen (18) years of age;
 - (C) child molesting (IC 35-42-4-3);
 - (D) child exploitation (IC 35-42-4-4(b));
 - (E) vicarious sexual gratification (IC 35-42-4-5);
 - (F) child solicitation (IC 35-42-4-6);
 - (G) child seduction (IC 35-42-4-7);
 - (H) sexual misconduct with a minor as a Class A or B felony (IC 35-42-4-9); or
 - (I) incest (IC 35-46-1-3); if the victim is less than eighteen (18) years of age; or

an offense listed in IC 20-6.1-3-7(d).

- (7) Other good and just cause.

When the cause of cancellation is ground (1), (2), or (6), the cancellation is effective immediately. When the cause of cancellation is ground (3), (4), (5), or (7), the cancellation is effective at the end of the school term following the cancellation.

(b) An indefinite contract may not be canceled for political or personal reasons.

SECTION 4. IC 20-6.1-4-10.5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.5. (a) An indefinite contract with a semipermanent teacher may be canceled in the manner specified in section 11 of this chapter only for **one (1) or more of** the following grounds:

- (1) Immorality.
- (2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.
- (3) Neglect of duty.
- (4) Substantial inability to perform teaching duties.
- (5) Justifiable decrease in the number of teaching positions.
- (6) Good and just cause.
- (7) The cancellation is in the best interest of the school corporation.
- (8) A conviction for
 - (A) rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age;
 - (B) criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age;
 - (C) child molesting (IC 35-42-4-3);
 - (D) child exploitation (IC 35-42-4-4(b));
 - (E) vicarious sexual gratification (IC 35-42-4-5);
 - (F) child solicitation (IC 35-42-4-6);
 - (G) child seduction (IC 35-42-4-7); or
 - (H) incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

an offense listed in IC 20-6.1-3-7(d).

(b) An indefinite contract with a semipermanent teacher may not be canceled for political or personal reasons.

(c) Before the cancellation of a semipermanent teacher's indefinite contract, the principal of the school at which the teacher teaches shall provide the teacher with a written evaluation of the teacher's performance before January 1 of each year. Upon the request of a semipermanent teacher, delivered in writing to the principal within thirty (30) days after the teacher receives the evaluation required by this section, the principal shall provide the teacher with an additional written evaluation.

SECTION 5. IC 34-13-3-3, AS AMENDED BY P.L.1-2002,

SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
- (3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
- (4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
- (5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:
 - (A) a set of rules governing the use of the extreme sport area;
 - (B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
 - (C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

- (6) The initiation of a judicial or an administrative proceeding.
- (7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
- (8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
- (9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
- (10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
- (11) The issuance, denial, suspension, or revocation of, or failure

or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a **pretrial conditional release program under IC 35-33-8**, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73) if the claimed loss occurs at least twenty (20) years after the public highway was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-8.1-5.1-7(b).

(21) An error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

- (A) a computer;
- (B) an information system; or
- (C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

(22) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

SECTION 6. IC 34-13-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed three hundred thousand dollars (\$300,000) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars (\$5,000,000) for injury to or death of all persons in that occurrence. A governmental entity **or an employee of a governmental entity acting within the scope of employment** is not liable for punitive damages.

SECTION 7. IC 34-13-3-5, AS AMENDED BY P.L.192-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Civil actions relating to acts taken by a board, a committee, a commission, an authority, or another

instrumentality of a governmental entity may be brought only against the board, the committee, the commission, the authority, or the other instrumentality of a governmental entity. A member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity may not be named as a party in a civil suit that concerns the acts taken by a board, a committee, a commission, an authority, or another instrumentality of a governmental entity where the member was acting within the scope of the member's employment. For the purposes of this subsection, a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity is acting within the scope of the member's employment when the member acts as a member of the board, committee, commission, authority, or other instrumentality.

(b) A judgment rendered with respect to or a settlement made by a governmental entity bars an action by the claimant against an employee, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity, whose conduct gave rise to the claim resulting in that judgment or settlement. A lawsuit alleging that an employee acted within the scope of the employee's employment ~~must be exclusive to the complaint and~~ bars an action by the claimant against the employee personally. However, if the governmental entity answers that the employee acted outside the scope of the employee's employment, the plaintiff may amend the complaint and sue the employee personally. An amendment to the complaint by the plaintiff under this subsection must be filed not later than one hundred eighty (180) days from the date the answer was filed and may be filed notwithstanding the fact that the statute of limitations has run.

(c) A lawsuit filed against an employee personally must allege that an act or omission of the employee that causes a loss is:

- (1) criminal;
- (2) clearly outside the scope of the employee's employment;
- (3) malicious;
- (4) willful and wanton; or
- (5) calculated to benefit the employee personally.

The complaint must contain a reasonable factual basis supporting the allegations.

(d) This subsection applies when the governmental entity defends or has received proper legal notice and has the opportunity

to defend an employee for losses resulting from the employee's acts or omissions. Subject to the provisions of sections 4, 14, 15, and 16 of this chapter, the governmental entity shall pay any judgment ~~compromise, or settlement~~ of a claim or suit against an employee when ~~(1)~~ the act or omission causing the loss is within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss. ~~and~~

~~(2)~~ the:

~~(A) governor in the case of a claim or suit against a state employee; or~~

~~(B) governing body of the political subdivision; in the case of a claim or suit against an employee of a political subdivision; determines that paying the judgment compromise or settlement is in the best interest of the governmental entity.~~

(e) The governmental entity shall provide counsel for and pay all costs and fees incurred by or on behalf of an employee in defense of a claim or suit for a loss occurring because of acts or omissions within the scope of the employee's employment, regardless of whether the employee can or cannot be held personally liable for the loss.

(f) This chapter shall not be construed as:

(1) a waiver of the eleventh amendment to the Constitution of the United States;

(2) consent by the state of Indiana or its employees to be sued in any federal court; or

(3) consent to be sued in any state court beyond the boundaries of Indiana.

SECTION 8. IC 34-13-4-1, AS AMENDED BY P.L.192-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If a present or former public employee, including a member of a board, a committee, a commission, an authority, or another instrumentality of a governmental entity, is or could be subject to personal civil liability for a loss occurring because of a noncriminal act or omission within the scope of the public employee's employment which violates the civil rights laws of the United States, the governmental entity **(when the governmental entity defends or has the opportunity to defend the public employee)** shall, subject to IC 34-13-3-4, IC 34-13-3-14, IC 34-13-3-15, and IC 34-13-3-16, pay:

- (1) any judgment ~~compromise, or settlement~~ (other than for **punitive damages**) of the claim or suit; ~~when:~~ or
 (2) any judgment for **punitive damages, compromise, or settlement of the claim or suit if:**

(+) (A) the governor, in the case of a claim or suit against a state employee; or

(-) (B) the governing body of the political subdivision, in the case of a claim or suit against an employee of a political subdivision;

determines that paying the judgment for **punitive damages, compromise, or settlement** is in the best interest of the governmental entity. The governmental entity shall also pay all costs and fees incurred by or on behalf of a public employee in defense of the claim or suit.

SECTION 9. IC 34-30-2-84.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 84.5. IC 20-6.1-3-7 (Concerning a person who makes a report concerning a teacher).**

SECTION 10. IC 35-42-4-7, AS AMENDED BY P.L.228-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) As used in this section, "adoptive parent" has the meaning set forth in IC 31-9-2-6.

(b) As used in this section, "adoptive grandparent" means the parent of an adoptive parent.

(c) As used in this section, "child care worker" means a person who:

(1) provides care, supervision, or instruction to a child within the scope of the person's employment in a ~~public or private school or shelter care facility;~~ or

(2) is employed by a:

(A) **school corporation;** or

(B) **nonpublic school;**

attended by a child who is the victim of a crime under this chapter.

(d) As used in this section, "custodian" means any person who resides with a child and is responsible for the child's welfare.

(e) **As used in this section, "nonpublic school" has the meaning set forth in IC 20-10.1-1-3.**

(f) **As used in this section, "school corporation" has the meaning**

set forth in IC 20-10.1-1-1.

(g) As used in this section, "stepparent" means an individual who is married to a child's custodial or noncustodial parent and is not the child's adoptive parent.

(f) (h) If a person who is:

(1) at least eighteen (18) years of age; and

(2) the:

(A) guardian, adoptive parent, adoptive grandparent, custodian, or stepparent of; or

(B) child care worker for;

a child at least sixteen (16) years of age but less than eighteen (18) years of age;

engages **with the child** in sexual intercourse, ~~or~~ deviate sexual conduct (as defined in IC 35-41-1-9), ~~with the child;~~ **or any fondling or touching with the intent to arouse or satisfy the sexual desires of either the child or the adult**, the person commits child seduction, a Class D felony.

P.L.162-2003

[S.280. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning the general assembly.

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

SECTION 1. IC 2-7-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) One (1) activity report shall be filed not later than ~~July 31;~~ **May 31**, covering the period from ~~January 1 through June 30.~~ **November 1 of the immediately preceding calendar year through April 30.** The other activity report shall be filed not later than ~~January 31;~~ covering the period from ~~July 1 through December 31~~ of the immediately preceding calendar year: **November 30, covering the period from May 1 through October 31.** **The commission shall provide a copy of an activity report to a**

member of the general assembly at the request of the member.

(b) Subject to subsections (c) and (d), the commission shall impose a penalty of ten dollars (\$10) per day for each day that the person fails to file any report required by this chapter until the report is filed.

(c) The penalty shall not exceed one hundred dollars (\$100) per report.

(d) The commission may waive the penalty if the commission determines that the circumstances make imposition of the penalty inappropriate.

SECTION 2. IC 2-7-3-6, AS AMENDED BY P.L.205-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A lobbyist shall file a written report with respect to a member of the general assembly whenever either of the following occurs:

(1) The lobbyist has made a purchase described in IC 2-2.1-3-2(a)(7) with respect to that member. This subdivision does not apply to purchases made after December 31, 1998, by a lobbyist from a legislator's retail business made in the ordinary course of business at prices that are available to the general public. For purposes of this subdivision, a legislator's business is considered a retail business if the business is a retail merchant as defined in IC 6-2.5-1-8.

(2) The lobbyist has made a gift described in IC 2-2.1-3-2(a)(8) to that member.

(b) A report required by subsection (a) must state the following:

(1) The name of the lobbyist.

(2) Whether the report covers a purchase described in IC 2-2.1-3-2(a)(7) or a gift described in IC 2-2.1-3-2(a)(8).

(c) A lobbyist shall file a copy of a report required by this section with ~~both of all~~ the following:

(1) The commission.

(2) The member of the general assembly with respect to whom the report is made.

(3) The principal clerk of the house of representatives, if the legislator is a member of the Indiana house of representatives.

(4) The secretary of the senate, if the legislator is a member of the Indiana senate.

(d) A lobbyist shall file a report required by subsection (a) not ~~more~~

later than ~~thirty (30)~~ **seven (7)** days after making the purchase or giving the gift.

(e) Not later than January 7, a lobbyist who has filed a report under this section regarding a member of the general assembly shall provide to that member a cumulative report listing all purchases and gifts for that member during the immediately preceding calendar year.

SECTION 3. [EFFECTIVE JULY 1, 2003] **(a) A lobbyist's activity report required to be filed not later than November 30, 2003, by IC 2-7-3-2, as amended by this act, shall, notwithstanding IC 2-7-3-2, as amended by this act, cover the period from July 1, 2003, through October 31, 2003.**

(b) This SECTION expires July 1, 2004.



P.L.163-2003

[S.395. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 1-2-3-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. A state flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed using the same method provided for the retiring and disposing of the flag of the United States under 36 U.S.C. 176.**

P.L.164-2003

[S.482. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-50-6-3.3, AS AMENDED BY P.L.90-2000, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

- (1) is in credit Class I;
- (2) has demonstrated a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-10.1-12.1, if the person has not previously obtained a high school diploma.

(B) A high school diploma.

(C) An associate's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(D) A bachelor's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

- (1) is in credit Class I;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a vocational education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both ~~subsection~~ **subsections** (a) and ~~subsection~~ (b) for the same program of study.

(d) The amount of credit time a person may earn under this section is the following:

(1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1.

(2) One (1) year for graduation from high school.

(3) One (1) year for completion of an associate's degree.

(4) Two (2) years for completion of a bachelor's degree.

(5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction.

(6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

(7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more vocational education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person after subtracting all other credit time earned by the person.

(f) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(g) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(h) ~~Subsection (c) applies only to a person who completes at least a portion of the degree or program requirements under subsection (a) or (b) after June 30, 1999.~~ Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from:

(1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or

(2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:

(A) Rape (IC 35-42-4-1).

(B) Criminal deviate conduct (IC 35-42-4-2).

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Vicarious sexual gratification (IC 35-42-4-5).

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Sexual misconduct with a minor as a Class A felony, Class B felony, or Class C felony (IC 35-42-4-9).

(I) Incest (IC 35-46-1-3).

(J) Sexual battery (IC 35-42-4-8).

(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).

(i) The maximum amount of credit time a person may earn under this section is the lesser of:

(1) four (4) years; or

(2) one-third (1/3) of the person's total applicable credit time.

(j) The amount of credit time earned under this section is reduced to the extent that application of the credit time would otherwise result in:

(1) postconviction release (as defined in IC 35-40-4-6); or

(2) assignment of the person to a community transition program; in less than forty-five (45) days after the person earns the credit time.

(k) A person may earn credit time for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).

P.L.165-2003

[H.1010. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the acquisition of **the following**:

(1) Land including lands under water and riparian rights, or options for the purchase of such land for a port site, and incidental expenses incurred in connection with such acquisition. ~~and for~~

(2) Studies in connection with the port project.

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation. and

~~(4) including~~ Administrative expenses of the commission.

(5) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

~~Said~~ **The** fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars (\$100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of port revenue bonds for any port project, the funds expended from the Indiana port fund in connection with the development of such project and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 2. IC 8-22-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (f), the commission may designate an area within the jurisdiction of an airport authority under IC 8-22-3 as an airport development zone if the commission finds by resolution the following:

- (1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area

under the jurisdiction of the airport authority should be declared an airport development zone.

(2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.

(b) If the airport development zone will be located in a consolidated city or in a county described in section 1(3), 1(4), or 1(5) of this chapter, the resolution adopted under subsection (a) must also include a finding that there has been proposed a qualified airport development project to be located in the airport development zone, with the proposal supported by:

(1) financial and economic data; and

(2) preliminary commitments by business enterprises that evidence a reasonable likelihood that the proposed qualified airport development project will be initiated and accomplished.

(c) If the airport development zone will be located in a city described in section 1(2) of this chapter, the resolution adopted under subsection (a) must also include findings stating that the most recent federal decennial census for the city indicates that:

(1) the unemployment rate for the city is at least thirteen percent (13%);

(2) the population of the city has decreased by at least ~~twenty ten~~ **ten** percent (~~20%~~) (**10%**) as compared to the population reported in the preceding federal decennial census for the city;

(3) the median per capita income for city residents does not exceed eighty percent (80%) of the median per capita income for all residents of the United States; and

(4) at least twenty-five percent (25%) of the population of the city is below the federal income poverty level (as defined in IC 12-15-2-1).

(d) The resolution adopted under subsection (a) must describe the boundaries of the area. The description may be by reference to the area's location in relation to public ways or streams, or otherwise, as determined by the commission.

(e) If the airport development zone will be located in a county described in section 1(4) or 1(5) of this chapter, the resolution adopted under subsection (a) and any qualified airport development project to be located in the airport development zone, must be approved by the executive of:

- (1) the county, if the entire airport development zone or qualified airport development project will be located outside the boundaries of any municipality located in the county;
- (2) a municipality located in the county, if the entire airport development zone or qualified airport development project will be located within the boundary of the municipality; or
- (3) the county and a municipality located in the county, if the airport development zone or qualified airport development project will be located within the boundary of the county and in part within the boundary of the municipality.

(f) If the airport development zone will be located in a county described in section 1(5) of this chapter, the commission may designate the airport plus the area outside of the airport property but not to exceed a total area of three (3) square miles as an airport development zone, if the commission finds by resolution the following:

- (1) In order to promote opportunities for the gainful employment of the citizens of the eligible entity and the attraction of a qualified airport development project to the eligible entity, an area under the jurisdiction of the airport authority should be declared an airport development zone.
- (2) The public health and welfare of the eligible entity will be benefited by designating the area as an airport development zone.

SECTION 3. IC 36-7-4-311 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 311. (a) ADVISORY. The advisory plan commission may appoint, prescribe the duties, and fix the compensation of such employees as are necessary for the discharge of the duties of the commission. This compensation must be in conformity with salaries and compensation fixed up to that time by the fiscal body of the municipality or county, as the case may be. The commission may contract for special or temporary services and any professional counsel.

(b) AREA.

~~(1)~~ Except as provided in subdivision ~~(2)~~; The area plan commission shall appoint an executive director for the planning department and fix the director's compensation. To be qualified for the position, the executive director must have training and experience in the field of planning and zoning. The commission may not give any consideration to political affiliation in the

appointment of the executive director.

(2) This subdivision applies to an area plan commission of a county in which the largest city has a population of less than twenty-five thousand (25,000) or to a county that has no cities: When there is a vacancy in the position of executive director of the planning department, the area plan commission shall give to the county commissioners the name of a person recommended for the position: The county commissioners shall appoint an executive director who may be the person recommended by the area plan commission: The county commissioners may remove the executive director: The county commissioners shall fix the director's compensation: To be qualified for the position, an executive director must have training and experience in the field of planning and zoning: In making the appointment, the county commissioners may not give any consideration to political affiliation of the executive director:

SECTION 4. IC 36-7-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following members of the commission shall be appointed from each county in the region:

(1) A representative of the county executive who may be either a member of the executive or a person appointed by it.

(2) A representative of the county fiscal body who must be a member of the fiscal body.

(b) The following members of the commission shall be appointed from each county in the region having a population of more than fifty thousand (50,000):

(1) The county surveyor or a person appointed by ~~him~~: **the surveyor.**

(2) Two (2) persons appointed by the executive of each municipality having a population of more than fifty thousand (50,000).

(3) ~~Except for a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates;~~ One (1) person appointed by the executive of each of the seven (7) largest municipalities having a population of less than fifty thousand (50,000). If there are fewer than seven (7) municipalities, enough additional persons appointed by the county executive to bring the

total appointed under this subdivision to seven (7).

(4) For a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates, the membership is as follows:

(A) For a county having a population of not more than four hundred thousand (400,000); one (1) person appointed by the executive of each of the eight (8) largest municipalities having a population of less than fifty thousand (50,000).

(B) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); one (1) person appointed by the executive of each city having a population of less than fifty thousand (50,000) and one (1) person appointed by the executive of each of the five (5) towns with the largest population.

(c) The following members of the commission shall be appointed from each county in the region having a population of less than fifty thousand (50,000):

(1) One (1) person appointed by the executive of each of the five (5) largest municipalities or of each municipality if there are fewer than five (5).

(2) If there are fewer than five (5) municipalities, enough additional persons appointed by the county executive to bring the total appointed under this subsection to five (5).

(d) One (1) voting member of the commission shall be appointed by the governor.

(e) At least two-thirds (2/3) of the commission members must be elected officials. All persons appointed to the commission must be:

(1) knowledgeable in matters of physical, social, or economic development of the region; and

(2) residents of the municipality, county, or region that they represent.

A member of the commission may also serve as a member of a plan commission in the region.

(f) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(g) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the

records of the commission.

(h) This subsection applies to a commission that does not include members from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). If a vacancy occurs by resignation or otherwise, the respective appointing authority shall appoint a member for the unexpired term. Members shall be certified annually, and their terms expire on December 31 of each year.

SECTION 5. IC 36-7-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The commission shall prepare and adopt an annual appropriation budget for its operation, which shall be apportioned to each participating county on a pro rata per capita basis. After adoption, any amount that does not exceed an amount for each participating county equal to

(1) seventy cents (\$0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates; and

(2) thirty cents (\$0.30) per capita for all other commissions;

shall be certified to the respective county auditor who shall advertise the amount and establish the rate in the same manner as other county budgets. Any amount of the adopted budget that exceeds an amount equal to seventy cents (\$0.70) per capita for each participating county in a commission in which a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) participates and thirty cents (\$0.30) per capita for each participating county for all other commissions is subject to review by the county fiscal body in the usual manner of budget review. The tax so levied and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax, as collected by the county treasurer, shall be transferred to the commission.

(b) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from the federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon

or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(c) After approval no sums may be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance, for payment as provided by law.

(d) Any two (2) of the following officers may allow claims:

- (1) Chairman.
- (2) Vice chairman.
- (3) Secretary.
- (4) Treasurer.

The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission subject to applicable statutes and procedures established by the commission.

(e) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(f) Any appropriated money remaining unexpended or unencumbered at the end of the year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of such sums, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be periodically audited by the state board of accounts, and these audits shall be paid for as provided by statute.

SECTION 6. IC 36-7-7.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 7.6. Northwestern Indiana Regional Planning Commission

Sec. 1. This chapter applies to the area consisting of the following counties:

- (1) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).**

(2) A county having a population of more than one hundred forty-five thousand (145,000) but less than one hundred forty-eight thousand (148,000).

(3) A county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000).

Sec. 2. As used in this chapter, "commission" means the northwestern Indiana regional planning commission established by section 3 of this chapter.

Sec. 3. The northwestern Indiana regional planning commission is established for the area described in section 1 of this chapter.

Sec. 4. (a) The following members shall be appointed to the commission:

(1) A member of the county executive of each county described in section 1 of this chapter, to be appointed by the county executive.

(2) A member of the county fiscal body of each county described in section 1 of this chapter, to be appointed by the county fiscal body.

(3) The county surveyor of each county described in section 1 of this chapter.

(4) For a county having a population of not more than four hundred thousand (400,000), one (1) person appointed by the executive of each of the eleven (11) largest municipalities.

(5) For a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), one (1) person appointed by the executive of each of the nineteen (19) largest municipalities.

(b) One (1) voting member of the commission shall be appointed by the governor. The member appointed under this subsection may not vote in a weighted vote under section 9 of this chapter.

(c) A member of the commission who is a county surveyor may not vote in a weighted vote under section 9 of this chapter.

Sec. 5. (a) All commission members must be elected officials.

(b) All persons appointed to the commission must be:

(1) knowledgeable in matters of physical, social, or economic development of the region; and

(2) residents of the municipality, county, or region that they represent.

(c) A member of the commission may also serve as a member of a plan commission in the region.

(d) Members of the commission shall serve without salary but may be reimbursed for expenses incurred in the performance of their duties.

(e) The respective appointing authorities shall certify their appointments, and the certification shall be retained as a part of the records of the commission.

(f) Each member serves at the pleasure of the appointing authority. The appointing authority shall give written notice to the commission of a change of an appointee and the effective date of that change.

(g) If a vacancy occurs by resignation or otherwise, the appointing authority shall promptly appoint a replacement member.

(h) If a member of the commission is absent for more than three (3) consecutive meetings of the full commission, the commission shall notify that member's appointing authority and request the appointing authority to do one (1) of the following:

(1) Replace the member.

(2) Take action to assure the member's conscientious attendance at meetings of the full commission.

Sec. 6. (a) At its first regular meeting in each year, the commission shall elect from its members a chairperson, vice chairperson, secretary, and treasurer.

(b) Not more than two (2) of the officers elected under subsection (a) may be from the same county.

(c) The vice chairperson may act as chairperson during the absence or disability of the chairperson.

Sec. 7. (a) The commission shall fix the time and place for holding regular meetings, but it shall meet:

(1) at least quarterly; and

(2) at other times established by the commission or the executive board of the commission.

(b) The chairperson of the commission or five (5) members of the commission may call a special meeting of the commission upon written request to the secretary of the commission. The secretary shall send to all commission members at least forty-eight (48) hours in advance of a special meeting a written notice fixing the time and

place of the special meeting. Written notice of a special meeting is not required if:

- (1) the time of the special meeting has been fixed in a regular meeting; or
- (2) all members are present at the special meeting.

(c) A commission member may waive notice of any meeting by filing a written waiver with the secretary of the commission.

Sec. 8. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations. The commission's record is a public record.

Sec. 9. (a) Twenty-six (26) commission members constitute a quorum.

(b) An action of the commission is official only if both the following apply:

- (1) The action is authorized at a regular meeting or a properly called special meeting in which at least one (1) member from each county described in section 1 of this chapter is present.
- (2) The action is authorized by:
 - (A) the affirmative votes of twenty-six (26) members of the commission; or
 - (B) a weighted affirmative vote of more than fifty (50) if a motion is made under subsection (c).

(c) The weighted voting authorized under this chapter may not be used after June 30, 2007. Upon a motion by any one (1) member of the commission that is properly seconded by another member at:

- (1) a regular meeting; or
- (2) a properly called special meeting;

the commission shall use the weighted voting process described in subsection (d).

(d) Until June 30, 2007, each commission member has a weighted vote determined as follows:

- (1) In the case of a member appointed by the executive of a municipality, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the

counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by one hundred (100).

(2) In the case of a member appointed by the executive of a county, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

(3) In the case of a member appointed by a fiscal body, the member's weighted vote is determined in STEP FIVE of the following formula:

STEP ONE: Determine the population of the area in the county that is not within a municipality as reported by the 2000 decennial census.

STEP TWO: Determine the sum of the population of the counties described in section 1 of this chapter as reported by the 2000 decennial census.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Round the number determined in STEP THREE to the nearest ten-thousandth (0.0001).

STEP FIVE: Multiply the number determined in STEP FOUR by fifty (50).

Sec. 10. (a) The commission shall elect from among its members,

by the affirmative votes of a majority of the members serving on the commission, an executive board that consists of the following:

- (1) The four (4) officers of the commission.
- (2) One (1) member of the commission from each county described in section 1 of this chapter.
- (3) The member of the commission appointed by the governor.

(b) If a vacancy occurs in a position on the executive board referred to in subsection (a)(2), a successor shall be elected from among the members in the same manner as the member whose position has been vacated.

(c) The executive board shall conduct the business of the commission, except for:

- (1) the adoption and amendment of bylaws, rules, and procedures for the operation of the commission;
- (2) the election of officers and members of the executive board as provided in this chapter; and
- (3) the adoption of the annual appropriation budget after review by the executive board.

(d) The executive board shall meet regularly at least one (1) time each month, unless otherwise determined by its members. The executive board shall notify the full membership of the commission of all its meetings with copies of its preliminary or final agendas and shall report all its actions and determinations to the full membership of the commission.

(e) A majority of members of the executive board constitutes a quorum. An action of the executive board is official only if it is authorized by an affirmative vote of a majority of the total number of members serving on the board at a regular or properly called special meeting. Any action of the executive board shall be reviewed at the next regular meeting of the commission following the executive board's action. Upon either:

- (1) a decision by the majority of the board; or
- (2) written request of a member of the commission;

an issue shall be brought to a vote of the full commission.

Sec. 11. (a) After review and recommendation by the executive board, the commission shall appoint an executive director, who serves at the pleasure of the commission. The executive director must be qualified by training and experience in the management of public agencies and must be knowledgeable in planning.

(b) The executive director is the chief administrative officer and regular technical adviser of the commission. Subject to supervision by the commission and in furtherance of the purposes of the commission, the executive director:

- (1) shall execute the commission functions;**
- (2) shall appoint and remove the staff of the commission;**
- (3) shall submit to the commission annually, or more often if required, a status report on the operation of the commission;**
- (4) may, with the approval of the executive board, execute contracts, leases, or agreements with other persons on behalf of the commission;**
- (5) shall be given access by all governmental agencies, upon the executive director's written request, to all studies, reports, surveys, records, and other information and material in their possession that are required by the executive director for the accomplishment of the activities and objectives of the commission;**
- (6) shall propose annually a budget for the operation of the commission and administer the budget as approved by the commission;**
- (7) shall keep the records and care for and preserve all papers and documents of the commission; and**
- (8) shall perform other duties and may exercise other powers that the commission or the executive board delegates to the executive director.**

Sec. 12. The purpose of the commission is to institute and maintain a comprehensive planning and programming process for:

- (1) transportation;**
- (2) economic development; and**
- (3) environmental;**

policy and provide a coordinative management process for the counties described in section 1 of this chapter. The commission shall coordinate its activities with all member units in the counties and shall coordinate and assist the planning programs of member units and the state that are related to its purpose.

Sec. 13. The commission may do any of the following in support of a purpose listed under section 12 of this chapter:

- (1) Transact business and enter into contracts.**
- (2) Receive grants or appropriations from federal, state, or**

local governmental entities or from individuals or foundations and enter into agreements or contracts regarding the acceptance or use of those grants and appropriations to carry out any of the activities of the commission.

(3) Apply for, receive, and disburse gifts, contributions, and grants of funds or in-kind services.

(4) Acquire by grant, purchase, gift, devise, lease, or otherwise and hold, use, sell, improve, maintain, operate, own, manage, lease, or dispose of:

(A) real and personal property of every kind and nature; and

(B) any right and interest;

as necessary for the exercise of, or convenient or useful for the carrying out of, the commission's purposes under this chapter.

(5) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the commission's purposes.

(6) Employ and fix the reasonable compensation of any employees and agents the commission considers necessary.

(7) Contract for special and temporary services and for professional assistance.

(8) Hold, use, administer, and expend money that is appropriated or transferred to the commission.

(9) Make contracts and leases for facilities and services.

(10) Act as a coordinating agency for programs and activities of other public and private agencies that are related to the commission's objectives.

(11) Enter into agreements or partnerships to do the following:

(A) Assist in coordinating activities involving state and local government, business organizations, and nonprofit organizations.

(B) Assist in the development and implementation of programs by other regional agencies and entities.

(12) Enter into coordinative arrangements with:

(A) any unit of government in Indiana or an adjoining state;

(B) an overlapping multicounty or interstate planning or development agency;

- (C) a state agency;
- (D) a federal agency;
- (E) a private entity; or
- (F) a minority business enterprise as defined by IC 4-13-16.5;

that are appropriate to the achievement of the commission's objectives or to address a common issue.

(13) Provide any administrative, management, or technical services to a unit of local government that requests the services. The local unit and the commission may enter into a contract concerning the commission's provision of administrative, management, or technical services and the cost to the local unit for the services.

(14) Conduct all necessary studies for the accomplishment of the commission's purpose.

(15) Publicize the commission's purposes, objectives, and findings and distribute reports on those purposes, objectives, and findings.

(16) Provide recommendations to units of local government and to other public and private agencies.

Sec. 14. The commission may adopt by resolution any regional comprehensive or functional plan, program, or policy as the commission's official recommendation for the development of the region, subject to the power of a county to exempt itself under section 15 of this chapter. The commission shall provide an annual report of its activities to the legislative bodies of the counties and municipalities in the region.

Sec. 15. If the commission receives a petition that:

- (1) is signed by a majority of the commission members representing a county affected by a particular program; and
- (2) objects to the establishment of the program within that county;

the commission may not implement the program in that county.

Sec. 16. (a) The commission must appoint advisory committees to assist in the achievement of its objectives. The membership of advisory committees shall not be limited to the members of the commission.

(b) At least one (1) advisory committee must be appointed with a membership that is representative of the private sector of the

communities served by the commission and must include members representative of:

- (1) higher education institutions;
- (2) minority business enterprises;
- (3) labor and workforce organizations; and
- (4) manufacturing entities;

active in at least one (1) of the communities served by the commission.

(c) Members of advisory committees are not entitled to compensation for their services but may be reimbursed by the commission for expenses incurred in the performance of their duties.

Sec. 17. A county or municipality may periodically, upon the request of the commission, assign or detail to the commission any employees of the county or municipality to make special surveys or studies requested by the commission.

Sec. 18. (a) The commission shall prepare and adopt an annual appropriation budget for its operation. The appropriation budget shall be apportioned to each participating county on a pro rata per capita basis. After adoption of the appropriation budget, any amount that does not exceed an amount for each participating county equal to seventy cents (\$0.70) per capita for each participating county shall be certified to the respective county auditor. The county auditor shall advertise the amount and establish the rate in the same manner as for other county budgets.

(b) The tax levied under this section and certified shall be estimated and entered upon the tax duplicates by the county auditor and shall be collected and enforced by the county treasurer in the same manner as other county taxes are estimated, entered, collected, and enforced. The tax collected by the county treasurer shall be transferred to the commission.

(c) In fixing and determining the amount of the necessary levy for the purpose provided in this section, the commission shall take into consideration the amount of revenue, if any, to be derived from federal grants, contractual services, and miscellaneous revenues above the amount of those revenues considered necessary to be applied upon or reserved upon the operation, maintenance, and administrative expenses for working capital throughout the year.

(d) After the budget is approved, amounts may not be expended except as budgeted unless the commission authorizes their expenditure. Before the expenditure of sums appropriated as provided in this section, a claim must be filed and processed as other claims for allowance or disallowance for payment as provided by law.

(e) Any two (2) of the following officers may allow claims:

- (1)** Chairperson.
- (2)** Vice chairperson.
- (3)** Secretary.
- (4)** Treasurer.

(f) The treasurer of the commission may receive, disburse, and otherwise handle funds of the commission, subject to applicable statutes and to procedures established by the commission.

(g) The commission shall act as a board of finance under the statutes relating to the deposit of public funds by political subdivisions.

(h) Any appropriated money remaining unexpended or unencumbered at the end of a year becomes part of a nonreverting cumulative fund to be held in the name of the commission. Unbudgeted expenditures from this fund may be authorized by vote of the commission and upon other approval as required by statute. The commission is responsible for the safekeeping and deposit of the amounts in the nonreverting cumulative fund, and the state board of accounts shall prescribe the methods and forms for keeping the accounts, records, and books to be used by the commission. The books, records, and accounts of the commission shall be audited periodically by the state board of accounts, and those audits shall be paid for as provided by statute.

SECTION 7. IC 36-7-7-4.1 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 8. [EFFECTIVE JULY 1, 2003] **(a)** A regional planning commission under IC 36-7-7 that includes a county described in IC 36-7-7.6-1, as added by this act, becomes on July 1, 2003, the northwestern Indiana regional planning commission, subject to IC 36-7-7.6, as added by this act.

(b) A municipality or county required to make an appointment to the northwestern Indiana regional planning commission under IC 36-7-7.6-4, as added by this act, shall make the appointment

before July 15, 2003.

(c) On July 1, 2003, all property of the regional planning commission described in subsection (a) becomes the property of the northwestern Indiana regional planning commission, subject to IC 36-7-7.6, as added by this act.

(d) This SECTION expires January 1, 2004.

SECTION 9. An emergency is declared for this act.

P.L.166-2003

[H.1019. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-3-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30. (a) As used in this section, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-14.2-1.**

(b) As used in this section, "health maintenance organization" has the meaning set forth in IC 27-13-1-19.

(c) As used in this section, "mandated benefit" means certain health coverage or an offering of certain health coverage that is required under:

- (1) an accident and sickness insurance policy; or**
- (2) a contract with a health maintenance organization.**

(d) As used in this section, "mandated benefit proposal" means a bill or resolution pending before the general assembly that, if enacted, would require certain health coverage or an offering of certain health coverage under:

- (1) an accident and sickness insurance policy; or**
- (2) a contract with a health maintenance organization.**

(e) The commissioner shall establish a task force to review mandated benefits and mandated benefit proposals.

(f) The task force must consist of nine (9) members appointed by

the governor as follows:

- (1) Two (2) members representing the insurance industry.
- (2) Two (2) members representing consumers.
- (3) Two (2) members representing health care providers.
- (4) Two (2) members representing the business sector.
- (5) The commissioner or the commissioner's designee.

A registered lobbyist may not serve as a member of the task force.

(g) Members of the task force shall serve on a voluntary basis without reimbursement.

(h) The department shall provide administrative support for the functions of the task force.

(i) The task force shall review mandated benefits and mandated benefit proposals as determined by the members of the task force and report to the legislative council not later than December 31 of each year.

(j) Any recommendations made by the task force must be approved by at least five (5) members of the task force.

(k) The department may adopt rules under IC 4-22-2 to implement this section.

(l) Information that identifies a person and that is obtained by the task force under this section is confidential.

SECTION 2. IC 27-8-24.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 24.1. Coverage for Treatment of Inherited Metabolic Disease

Sec. 1. As used in this chapter, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-5-27(a).

Sec. 2. As used in this chapter, "covered individual" means an individual who is entitled to coverage under an accident and sickness insurance policy.

Sec. 3. As used in this chapter, "inherited metabolic disease" means a disease:

- (1) caused by inborn errors of amino acid, organic acid, or urea cycle metabolism; and
- (2) treatable by the dietary restriction of one (1) or more amino acids.

Sec. 4. As used in this chapter, "medical food" means a formula that is:

(1) intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation; and

(2) formulated to be consumed or administered enterally under the direction of a physician.

Sec. 5. An accident and sickness insurance policy must provide coverage for medical food that is:

(1) medically necessary; and

(2) prescribed by a covered individual's treating physician for treatment of the covered individual's inherited metabolic disease.

Sec. 6. The coverage that must be provided under this chapter shall not be subject to dollar limits, coinsurance, or deductibles that are less favorable to a covered individual than the dollar limits, coinsurance, or deductibles that apply to coverage for:

(1) prescription drugs generally under the accident and sickness insurance policy, if prescription drugs are covered under the accident and sickness insurance policy; or

(2) physical illness generally under the accident and sickness insurance policy, if prescription drugs are not covered under the accident and sickness insurance policy.

SECTION 3. IC 27-13-7-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 18. (a)** As used in this section, "inherited metabolic disease" means a disease:

(1) caused by inborn errors of amino acid, organic acid, or urea cycle metabolism; and

(2) treatable by the dietary restriction of one (1) or more amino acids.

(b) As used in this section, "medical food" means a formula that is:

(1) intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation; and

(2) formulated to be consumed or administered enterally under the direction of a physician.

(c) A group health maintenance organization contract that provides coverage for basic health care services must provide coverage for medical food that is:

- (1) medically necessary; and
- (2) prescribed for an enrollee by the enrollee's treating physician for treatment of the enrollee's inherited metabolic disease.

(d) The coverage that must be provided under this section shall not be subject to dollar limits, copayments, or deductibles that are less favorable to an enrollee than the dollar limits, copayments, or deductibles that apply to coverage for:

- (1) prescription drugs generally under the group contract, if prescription drugs are covered under the group contract; or
- (2) physical illness generally under the group contract, if prescription drugs are not covered under the group contract.

SECTION 4. [EFFECTIVE JULY 1, 2003] (a) IC 27-8-24.1, as added by this act, applies to an accident and sickness insurance policy that is issued, delivered, amended, or renewed after December 31, 2003.

(b) IC 27-13-7-18, as added by this act, applies to a health maintenance organization contract that is entered into, delivered, amended, or renewed after December 31, 2003.



P.L.167-2003

[H.1047. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-4-3-7, AS AMENDED BY P.L.2-2002, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The small claims docket has jurisdiction over the following:

- (1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than ~~three six~~ thousand dollars (~~\$3,000~~) (**\$6,000**). The plaintiff in a statement of

claim or the defendant in a counterclaim may waive the excess of any claim that exceeds ~~three six~~ thousand dollars (~~\$3,000~~) **(\$6,000)** in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~three six~~ thousand dollars (~~\$3,000~~) **(\$6,000)**.

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

SECTION 2. IC 33-5-2-4, AS AMENDED BY P.L.2-2002, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) ~~Except as provided in subsection (b)~~; The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than ~~three six~~ thousand dollars (~~\$3,000~~) **(\$6,000)**. The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds ~~three thousand dollars (\$3,000)~~ **six thousand dollars (\$6,000)** in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~three six~~ thousand dollars (~~\$3,000~~): **(\$6,000)**.

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(b) This subsection applies to a county having a population of more than ~~three hundred thousand (300,000)~~ but less than ~~four hundred thousand (400,000)~~: The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than ~~six thousand dollars (\$6,000)~~: The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds ~~six thousand dollars (\$6,000)~~ in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~six thousand dollars (\$6,000)~~:

~~(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.~~

SECTION 3. IC 33-10.1-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) A clerk of a city court in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall deposit all court costs collected by the clerk in accordance with IC 33-19-1-3. The fees received by the controller from the clerk shall be paid into the city treasury at the time of the semiannual settlement for city revenue.

(b) If the party instituting an action or proceeding recovers judgment, the judgment must also include as costs an amount equal to the small claims costs fee **and the small claims service fee** prescribed under IC 33-19-5-5.

(c) Money paid in advance for costs remaining unexpended at the time an action or proceeding is terminated, whether by reason of dismissal or otherwise, shall be returned to the party or parties making payment. However, this section does not apply to civil actions or proceedings instituted by or on behalf of the state or any of its political subdivisions.

SECTION 4. IC 33-10.5-7-1, AS AMENDED BY P.L.2-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. Each judge of the county court shall maintain the following dockets:

- (1) An offenses and violations docket.
- (2) A small claims docket for the following:
 - (A) All cases where the amount sought or value of the property sought to be recovered is ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)** or less. The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of his claim over ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)** to bring it within the jurisdiction of the small claims docket.
 - (B) All possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed ~~three six~~ thousand dollars ~~(\$3,000)~~ **(\$6,000)**.
 - (C) Emergency possessory actions between a landlord and tenant under IC 32-31-4.
- (3) A plenary docket for all other civil cases.

SECTION 5. IC 33-11.6-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The court shall have original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars (\$6,000), not including interest or ~~attorney~~ **attorney's** fees.

SECTION 6. IC 33-11.6-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The court shall have original and concurrent jurisdiction with the circuit and superior courts in possessory actions between landlord and tenant in which the past due rent at the time of filing does not exceed six thousand dollars (\$6,000). The court shall also have original and concurrent jurisdiction with the circuit and superior courts in actions for the possession of property where the value of the property sought to be recovered does not exceed six thousand dollars (\$6,000). These jurisdictional limitations shall not be affected by interest and ~~attorney~~ **attorney's** fees.

SECTION 7. IC 33-19-5-5, AS AMENDED BY P.L.164-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a:

- (1) small claims costs fee of thirty-five dollars (\$35); **and**
- (2) **small claims service fee of five dollars (\$5) for each defendant named or added in the small claims action.**

However, a clerk may not collect a small claims costs fee **or small claims service fee** for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee **and small claims service fee** collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A document storage fee (IC 33-19-6-18.1).
- (3) An automated record keeping fee (IC 33-19-6-19).

SECTION 8. IC 33-19-7-1, AS AMENDED BY P.L.39-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount

of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) ~~IC 33-19-5-5(a)~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

(g) The clerk of a circuit court shall monthly distribute to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-19-6-5.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-19-6-5 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall monthly distribute to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-19-6-5 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the small claims

service fee under IC 33-19-5-5(a)(2) for deposit in the county general fund.

SECTION 9. IC 33-19-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. The clerk of a circuit court shall forward the county share of fees collected to the county auditor in accordance with IC 33-19-1-3(a). The auditor shall retain as the county share twenty-seven percent (27%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) ~~IC 33-19-5-5(a)~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

SECTION 10. IC 33-19-7-3, AS AMENDED BY P.L.98-2000, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of its ordinance violations in a circuit, superior, or county court located in the county is three percent (3%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) ~~IC 33-19-5-5(a)~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall semiannually distribute to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

SECTION 11. IC 33-19-7-4, AS AMENDED BY P.L.1-2002, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) ~~IC 33-19-5-5~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) ~~IC 33-19-5-5~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) ~~IC 33-19-5-5~~ **IC 33-19-5-5(a)(1)** (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under

IC 33-19-5-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-19-6-19).

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

P.L.168-2003

[H.1130. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-37-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The state department shall charge and collect a fee of **four eight** dollars (~~\$4~~) (**\$8**) for each search of the records in the division of vital records. If the requested record is found, one (1) certification of the record will be issued without charge. Additional certifications of the same record will be issued at that time for an additional fee of ~~one dollar~~ (~~\$1~~) **four dollars** (**\$4**) for each record.

(b) The state department shall charge and collect an additional fee of **four eight** dollars (~~\$4~~) (**\$8**) for any amendment to a record previously filed with the division of vital records.

(c) Verification without charge will be issued to an agency of local, state, or federal government upon written request by the agency.

SECTION 2. IC 16-41-27-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) An inspection fee must be submitted to the state department with each license application. The fee is ~~one two hundred fifty~~ dollars (~~\$150~~) (**\$200**) for not more than fifty (50) mobile home sites and one hundred ~~fifty~~ dollars (~~\$100~~) (**\$150**) for each increment of not more than fifty (50) additional sites. Units of state and local government are exempt from the fee.

(b) This subsection does not apply to an application made after an enforcement action. A penalty fee of ~~one two hundred fifty~~ dollars (~~\$150~~) (**\$200**) for not more than fifty (50) mobile home sites and one hundred ~~fifty~~ dollars (~~\$100~~) (**\$150**) for each increment of not more than fifty (50) additional sites may be imposed by the state department for an application for license renewal filed after the license has expired.

SECTION 3. IC 16-41-35-29, AS AMENDED BY HEA 1704-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 29. (a) The state department shall adopt rules under IC 4-22-2 to regulate who may operate a radiation machine and what level of training and experience the operator must have. Rules adopted by the state department must exempt from testing to establish initial qualifications an individual who:

- (1) holds a valid certificate issued by; and
- (2) is currently registered with;

the American Registry of Radiologic Technologists.

(b) The state department may by rule exempt an individual who:

- (1) is currently licensed in another state as a radiologic technologist; or
- (2) performs the function of a radiologic technologist in another state that does not require the licensure of a radiologic technologist;

from testing to establish initial qualifications.

(c) The state department shall issue a license to an individual meeting the requirements of the rules adopted under subsection (a) for a radiologic technologist upon the payment to the state department of a ~~thirty sixty~~ dollar ~~(\$30)~~ **(\$60)** fee and the cost of testing to establish initial qualifications. The license is valid for twenty-four (24) months. The state department shall establish a fee for the renewal or duplication of a license issued under this section not to exceed ~~thirty sixty~~ dollars ~~(\$30)~~ **(\$60)**. **In addition to the renewal fee, a penalty fee of sixty dollars (\$60) shall be imposed by the state department for processing an application for license renewal received after the expiration of the previous license. The state department may waive the penalty fee for a showing of good cause.**

(d) Every owner of a radiation machine, including an industrial radiation machine, shall have the machine inspected in accordance with procedures and standards established by the state department. The state department shall adopt rules under IC 4-22-2 establishing the procedures and standards applicable to inspections of radiation machines.

SECTION 4. IC 16-44-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a)** The state department shall collect an annual registration fee of ~~twenty-five~~ **fifty** dollars ~~(\$25)~~ **(\$50)** for each motor fuel outlet registered under this chapter.

(b) In addition to the fee in subsection (a), a penalty fee of fifty dollars (\$50) may be imposed by the state department for an application for registration renewal filed after the previous registration has expired. The state department may waive the penalty fee for a showing of good cause.

P.L.169-2003

[H.1151. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 23-14-31-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) Except as provided in subsection (c), a crematory authority shall not cremate human remains until the authority has received the following:

(1) A cremation authorization form provided by the crematory authority, signed by an authorizing agent, containing the following information:

(A) The identity of the human remains and the time and date of death.

(B) The name of the funeral director who obtained the cremation authorization.

(C) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(D) A statement by the authorizing agent that the authorizing agent:

(i) has the right to authorize the cremation of the decedent;

(ii) is not aware of any person who has a superior priority right to that of the authorizing agent; or

(iii) if the authorizing agent is aware that there is another person who has a superior priority right to that of the authorizing agent, a statement that the authorizing agent has

made all reasonable efforts to contact the person, has been unable to contact the person, and has no reason to believe that the person would object to the cremation of the decedent.

(E) Authorization for the crematory authority to cremate the human remains.

(F) A statement that the human remains do not contain a pacemaker or any other material or implant or radiation producing device that may be potentially hazardous or cause damage to the cremation chamber or the individual performing the cremation. The authorization form may state that the funeral director is not liable for damages caused by a pacemaker or other implanted device that was not disclosed to the funeral director or of which the funeral director could not reasonably be aware.

(G) The name of the funeral director authorized to receive the cremated remains from the crematory authority or, if the crematory is on cemetery property, the cemetery authorized to receive cremated remains.

(H) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, niche, or scattering area, the form may indicate that the cremated remains will be held by the crematory authority for not longer than thirty (30) days from the date of cremation before the remains are released. The form may indicate that the crematory authority shall return cremated remains that have not been disposed of within thirty (30) days to the funeral director or funeral home of record who shall hold them for not longer than sixty (60) days from the date of cremation before disposing of the cremated remains either as previously authorized or, if there is no authorization, in any legal manner.

The funeral home has no liability for:

(i) disposing of cremated remains in any manner permitted by law if the remains have been held; or

(ii) holding the cremated remains;

in excess of the sixty (60) days permitted under this clause if the authorizing agent fails to claim the remains during

the sixty (60) day period. The funeral home must first send written notice by certified mail return receipt requested to the authorizing agent explaining the intentions of the funeral home regarding the disposal of or holding of the cremated remains in order for the funeral home to be immune from liability under this clause.

(I) A statement confirming the identity of the valuables belonging to the decedent previously taken and being held by the funeral director or the funeral home.

(J) A statement prohibiting the crematory from selling nonorganic material recovered from the human remains.

(K) A statement that the authorizing agent has made specific arrangements for any viewing of the decedent before cremation, or for a service with the decedent present before cremation. If a viewing or service is planned, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form.

(2) A completed and executed burial transit permit provided by the local health officer to the funeral director indicating that the human remains are to be cremated.

(3) A copy of:

(A) the completed and executed certificate of death; or

(B) a release for cremation by the coroner if an investigation of the circumstances of the deceased person's death came under the authority of the coroner, but the release does not constitute an authorization as required by this chapter.

(b) The cremation authorization form required under subsection (a)(1) must be signed by the funeral director who obtained the cremation authorization. The funeral director shall execute the cremation authorization form as a witness and is not responsible for the representations made by the authorizing agent unless the funeral director has actual knowledge of a false or inaccurate representation. The funeral director shall certify to the crematory that the human remains delivered to the crematory authority are the human remains

identified by the authorizing agent on the cremation authorization form.

(c) Notwithstanding subsection (a)(3)(A), a death certificate is not required for the cremation of the remains of a person:

- (1) who died in another state; and
- (2) whose remains are transported to Indiana by:
 - (A) a licensed funeral director; or
 - (B) the agent of a licensed funeral director;

for the purpose of cremation at an Indiana crematory;

if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred. However, if final disposition of the human remains is to occur in Indiana, the provisions of subsection (a)(3)(A) shall apply.

SECTION 2. IC 23-14-31-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 52. (a) Except as provided in subsections (b), (c), and (d), a person that knowingly or intentionally violates this chapter commits a Class B misdemeanor.

(b) A person that knowingly or intentionally:

- (1) performs a cremation without receipt of a cremation authorization form signed by an authorizing agent;
- (2) signs a cremation authorization form that the individual knows contains false or incorrect information; or
- (3) violates a cremation procedure under sections 36 through 42 of this chapter;

commits a Class D felony.

(c) A crematory authority that knowingly represents to an authorizing agent or the agent's designee that a temporary container or urn contains the cremated remains of a specific decedent when the container or urn does not commits a Class D felony.

(d) A person:

(1) who:

- (~~1~~) (A) professes to the public to be a crematory authority; or
- (~~2~~) (B) operates a building or structure in Indiana as a crematory;

without being registered under section 22 of this chapter; or

(2) who fails to file an annual report required under section 24 of this chapter;

commits a Class A misdemeanor.

P.L.170-2003

[H.1161. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-24-2, AS AMENDED BY P.L.139-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) In addition to the delinquency list required under section 1 of this chapter, each county auditor shall prepare a notice. The notice shall contain the following:

(1) A list of tracts or real property eligible for sale under this chapter.

(2) A statement that the tracts or real property included in the list will be sold at public auction to the highest bidder, subject to the right of redemption.

(3) A statement that the tracts or real property will not be sold for an amount which is less than the sum of:

(A) the delinquent taxes and special assessments on each tract or item of real property;

(B) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, whether or not they are delinquent;

(C) all penalties due on the delinquencies;

(D) an amount prescribed by the county auditor that equals the sum of:

(i) twenty-five dollars (\$25) for postage and publication costs; and

(ii) any other actual costs incurred by the county that are directly attributable to the tax sale; and

(E) any unpaid costs due under subsection (b) from a prior tax sale.

(4) A statement that a person redeeming each tract or item of real property after the sale must pay:

(A) one hundred ten percent (110%) of the amount of the

minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed not more than six (6) months after the date of sale;

(B) one hundred fifteen percent (115%) of the amount of the minimum bid for which the tract or item of real property was offered at the time of sale if the tract or item of real property is redeemed more than six (6) months after the date of sale;

(C) the amount by which the purchase price exceeds the minimum bid on the tract or item of real property plus ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid; and

(D) all taxes and special assessments on the tract or item of real property paid by the purchaser after the tax sale plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property.

(5) A statement for informational purposes only, of the location of each tract or item of real property by key number, if any, and street address, if any, or a common description of the property other than a legal description. The township assessor, upon written request from the county auditor, shall provide the information to be in the notice required by this subsection. A misstatement in the key number or street address does not invalidate an otherwise valid sale.

(6) A statement that the county does not warrant the accuracy of the street address or common description of the property.

(7) A statement indicating:

(A) the name of the owner of each tract or item of real property with a single owner; or

(B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.

(8) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:

(A) A statement:

(i) that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment

against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and (ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.

(B) A statement that any defense to the application for judgment must be filed with the court before the date designated as the earliest date on which the application for judgment may be filed.

(C) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.

(9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.

(10) A statement that the sale will take place at the times and dates designated in the notice. Except as provided in section 5.5 of this chapter, the sale must take place on or after August 1 and before November 1 of each year.

(11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).

(12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (d), a statement that tracts or items will be sold together.

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid

upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(d) The county auditor and county treasurer may establish the condition that a tract or item will be sold and may be redeemed under this chapter only if the tract or item is sold or redeemed together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person.

SECTION 2. IC 6-1.1-24-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) When a tract or an item of real property is offered for sale under this chapter for two (2) consecutive tax sales and an amount is not received equal to or in excess of the minimum sale price prescribed in section 5(e) of this chapter, the county acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale the second time.

(b) When a county acquires a lien under this section, the county auditor shall issue a tax sale certificate to the county in the manner provided in section 9 of this chapter. The county auditor shall date the certificate the day that the county acquires the lien. When a county acquires a certificate under this section, the county has the same rights as a purchaser. However, the county shall hold the **property certificate** for the taxing units described in subsection (c).

(c) When a lien is acquired by a county under this section, no money shall be paid by the county. However, each of the taxing units having an interest in the taxes on the tract shall be charged with the full amount of all delinquent taxes due them.

SECTION 3. IC 6-1.1-24-6.1 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2003]: **Sec. 6.1. (a) The county commissioners may:**

- (1) by resolution, identify properties:**
 - (A) that are described in section 6.7(a) of this chapter; and**
 - (B) concerning which the county commissioners desire to offer to the public the certificates of sale acquired by the county under section 6 of this chapter;**
- (2) publish notice in accordance with IC 5-3-1 of the date, time, and place for a public sale of the certificates of sale that is not earlier than ninety (90) days after the last date the notice is published; and**
- (3) sell each certificate of sale covered by the resolution for a price that:**
 - (A) is less than the minimum sale price prescribed by section 5(e) of this chapter; and**
 - (B) includes any costs to the county directly attributable to the sale of the certificate of sale.**

(b) Notice of the list of properties prepared under subsection (a) and the date, time, and place for the public sale of the certificates of sale shall be published in accordance with IC 5-3-1. The notice must:

- (1) include a description of the property by parcel number and common address;**
- (2) specify that the county commissioners will accept bids for the certificates of sale for the price referred to in subsection (a)(3);**
- (3) specify the minimum bid for each parcel;**
- (4) include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:**
 - (A) the amount of the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale;**
 - (B) ten percent (10%) of the amount for which the certificate is sold;**
 - (C) the attorney's fees and costs of giving notice under IC 6-1.1-25-4.5;**
 - (D) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property;**

and

(E) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and

(5) include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

SECTION 4. IC 6-1.1-24-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.3. (a) The sale of certificates of sale under this chapter must be held at the time and place stated in the notice of sale.**

(b) A certificate of sale may not be sold under this chapter if the following are paid before the time of sale:

(1) All the delinquent taxes, penalties, and special assessments on the tract or an item of real property.

(2) The amount prescribed by section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the county due to the sale.

(c) The county commissioners shall sell the certificate of sale, subject to the right of redemption, to the highest bidder at public auction.

(d) The county auditor shall serve as the clerk of the sale.

SECTION 5. IC 6-1.1-24-6.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.4. (a) When a certificate of sale is sold under this chapter, the purchaser at the sale shall immediately pay the amount of the bid to the county treasurer. The county treasurer shall apply the payment in the following manner:**

(1) First, to the taxes, special assessments, penalties, and costs described in section 5(e) of this chapter.

(2) Second, to other delinquent property taxes in the manner provided in IC 6-1.1-23-5(b).

(3) Third, to a separate "tax sale surplus fund".

(b) The:

(1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or

(2) purchaser of the certificate or the purchaser's assignee, upon redemption of the tract or item of real property;

may file a verified claim for money that is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(c) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is claimed more than three (3) years after the date of its receipt.

(d) Upon the assignment of the certificate of sale to the purchaser, the county auditor shall indicate on the certificate the amount for which the certificate of sale was sold.

SECTION 6. IC 6-1.1-25-1, AS AMENDED BY P.L.139-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Any person may redeem the tract or real property:

(1) sold; or

(2) for which the certificate of sale is sold under IC 6-1.1-24; under IC 6-1.1-24 at any time before the expiration of the period of redemption specified in section 4 of this chapter by paying to the county treasurer the amount required for redemption under section 2 of this chapter.

SECTION 7. IC 6-1.1-25-2, AS AMENDED BY P.L.139-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The total amount of money required for the redemption of real property equals:

(1) the sum of the amounts prescribed in subsections (b) through (e); or

(2) the amount prescribed in subsection (f);

reduced by any amounts held in the name of the taxpayer or the purchaser in the tax sale surplus fund.

(b) Except as provided in subsection (f), the total amount required

for redemption includes:

- (1) one hundred ten percent (110%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if the tract or item of real property is redeemed not more than six (6) months after the date of sale; or
- (2) one hundred fifteen percent (115%) of the minimum bid for which the tract or real property was offered at the time of sale, as required by IC 6-1.1-24-5, if the tract or item of real property is redeemed more than six (6) months but not more than one (1) year after the date of sale.

(c) **Except as provided in subsection (f)**, in addition to the amount required under subsection (b), the total amount required for redemption includes the amount by which the purchase price exceeds the minimum bid on the real property plus ten percent (10%) per annum on the amount by which the purchase price exceeds the minimum bid on the property.

(d) **Except as provided in subsection (f)**, in addition to the amount required under subsections (b) and (c), the total amount required for redemption includes all taxes and special assessments upon the property paid by the purchaser after the sale plus ten percent (10%) interest per annum on those taxes and special assessments.

(e) **Except as provided in subsection (f)**, in addition to the amounts required under subsections (b), (c), and (d), the total amount required for redemption includes the following costs, if certified before redemption by the payor to the county auditor on a form prescribed by the state board of accounts, that were incurred and paid by the purchaser, or the purchaser's assignee, or the county, before redemption:

- (1) The attorney's fees and costs of giving notice under section 4.5 of this chapter.
- (2) The costs of a title search or of examining and updating the abstract of title for the tract or item of real property.

(f) With respect to a tract or item of real property redeemed under section 4(c) of this chapter, instead of the amounts stated in subsections (b) through (e), the total amount required for redemption is the amount determined under IC 6-1.1-24-6.1(b)(4).

SECTION 8. IC 6-1.1-25-2.5, AS AMENDED BY P.L.139-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 2.5. (a) A county auditor may petition a court issuing judgments and orders for sale in the county under IC 6-1.1-24 to establish a schedule of reasonable and customary attorney's fees and costs that apply to a:

(1) purchaser; ~~or~~

(2) purchaser's assignee; **or**

(3) **purchaser of the certificate of sale under IC 6-1.1-24;**

who submits a claim for reimbursement upon redemption.

(b) When a court provides a schedule as described in subsection (a), the county auditor may not reimburse attorney's fees and costs in an amount higher than the attorney's fees and costs provided in the schedule, except as provided in subsection (c).

(c) A:

(1) purchaser; ~~or~~

(2) purchaser's assignee; **or**

(3) **purchaser of the certificate of sale under IC 6-1.1-24;**

may petition the court for a higher rate of reimbursement than the rate found on a schedule provided under subsection (a). The court shall grant the petition if the court finds that the claim is based on reasonable and customary attorney's fees and costs.

SECTION 9. IC 6-1.1-25-3, AS AMENDED BY P.L.139-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. When real property is redeemed and the certificate of sale is surrendered to the county auditor, the auditor shall issue a warrant to the:

(1) purchaser; ~~or~~

(2) purchaser's assignee; **or**

(3) **purchaser of the certificate of sale under IC 6-1.1-24;**

in an amount equal to the amount received by the county treasurer for redemption. The county auditor shall indorse the certificate and preserve it as a public record. If a certificate of sale is lost and the auditor is satisfied that the certificate did exist, the county auditor may make payment to ~~the purchaser or purchaser's assignee~~ in the manner provided in this section.

SECTION 10. IC 6-1.1-25-4, AS AMENDED BY P.L.1-2002, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The period for redemption of real property sold under IC 6-1.1-24 is:

- (1) one (1) year after the date of sale;
- ~~(2)~~ **one hundred twenty (120) days after the county acquires a lien on the property under IC 6-1.1-24-6;**
- ~~(3)~~ **(2) one hundred twenty (120) days after the date of sale to a purchasing agency qualified under IC 36-7-17;**
- ~~(4)~~ **(3) one hundred twenty (120) days after the date of sale of real property on the list prepared under IC 6-1.1-24-1.5; or**
- ~~(5)~~ **(4) one hundred twenty (120) days after the date of sale under IC 6-1.1-24-5.5(b).**

(b) The period for redemption of real property:

- (1) on which the county acquires a lien under IC 6-1.1-24-6; and**
- (2) for which the certificate of sale is not sold under IC 6-1.1-24-6.1;**

is one hundred twenty (120) days after the date the county acquires the lien under IC 6-1.1-24-6.

(c) The period for redemption of real property:

- (1) on which the county acquires a lien under IC 6-1.1-24-6; and**

(2) for which the certificate of sale is sold under IC 6-1.1-24; is one hundred twenty (120) days after the date of sale of the certificate of sale under IC 6-1.1-24.

(d) When a deed for real property is executed under this chapter, the county auditor shall cancel the certificate of sale and file the canceled certificate in the office of the county auditor. If real property that appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale and an amount that is at least equal to the minimum sale price required under IC 6-1.1-24-5(e) is not received, the county auditor shall issue a deed to the real property in the manner provided in IC 6-1.1-24-6.5.

~~(e)~~ **(e)** When a deed is issued to a county under this chapter, the taxes and special assessments for which the real property was offered for sale, and all subsequent taxes, special assessments, interest, penalties, and cost of sale shall be removed from the tax duplicate in the same manner that taxes are removed by certificate of error.

~~(f)~~ **(f)** A tax deed executed under this chapter vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law and the lien of the state

or a political subdivision for taxes and special assessments which accrue subsequent to the sale and which are not removed under subsection ~~(e)~~: **(e)**. However, the estate is subject to:

- (1) all easements, covenants, declarations, and other deed restrictions shown by public records;
- (2) laws, ordinances, and regulations concerning governmental police powers, including zoning, building, land use, improvements on the land, land division, and environmental protection; and
- (3) liens and encumbrances created or suffered by the grantee.

~~(e)~~ **(g)** A tax deed executed under this chapter is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

~~(f)~~ **(h)** A county auditor is not required to execute a deed to the county under this chapter if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation will exceed the fair market value of the property. The county may enter the property to conduct environmental investigations.

~~(g)~~ **(i)** If the county executive makes the determination under subsection ~~(f)~~ **(h)** as to any interest in an oil or gas lease or separate mineral rights, the county treasurer shall certify all delinquent taxes, interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk, following the procedures in IC 6-1.1-23-9. After the date of the county treasurer's certification, the certified amount is subject to collection as delinquent personal property taxes under IC 6-1.1-23. Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an interest shall be zero (0) until production commences.

(j) When a deed is issued to a purchaser of a certificate of sale sold under IC 6-1.1-24-6.1, the county auditor shall, in the same manner that taxes are removed by certificate of error, remove from the tax duplicate the taxes, special assessments, interest, penalties, and costs remaining due as the difference between the amount of the last minimum bid under IC 6-1.1-24-5(e) and the amount paid for the certificate of sale.

SECTION 11. IC 6-1.1-25-4.5, AS AMENDED BY P.L.139-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) **Except as provided in subsection (d)**, a purchaser **or** the purchaser's assignee **or a county** is entitled to a tax deed to the property that was sold only if:

- (1) the redemption period specified in section ~~4~~ **4(a)(1)** of this chapter has expired;
- (2) the property has not been redeemed within the period of redemption specified in section ~~4~~ **4(a)** of this chapter; and
- (3) not later than nine (9) months after the date of the sale:
 - (A) the purchaser or the purchaser's assignee; or
 - (B) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor;

gives notice of the sale to the owner of record at the time of the sale and any person with a substantial property interest of public record in the tract or real property.

(b) **A county is entitled to a tax deed to property on which the county acquires a lien under IC 6-1.1-24-6 and for which the certificate of sale is not sold under IC 6-1.1-24-6.1 only if:**

- (1) **the redemption period specified in section 4(b) of this chapter has expired;**
- (2) **the property has not been redeemed within the period of redemption specified in section 4(b) of this chapter; and**
- (3) **not later than ninety (90) days after the date the county acquires the lien under IC 6-1.1-24-6, the county auditor gives notice of the sale to:**

(A) **the owner of record at the time the lien was acquired; and**

(B) **any person with a substantial property interest of public record in the tract or real property.**

(c) **A purchaser of a certificate of sale under IC 6-1.1-24-6.1 is entitled to a tax deed to the property for which the certificate was sold only if:**

- (1) **the redemption period specified in section 4(c) of this chapter has expired;**
- (2) **the property has not been redeemed within the period of redemption specified in section 4(c) of this chapter; and**

(3) not later than ninety (90) days after the date of sale of the certificate of sale under IC 6-1.1-24, the purchaser gives notice of the sale to:

(A) the owner of record at the time of the sale; and

(B) any person with a substantial property interest of public record in the tract or real property.

(d) A purchaser or the purchaser's assignee is entitled to a tax deed to the property that was sold under IC 6-1.1-24-5.5(b) only if:

(1) the redemption period specified in section 4(a)(4) of this chapter has expired;

(2) the property has not been redeemed within the period of redemption specified in section 4(a)(4) of this chapter; and

(3) not later than ninety (90) days after the date of the sale, the purchaser or the purchaser's assignee gives notice of the sale to:

(A) the owner of record at the time of the sale; and

(B) any person with a substantial property interest of public record in the tract or real property.

(e) The purchaser or assignee or, in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor person required to give the notice under subsection (a), (b), or (c) shall give the notice required by subsection (a); by sending a copy of the notice by certified mail to:

(1) the owner of record at the time of the:

(A) sale of the property;

(B) acquisition of the lien on the property under IC 6-1.1-24-6; or

(C) sale of the certificate of sale on the property under IC 6-1.1-24;

at the last address of the owner for the property, ~~sold~~, as indicated in the records of the county auditor; and

(2) any person with a substantial property interest of public record at the address for the person included in the public record that indicates the interest.

However, if the address of the person with a substantial property interest of public record is not indicated in the public record that created the interest and cannot be located by ordinary means by the purchaser or assignee or, in a county where the county auditor and

county treasurer have an agreement under section 4.7 of this chapter, the county auditor person required to give the notice under subsection (a), (b), or (c), the person may give notice by publication in accordance with IC 5-3-1-4 once each week for three (3) consecutive weeks.

(~~e~~) (f) The notice that this section requires shall contain at least the following:

- (1) A statement that a petition for a tax deed will be filed on or after a specified date.
- (2) The date on or after which the petitioner intends to petition for a tax deed to be issued.
- (3) A description of the tract or real property shown on the certificate of sale.
- (4) The date the tract or real property was sold at a tax sale.
- (5) The name of the:
 - (A) purchaser or purchaser's assignee;
 - (B) county that acquired the lien on the property under IC 6-1.1-24-6; or
 - (C) person that purchased the certificate of sale on the property under IC 6-1.1-24.
- (6) A statement that any person may redeem the tract or real property.
- (7) The components of the amount required to redeem the tract or real property.
- (8) A statement that ~~the purchaser or the purchaser's successors or assignees~~ are an entity identified in subdivision (5) is entitled to reimbursement for additional taxes or special assessments on the tract or real property that were paid by the purchaser entity subsequent to the tax sale, lien acquisition, or purchase of the certificate of sale, and before redemption, plus interest.
- (9) A statement that the tract or real property has not been redeemed.
- (10) A statement that ~~the purchaser or the purchaser's assignee~~ an entity identified in subdivision (5) is entitled to receive a deed for the tract or real property if it is not redeemed before the expiration of the period of redemption specified in section 4 of this chapter.
- (11) A statement that ~~the purchaser or the purchaser's assignee~~ an

entity identified in subdivision (5) is entitled to reimbursement for costs described in section 2(e) of this chapter.

(12) The date of expiration of the period of redemption specified in section 4 of this chapter.

(13) A statement that if the property is not redeemed, the owner of record at the time the tax deed is issued may have a right to the tax sale surplus, if any.

(14) The street address, if any, or a common description of the tract or real property.

(15) The key number or parcel number of the tract or real property.

~~(d)~~ **(g)** The notice under this section must include not more than one (1) tract or item of real property listed and sold in one (1) description. However, when more than one (1) tract or item of real property is owned by one (1) person, all of the tracts or real property that are owned by that person may be included in one (1) notice.

~~(e)~~ **(h)** A single notice under this section may be used to notify joint owners of record at the last address of the joint owners for the property sold, as indicated in the records of the county auditor.

~~(f)~~ **(i)** The notice required by this section is considered sufficient if the notice is mailed to the address required under subsection ~~(b)~~: **(e)**.

~~(g)~~ **(j)** The notice under this section and the notice under section 4.6 of this chapter are not required for persons in possession not shown in the public records.

(k) If the purchaser fails to:

(1) comply with subsection (c)(3); or

(2) petition for the issuance of a tax deed within the time permitted under section 4.6(a) of this chapter;

the certificate of sale reverts to the county and may be retained by the county or sold under IC 6-1.1-24-6.1.

SECTION 12. IC 6-1.1-25-4.6, AS AMENDED BY P.L.139-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than six (6) months after the expiration of the period of redemption:

(1) the purchaser, the purchaser's assignee, ~~or~~ the county, **or the purchaser of the certificate of sale under IC 6-1.1-24** may; or

(2) in a county where the county auditor and county treasurer

have an agreement under section 4.7 of this chapter, the county auditor shall, upon the request of the purchaser or the purchaser's assignee;

file a verified petition in the same court and under the same cause number in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties and in the same manner as provided in section 4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section ~~4.5(b)~~ **4.5(d)** of this chapter. Any person owning or having an interest in the tract or real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written ~~petition~~ **objection** is timely filed, the court shall conduct a hearing on the objection.

(b) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

- (1) The time of redemption has expired.
- (2) The tract or real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.
- (3) **Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1**, all taxes and special assessments, penalties, and costs have been paid.
- (4) The notices required by this section and section 4.5 of this chapter have been given.
- (5) The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the ~~purchaser or purchaser's assignee~~ **petitioner under subsection (a)** to fulfill the requirements of this section, the court shall order the return of the purchase price minus a penalty of twenty-five percent (25%) of the amount of the purchase price. Penalties paid under this subsection shall be deposited in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

(1) ~~either:~~

(A) ~~the purchaser or the purchaser's assignee; or~~

(B) ~~in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor;~~

(1) the petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements;

the county auditor shall not execute the deed but shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, ~~or~~ the purchaser's successors or assignees, **or the purchaser of the certificate of sale under IC 6-1.1-24**. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price if:

(1) the purchaser **or the purchaser of the certificate of sale under IC 6-1.1-24** has failed to provide notice or has provided

insufficient notice as required by section 4.5 of this chapter; and
 (2) the sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

- (1) the regularity of the sale of the real property described in the deed;
- (2) the regularity of all proper proceedings; and
- (3) valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 13. IC 6-1.1-25-7, AS AMENDED BY P.L.139-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) If the:

- (1) purchaser; ~~or the~~
- (2) purchaser's successors or assigns; **or**
- (3) **purchaser of the certificate of sale under IC 6-1.1-24;**

fails to file the petition within the period provided in section 4.6 of this chapter, ~~the purchaser's~~ **that person's** lien against the real property terminates at the end of that period. However, this section does not apply if the county or city is the holder of the certificate of sale.

(b) If the notice under section 4.5 of this chapter is not given within the period specified in section 4.5(a)(3) **or 4.5(c)(3)** of this chapter, the ~~purchaser's~~ **lien of the:**

- (1) **purchaser of the property; or**
- (2) **purchaser of the certificate of sale under IC 6-1.1-24;**

against the real property terminates at the end of that period.

SECTION 14. IC 6-1.1-25-8, AS AMENDED BY P.L.1-2003, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 8. Each county auditor shall maintain a tax sale record on the form prescribed by the state board of accounts. The record shall contain:

- (1) a description of each parcel of real property:
 - (A) that is sold under IC 6-1.1-24;
 - (B) on which a county acquires a lien under IC 6-1.1-24-6;**
 - or
 - (C) for which a certificate of sale is purchased under IC 6-1.1-24;**
- (2) the name of the owner of the real property at the time of the:
 - (A) sale;
 - (B) lien acquisition; or**
 - (C) certificate of sale purchase;**
- (3) the date of the
 - (A) sale;
 - (B) lien acquisition; or**
 - (C) certificate of sale purchase;**
- (4) the name and mailing address of the:
 - (A) purchaser **of the property** and the purchaser's assignee; if any or
 - (B) purchaser of the certificate of sale;**
- (5) the amount of the minimum bid;
- (6) the amount for which the:
 - (A) real property; or
 - (B) certificate of sale;**
 is sold;
- (7) the amount of any taxes paid by the:
 - (A) purchaser **of the real property** or the purchaser's assignee; or
 - (B) purchaser of the certificate of sale;**
 and the date of the payment;
- (8) the amount of any costs certified to the county auditor under section 2(e) of this chapter and the date of the certification;
- (9) the name of the person, if any, who redeems the property;
- (10) the date of redemption;
- (11) the amount for which the property is redeemed;
- (12) the date a deed, if any, to the real property is executed; and
- (13) the name of the grantee in the deed.

SECTION 15. IC 6-1.1-25-10, AS AMENDED BY P.L.139-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) If, before the court issues an order directing the county auditor to issue a tax deed to a tract or item of real property sold under IC 6-1.1-24, it is found by the county auditor and the county treasurer that the sale was invalid, the county auditor shall refund:

(1) the purchase money and all taxes and special assessments on the property paid by the purchaser, ~~or~~ the purchaser's assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24** after the tax sale plus six percent (6%) interest per annum; and

(2) subject to any limitation under section 2.5 of this chapter, any costs paid by the purchaser, ~~or~~ the purchaser's assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24** under section 2 of this chapter;

from the county treasury to the purchaser, ~~or~~ the purchaser's successors or assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24**. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(b) A political subdivision shall reimburse the county for interest paid by the county under subsection (a) if:

(1) the invalidity of the sale under IC 6-1.1-24 resulted from the failure of the political subdivision to give adequate notice of a lien to property owners; and

(2) the existence of the lien resulted in the sale of the property under IC 6-1.1-24.

SECTION 16. IC 6-1.1-25-11, AS AMENDED BY P.L.139-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Subsequent to the issuance of the order directing the county auditor to issue a tax deed to real property sold under IC 6-1.1-24, a county auditor shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, ~~or~~ the purchaser's successors or assigns, **or the purchaser of the certificate of sale under IC 6-1.1-24** if it is found by the court that entered the order for the tax deed that:

(1) the real property described in the deed was not subject to the taxes for which it was sold;

- (2) the delinquent taxes or special assessments for which the real property was sold were properly paid before the sale; or
- (3) the legal description of the real property in the tax deed is void for uncertainty.

(b) The grantee of an invalid tax deed, including the county, to whom a refund is made under this section shall execute, acknowledge, and deliver to the owner a deed conveying whatever interest the purchaser may have acquired by the tax sale deed. If a county is required to execute a deed under this section, the deed shall be signed by the county board of commissioners and acknowledged by the clerk of the circuit court.

(c) A refund may not be made under this section while an action initiated under either section 14 or 16 of this chapter is pending.

SECTION 17. IC 36-1-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) As used in this section, "abutting landowner" means an owner of property that:

- (1) touches, borders on, or is contiguous to the property that is the subject of sale; and
- (2) does not constitute a:
 - (A) public easement; or
 - (B) public right-of-way.

(b) As used in this section, "offering price" means the appraised value of real property plus all costs associated with the sale, including:

- (1) appraisal fees;
- (2) title insurance;
- (3) recording fees; and
- (4) advertising costs.

(c) If the assessed value of a tract of real property to be sold is less than ~~five fifteen~~ thousand dollars (~~\$5,000~~), **(\$15,000)**, based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent may proceed under this section.

(d) The disposing agent may determine that:

- (1) the highest and best use of the tract is sale to an abutting landowner;
- (2) the cost to the public of maintaining the tract equals or exceeds the estimated fair market value of the tract; or
- (3) it is economically unjustifiable to sell the tract under section

4 of this chapter.

(e) Within ten (10) days after the disposing agent makes a determination under subsection (d), the disposing agent shall publish a notice in accordance with IC 5-3-1 identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must also include the offering price and a statement that:

- (1) the property may not be sold to a person who is ineligible under section 16 of this chapter; and
- (2) an offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
 - (A) beneficiary of the trust; and
 - (B) settlor empowered to revoke or modify the trust.

At the time of publication of notice under this subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice.

(f) The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of the tract. However, if the assessed value of a tract is less than ~~two six~~ thousand dollars (~~\$2,000~~), **(\$6,000)**, based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised.

(g) If, within ten (10) days after the date of publication of the notice under subsection (e), the disposing agent receives an eligible offer to purchase a tract listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract under section 4(c) through 4(g) of this chapter.

(h) Notwithstanding subsection (g), if within ten (10) days after the date of publication of the notice under subsection (e) the disposing agent does not receive from any person other than an abutting landowner an eligible offer to purchase the tract at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the tract as follows:

- (1) If only one (1) abutting landowner makes an eligible offer to purchase the tract, then subject to section 16 of this chapter and without further appraisal or notice, the disposing agent shall offer

to negotiate for the sale of the tract with that abutting landowner.

(2) If more than one (1) eligible abutting landowner submits an offer to purchase the tract, the other eligible abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one (1) additional offer. The tract shall be sold to the eligible abutting landowner who submits the highest offer for the tract and who complies with any requirement under subsection (e)(2).

(3) If no eligible abutting landowner submits an offer to purchase the tract, the disposing agent may sell the tract to any person who submits the highest offer for the tract, except a person who is ineligible to purchase the tract under section 16 of this chapter.

SECTION 18. IC 36-10-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) This section applies only to:

(1) the acquisition of real property; or

(2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the board decides to:

(1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;

(2) acquire real property without proceeding at the time with a work of improvement; or

(3) proceed with a work of improvement where the real property has been already secured;

it shall adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the board shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. The resolution must be open to inspection by all persons interested in or affected by the appropriation of land or the construction of the work. The board shall have notice of the resolution and its

contents published in accordance with IC 5-3-1. The notice must state a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The board may, at any time before the adoption of the resolution:

- (1) obtain from the owner or owners of the land an option for its purchase; or
- (2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint ~~three~~ (3) **two (2)** qualified appraisers to appraise ~~its value~~ **the fair market value of the land. Each appraiser must be professionally engaged in making appraisals or be trained as an appraiser and licensed as a broker under IC 25-34.1.** The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and

impartially make the valuation. ~~They shall then view the land, determine the true market value of it at that time, and report the appraisal in writing. The appraisers shall return the appraisers' separate appraisals to the board not more than thirty (30) days after the date of their appointment.~~ The ~~report appraisals~~ shall be filed with and ~~becomes become~~ a part of the record of the proceeding.

(h) The board may not take an option on the land or enter into a contract to purchase it at a ~~higher price than the value named in the report.~~ **greater than the average of the two (2) appraisals received under subsection (g).** The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the board due to the acquisition of land or to construction work shall be paid out of the funds under the control of the board and ~~are is~~ not an indebtedness or obligation of the unit.

(i) At the time fixed for the hearing, or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the secretary of the board.

(j) At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the board shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

P.L.171-2003

[H.1166. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 4-4-30-5, AS ADDED BY P.L.159-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The center for coal technology research is established to perform the following duties:

- (1) Develop technologies that can use Indiana coal in an environmentally and economically sound manner.
- (2) Investigate the reuse of clean coal technology byproducts, including fly ash.
- (3) Generate innovative research in the field of coal use.
- (4) Develop new, efficient, and economical sorbents for effective control of emissions.
- (5) Investigate ways to increase coal combustion efficiency.
- (6) Develop materials that withstand higher combustion temperatures.
- (7) Carry out any other matter concerning coal technology research, **including public education**, as determined by the center.

(8) Administer the Indiana coal research grant fund under IC 4-23-5.5-16.

SECTION 2. IC 4-23-5.5-16, AS AMENDED BY P.L.159-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) **As used in this section, "center" refers to the center for coal technology research established by IC 4-4-30-5.**

(b) The Indiana coal research grant fund is established for the purpose of providing grants for research and other projects designed to develop and expand markets for Indiana coal. The fund shall be administered by the ~~board~~: **center**.

(b) (c) Sources of money for the fund consist of the following:

- (1) Appropriations from the general assembly.
- (2) Donations, gifts, and money received from any other source, including transfers from other funds or accounts.

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

(d) (e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) (f) The ~~board~~ center shall establish:

- (1) amounts for grants under this section; and
- (2) criteria for awarding grants under this section.

(f) (g) A person, business, or manufacturer that wants a grant from the fund must file an application in the manner prescribed by the ~~board~~ center.

(h) The center shall appoint a panel of at least eight (8) members to review and make recommendations to the center about each application filed under this section. To be a member of the panel, an individual must be a scientist, a professional engineer registered under IC 25-31-1, or another professional who is familiar with coal combustion, coal properties, coal byproducts, and other coal uses.

(g) (i) The department shall pursue available private and public sources of money for the fund.



P.L.172-2003

[H.1169. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-5-34.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 34.4. (a) The pension portion**

(plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2003, to a member of the Indiana state teachers' retirement fund (or to a survivor or beneficiary of a member of the Indiana state teachers' retirement fund) who retired or was disabled:

- (1) after July 1, 1996, and before July 2, 2001, shall be increased by one percent (1%);**
- (2) after July 1, 1978, and before July 2, 1996, shall be increased by two percent (2%); and**
- (3) before July 2, 1978, shall be increased by three percent (3%).**

(b) The increases specified in this section:

- (1) are based upon the date of the member's latest retirement or disability;**
- (2) do not apply to benefits payable in a lump sum; and**
- (3) are in addition to any other increase provided by law.**

P.L.173-2003

[H.1242. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 5-13-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) All public funds of all political subdivisions shall be deposited in the designated depositories located in the respective territorial limits of the political subdivisions, except as provided in this section.

(b) Each board of finance of a political subdivision:

- (1) that is not a city, town, or school corporation; and
 - (2) whose jurisdiction crosses one (1) or more county lines;
- may limit its boundaries for the purpose of this section to that portion of the political subdivision within the county where its principal office

is located.

(c) If there is no principal office or branch of a financial institution located in the county or political subdivision, or if no financial institution with a principal office or branch in the county or political subdivision will accept public funds under this chapter, the board of finance of the county and the boards of finance of the political subdivisions in the county shall designate one (1) or more financial institutions with a principal office or branch outside of the county or political subdivision, and in the state, as a depository or depositories.

(d) The board of trustees for a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1 may invest any money in the hospital fund anywhere in the state with any financial institution designated by the state board of finance as depositories for state deposits.

(e) If only one (1) financial institution that has a branch or principal office in a county or political subdivision is willing to accept public funds, the board of finance for the county or political subdivision may:

- (1) treat the financial institution that is located within the county or political subdivision as if the financial institution were not located within the county or political subdivision; and
- (2) designate one (1) or more financial institutions to receive public funds under the requirements of subsection (c).

(f) The investing officer shall maintain the deposits as follows:

(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000).

(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and fewer than three (3) financial institutions are designated by the local board of finance as a depository.

(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository.

SECTION 2. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each officer designated in section 1 of this chapter may deposit, invest, or reinvest any funds that

are held by the officer and available for investment in transaction accounts issued or offered by a designated depository of a political subdivision for the rates and terms agreed upon periodically by the officer making the investment and the designated depository. ~~The fiscal body of a political subdivision shall require the investing officer to deposit and maintain deposits that are invested or reinvested under this subsection as follows:~~

~~(1) In one (1) or more depositories designated for the political subdivision, if the sum of the monthly average balances of all of the transaction accounts for the political subdivision does not exceed one hundred thousand dollars (\$100,000):~~

~~(2) In each depository designated for the political subdivision, if subdivision (1) does not apply and less than three (3) financial institutions are designated by the local board of finance as a depository:~~

~~(3) In at least two (2) depositories designated for the political subdivision, if subdivision (1) does not apply and at least three (3) financial institutions are designated by the local board of finance as a depository:~~

(b) The investing officer making a deposit in a certificate of deposit shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. A deposit made under this subsection shall be placed in the designated depository quoting the highest rate of interest. If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.

(c) If all of the designated depositories of a political subdivision decline to issue or receive any deposit account, or to issue or receive the deposit account at a rate of interest equal to the highest rate being offered other investors, investments may be made in the deposit accounts of any financial institution designated for state deposits as a depository by the state board of finance under IC 5-13-9.5.

SECTION 3. IC 5-13-11-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A contract may be renewed under this chapter if the county board of finance for a county subject to IC 5-13-7-1 or the fiscal body of a political subdivision and the investing officer of the political subdivision agree with the depository to renew the contract under the same terms or better terms as the original contract.**

(b) The term of a renewed contract may not be longer than the term of the original contract.

(c) A contract may be renewed any number of times.

SECTION 4. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:**

- (1) identify with reasonable particularity the record being requested; and
- (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). The public agency shall either:

- (1) provide the requested copies to the person making the request; or
- (2) allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on **his the person's** own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

- (1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.
- (2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by

or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map. ~~(as defined by IC 5-14-3-2):~~

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person ~~(as defined in IC 5-14-3-2)~~ for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

(1) A list of employees of a public agency.

(2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.

(3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:

(A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or

(B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(g) A public agency may not enter into or renew a contract or an obligation:

(1) for the storage or copying of public records; or

(2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

(g) (h) If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

SECTION 5. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of

higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

~~(11)~~ **(11)** The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number:

(B) Social Security number:

~~(C)~~ Address:

~~(12)~~ **(11)** A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of ~~his~~ **the person's** scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being

disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or **his the employee's** representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of **his the donor's** identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;**
- (B) vulnerability assessments;**
- (C) risk planning documents;**
- (D) needs assessments;**
- (E) threat assessments;**
- (F) domestic preparedness strategies;**
- (G) the location of community drinking water wells and surface water intakes;**
- (H) the emergency contact information of emergency responders and volunteers;**
- (I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and**
- (J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained**

by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

- (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
- (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) (c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) (d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) (e) Notwithstanding subsection (e) (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 6. IC 5-14-3-9, AS AMENDED BY P.L.191-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

- (1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or

(2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(b) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

(1) the denial is in writing or by facsimile; and

(2) the denial includes:

(A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and

(B) the name and the title or position of the person responsible for the denial.

(d) This subsection applies to a board, a commission, a department, a division, a bureau, a committee, an agency, an office, an instrumentality, or an authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state. If an agency receives a request to inspect or copy a record that the agency considers to be excepted from disclosure under section 4(b)(19) of this chapter, the agency may consult with the counterterrorism and security council established under IC 4-3-20. If an agency denies the disclosure of a record or a part of a record under section 4(b)(19) of this chapter, the agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening the public safety.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public

agency must notify each person who supplied any part of the public record at issue:

- (1) that a request for release of the public record has been denied; and
- (2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

~~(e)~~ **(f)** The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

~~(f)~~ **(g)** If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

- (1) the public agency meets its burden of proof under this subsection by:
 - (A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and
 - (B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and
- (2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

~~(g)~~ **(h)** The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

~~(h)~~ **(i)** In any action filed under this section, a court shall award reasonable ~~attorney~~ **attorney's** fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

- (1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(†)(j) A court shall expedite the hearing of an action filed under this section.

SECTION 7. IC 6-1.1-18-6, AS AMENDED BY P.L.90-2002, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The proper officers of a political subdivision may transfer money from one major budget classification to another within a department or office if:

- (1) they determine that the transfer is necessary;
- (2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; **and**
- (3) the transfer is made at a regular public meeting and by proper ordinance or resolution. **and**
- ~~(4) the transfer is certified to the county auditor:~~

(b) A transfer may be made under this section without notice and without the approval of the department of local government finance.

SECTION 8. IC 6-1.1-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. Notwithstanding the other provisions of this chapter, the ~~appropriating body~~ **fiscal officer** of a political subdivision may appropriate funds received from an insurance company if:

- (1) the funds are received as a result of damage to property of the political subdivision; and
- (2) the funds are appropriated for the purpose of repairing or replacing the damaged property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after

they are received.

SECTION 9. IC 6-1.1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Annually, after November 10th but prior to August 1st of the succeeding year, each county treasurer shall serve a written demand upon each county resident who is delinquent in the payment of personal property taxes. The written demand may be served upon the taxpayer:

- (1) by registered or certified mail;
 - (2) in person by the county treasurer or **his deputy; the county treasurer's agent;** or
 - (3) by proof of certificate of mailing.
- (b) The written demand required by this section shall contain:
- (1) a statement that the taxpayer is delinquent in the payment of personal property taxes;
 - (2) the amount of the delinquent taxes;
 - (3) the penalties due on the delinquent taxes;
 - (4) the collection expenses which the taxpayer owes; and
 - (5) a statement that if the sum of the delinquent taxes, penalties, and collection expenses are not paid within thirty (30) days from the date the demand is made then:
 - (A) sufficient personal property of the taxpayer shall be sold to satisfy the total amount due plus the additional collection expenses incurred; or
 - (B) a judgment may be entered against the taxpayer in the circuit court of the county.

SECTION 10. IC 8-17-4.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The governing body shall prepare by ~~December 31~~ **April 15** of each year an operational report **for the prior calendar year** of the department within the county or municipality that has road and street responsibilities.

SECTION 11. IC 8-17-4.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. ~~(a)~~ This report shall be prepared on forms prescribed by the state board of accounts and must disclose **for the calendar year the following:**

- ~~(1) The receipts of the department and the sources of the receipts.~~
- ~~(2) The expenditures of the department showing the purpose of each expenditure made and to account for all funds.~~
- ~~(3) The number of employees of the department each month and~~

~~the work classifications of the employees.~~

~~(4) The proposed construction, reconstruction, and repair program following the year of the annual report.~~

~~(5) The maintenance expenses.~~

~~(b) The report must also include other all information considered necessary by the state board of accounts to reflect the financial condition and operations of the department.~~

SECTION 12. IC 8-17-4.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The annual operational report must be completed and a copy filed with the state board of accounts, the governing body, and the department by **February 15 June 1** following the operational report year. The department shall make the report available to the public.

SECTION 13. IC 8-23-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) The public mass transportation fund is established for the purpose of promoting and developing public mass transportation in Indiana. The fund shall be administered by the department.

(b) The treasurer of state may invest the money in the fund in the same manner as other public funds may be invested.

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

~~(d) Money distributed from the fund in a county containing a consolidated city must be distributed to the consolidated city for promoting and developing public mass transportation and not to a public transportation corporation located within the county.~~

SECTION 14. IC 20-14-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The library board of any public library established as a 1901 city or town library consists of qualified and experienced persons of at least eighteen (18) years of age who have been residents of the municipality where the library is located for at least two (2) years immediately preceding their appointment. The members shall be appointed for two (2) year terms as follows:

(1) The board of commissioners of the county where the library is located shall appoint one (1) member.

(2) The fiscal body of the county where the library is located shall appoint one (1) member.

(3) The municipal executive shall appoint one (1) member.

(4) The municipal legislative body shall appoint one (1) member.

(5) The school board of the school corporation where the library is located shall appoint three (3) members who may be members of the school board.

(b) If a vacancy occurs on the library board for any cause, the appointing authority shall fill the respective vacancy. The appointing authority may at any time, for cause shown, remove any member of the library board and appoint a new member to fill the vacancy occasioned by this removal.

(c) The library board members shall serve without compensation.

(d) All appointments to membership on the library board shall be evidenced by certificates of appointment signed by the appointing authority. Certificates of appointment shall be handed to or mailed to the address of the appointee. Within ten (10) days after receiving the certificates of appointment, the appointees shall take an oath of office, before the clerk of the circuit court, that the appointee will faithfully discharge **his the appointee's** duties as a member of the library board to the best of **his the appointee's** ability. The appointee shall file the certificate, with the oath endorsed on it, with the clerk of the circuit court of the county in which the library is located.

(e) Within five (5) days after all the members of the library board have been appointed and have taken the oath of office, the members shall meet and organize by electing one (1) of their number president, one (1) vice president, and one (1) secretary. They shall also select committees or an executive board to carry on the work of the board should they determine that committees or an executive board is necessary for this purpose.

(f) The facilities of a public library established as a 1901 city or town library are open and free for the use and benefit of all of the residents of the library district.

(g) The fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ of the municipality operating a public library under this section shall prepare and file with the municipal legislative body, before January 16 each year, an itemized statement, under oath, of all the receipts and disbursements of the library board for the year ending December 31 immediately preceding the preparing and filing of the report. The report must contain an itemized statement of the sources of all receipts, of all

disbursements made, and of the purpose for which each was made. This annual report may be inspected by the citizens of the municipality and township in which the library is located.

SECTION 15. IC 33-19-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6.5. Credit Card Service Fee

Sec. 1. This chapter applies to any transaction in which:

- (1) the clerk is required to collect money from a person, including:
 - (A) bail;**
 - (B) a fine;**
 - (C) a civil penalty;**
 - (D) a court fee or court cost; or**
 - (E) a fee for the preparation, duplication, or transmission of a document; and****
- (2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.**

Sec. 2. A payment made under this chapter does not finally discharge the person's liability and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a fee from the person using the bank or credit card. The fee is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

Sec. 3. The clerk shall forward credit card service fees collected under this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-19-1-3(a). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 16. IC 35-33-8-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit**

card shall pay the credit card service fee under IC 33-19-6.5.

SECTION 17. IC 35-33-9-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee under IC 33-19-6.5.**

SECTION 18. IC 36-1-8-5, AS AMENDED BY P.L.251-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a)** This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.

(b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise:

- (1) Funds of a county, to the general fund or rainy day fund of the county, as provided in section 5.1 of this chapter.
- (2) Funds of a municipality, to the general fund or rainy day fund of the municipality, as provided in section 5.1 of this chapter.
- (3) Funds of a township for redemption of poor relief obligations, to the poor relief fund of the township or rainy day fund of the township, as provided in section 5.1 of this chapter.
- (4) Funds of any other political subdivision, to the general fund or rainy day fund of the political subdivision, as provided in section 5.1 of this chapter. However, if the political subdivision is dissolved or does not have a general fund or rainy day fund, then to the general fund of each of the units located in the political subdivision in the same proportion that the assessed valuation of the unit bears to the total assessed valuation of the political subdivision.

(c) Whenever an unused and unencumbered balance remains in the civil township fund of a township and a current tax levy for the fund is not needed, the township fiscal body may order any part of the balance of that fund transferred to the debt service fund of the school corporation located in or partly in the township; but if more than one (1) school corporation is located in or partly in the township, then any sum transferred shall be transferred to the debt service fund of each of

those school corporations in the same proportion that the part of the assessed valuation of the school corporation in the township bears to the total assessed valuation of the township.

(d) Transfers to a political subdivision's rainy day fund must be made after the last day of the political subdivision's fiscal year and before March 1 of the subsequent calendar year.

SECTION 19. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund ~~to receive transfers of unused and unencumbered funds under section 5 of this chapter. by the adoption of:~~

- (1) an ordinance, in the case of a county, city, or town; or**
- (2) a resolution, in the case of any other political subdivision.**

(b) An ordinance or a resolution adopted under this section must specify the following:

- (1) The purposes of the rainy day fund.**
- (2) The sources of funding for the rainy day fund.**

~~(b) (c)~~ **(c)** The rainy day fund is subject to the same appropriation process as other funds that receive tax money. ~~Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.~~

~~(c) (d)~~ **(d)** In any fiscal year, a political subdivision may transfer not more than ten percent (10%) of the political subdivision's ~~total annual~~ budget for that fiscal year year, **adopted under IC 6-1.1-17**, to the rainy day fund.

~~(d) (e)~~ **(e)** A political subdivision may use only the funding sources specified in the ordinance or resolution establishing the rainy day fund unless the political subdivision adopts a subsequent ordinance or resolution authorizing the use of another funding source.

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 20. IC 36-1-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section does not apply to a county treasurer governed by IC 36-2-10-23.

(b) As used in this section, "credit card" means a:

- (1) credit card;
- (2) debit card;
- (3) charge card; or
- (4) stored value card.

(c) A payment to a political subdivision or a municipally owned utility for any purpose may be made by any of the following financial instruments that the fiscal body of the political subdivision or the board of the municipally owned utility authorizes for use:

- (1) Cash.
- (2) Check.
- (3) Bank draft.
- (4) Money order.
- (5) Bank card or credit card.
- (6) Electronic funds transfer.
- (7) Any other financial instrument authorized by the fiscal body.

(d) If there is a charge to the political subdivision or municipally owned utility for the use of a financial instrument, ~~other than a bank card or credit card~~, the political subdivision or municipally owned utility ~~shall~~ **may** collect a sum equal to the amount of the charge from the person who uses the financial instrument.

(e) If authorized by the fiscal body of the political subdivision or the board of the municipally owned utility, the political subdivision or municipally owned utility may accept payments under this section with a bank card or credit card under the procedures set forth in this section. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

(f) The political subdivision or municipally owned utility may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards.

(g) The political subdivision or municipally owned utility may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card under this subsection.

(h) The authorization of the fiscal body of the political subdivision is not required by the bureau of motor vehicles or the bureau of motor vehicles commission to use electronic funds transfer or other financial instruments to transfer funds to the political subdivision.

SECTION 21. IC 36-2-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. ~~(a) When the county~~

treasurer performs duties in a second class city under IC 36-4-10-6, the treasurer shall pay fees accruing exclusively on city business into the general fund of the city:

(b) This chapter does not require the county sheriff to pay the following into the county general fund:

(1) Any damages set forth in a warrant that is issued by the department of state revenue and on which collection is made by the sheriff, including damages prescribed by IC 6-8.1-8.

(2) Sums, other than court fees, retained by the circuit court clerk for the sheriff from the collections obtained by warrants of the department of workforce development.

(3) Sums allowed by IC 36-8 to sheriffs for the feeding of prisoners.

SECTION 22. IC 36-4-3-5, AS AMENDED BY P.L.224-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

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

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

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

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

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

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

on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(d) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

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

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

(f) In a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the court shall hear and determine the petition without a jury and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential city services and facilities are or can be made available to the residents of the territory sought to be annexed;
- (2) the city is physically and financially able to provide city services to the territory sought to be annexed; and
- (3) the territory sought to be annexed is contiguous to the city.

If the evidence does not establish all three (3) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

SECTION 23. IC 36-4-3-11, AS AMENDED BY P.L.224-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsection (d), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by: (†) if the

annexation is by a city in a county with a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000): (A) a majority of the owners of land in the annexed territory; or (B) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory; or (2) if the annexation is by a municipality that is not described in subdivision (1):

(A) (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or

(B) (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

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

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

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

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

SECTION 24. IC 36-4-3-13, AS AMENDED BY P.L.170-2002, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

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

(2) The requirements of subsection (d).

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

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

(2) One (1) of the following:

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

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

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

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

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

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

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

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

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

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

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other

noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria. ~~However, in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the fiscal plan of a city must show that these services will be provided to the annexed territory within four (4) years after the effective date of the annexation and in the same manner as those services are provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, or population density.~~

(e) ~~This subsection does not apply to a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000):~~ At the hearing under section 12 of this chapter, the court shall do the following:

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

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

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

(i) Police and fire protection.

(ii) Street and road maintenance.

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

(C) The annexation is not in the best interests of the owners of

land in the territory proposed to be annexed as set forth in subsection (f).

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

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

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

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

- (1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
- (2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

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

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:

- (1) Consider evidence on the conditions listed in subdivision (2).
- (2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

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

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on

the residents or owners of land.

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

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

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

(h) The most recent:

- (1) federal decennial census;
- (2) federal special census;
- (3) special tabulation; or
- (4) corrected population count;

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

SECTION 25. IC 36-4-3-16, AS AMENDED BY P.L.217-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Within one (1) year after the expiration of:

- (1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; **or**
- (2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter; **or**
- ~~(3) the four (4) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter by a city for annexed territory in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000);~~

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

(1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.

(2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.

(3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

SECTION 26. IC 36-4-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The legislative body may, by ordinance, make loans of money and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city or for the payment of city debts.

- (b) An ordinance adopted under this section:
 - (1) must include the terms of the bonds to be issued in evidence of the loan;
 - (2) must include the time and manner of giving notice of the sale of the bonds;
 - (3) must include the manner in which the bonds will be sold; and
 - (4) may authorize a total amount for any issue of bonds.
- (c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.
- (d) Bonds issued and sold by a city under this section:
 - (1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;
 - (2) may bear interest at any rate;
 - (3) may run not longer than thirty (30) years;
 - (4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and
 - (5) may be sold for not less than par value.
- (e) The city fiscal officer shall:
 - (1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;
 - (2) certify the amount the purchaser is to pay, together with the name and address of the purchaser;
 - (3) receive the amount of payment certified;
 - (4) deliver the bonds to the purchaser;
 - (5) take a receipt for the securities delivered;
 - (6) pay the purchaser's payment into the city treasury; and
 - (7) report the proceedings in the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial.

(f) ~~This subsection applies only to second class cities subject to IC 36-4-10-6. Notwithstanding subsection (e), the fiscal officer of a city selling bonds under this section shall deliver them to the county treasurer after they have been properly executed and shall take his receipt for them. When a contract for the sale of all or any part of the bonds is consummated, the fiscal officer shall certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser. The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the~~

bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall proceed under subsection (e):

SECTION 27. IC 36-6-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. When his term of office expires, the executive shall:

- (1) immediately deliver to the new executive custody of all funds and property of the township, except records necessary in the preparation of his annual report;
- (2) deliver to the new executive, not later than the second Monday in the next January, his annual report and any records he has retained; and
- (3) attend the annual meeting of the township legislative body ~~on the second Tuesday after the first Monday in the next January;~~ **held under IC 36-6-6-9** and submit to inquiries from the legislative body concerning the operation of the executive's office during the preceding calendar year.

SECTION 28. IC 36-6-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body shall make annual appropriations for assistants in township offices. Payments shall be made to assistants ~~monthly~~ on vouchers verified by the claimant and approved by the officer in whose office he is employed.

SECTION 29. IC 36-6-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Deputies and other employees of a township assessor must file their claims for compensation, which must be verified by the township assessor. Claims for employment that is not on an annual basis must show the actual number of days employed. Deputies and other employees of a township assessor shall be paid ~~monthly~~ out of the county treasury, on the warrant of the county auditor.

(b) Employees of the township assessor are entitled to no compensation other than that provided by this chapter.

SECTION 30. IC 36-7-4-208, AS AMENDED BY P.L.276-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county surveyor or the county surveyor's designee.

(4) The county agricultural extension educator. **However, if the county does not have a county agricultural extension educator, the county extension board shall select a resident of the county who is a property owner with agricultural interest to serve on the commission under this subdivision for a period not to exceed one (1) year.**

(5) Five (5) members appointed in accordance with one (1) of the following:

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. Also one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

If a county executive changes the plan commission from having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) ADVISORY. The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) AREA. When there are six (6) county representatives, they are as follows:

(1) One (1) member appointed by the county executive from its membership.

(2) One (1) member appointed by the county fiscal body from its membership.

(3) The county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission.

(4) One (1) of the following appointed by the county executive:

(A) The county agricultural extension educator.

(B) The county surveyor or the county surveyor's designee.

(5) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county executive.

(6) One (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

(d) AREA. When there are five (5) county representatives, they are the representatives listed or appointed under subsection (c)(3), (c)(4),

(c)(5), and (c)(6) and:

(1) the county surveyor or the county surveyor's designee if the county executive appoints the county agricultural extension educator under subsection (c)(4); or

(2) the county agricultural extension educator if the county executive appoints the county surveyor under subsection (c)(4).

(e) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 31. IC 36-8-3-3, AS AMENDED BY P.L.125-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing him to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body before:

(1) ~~August~~ **September** 20 for a second class city; and

(2) September 20 for a third class city;

of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as

by length of service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey his orders and directions, notwithstanding any law or rule to the contrary.

SECTION 32. IC 36-8-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A police pension fund to be known as the 1925 fund is established in each municipality described in section 1(a) of this chapter.

(b) The 1925 fund shall be managed by a board of trustees (referred to as the "local board" in this chapter) having at least seven (7) but not more than nine (9) trustees, as follows:

(1) The municipal executive, the municipal fiscal officer, ~~(except in a city subject to IC 36-4-10-6, in which case the county treasurer)~~; and the police chief, who are ex officio voting members of the local board.

(2) One (1) retired member of the police department.

(3) At least three (3) but not more than five (5) active members of the police department.

However, in cities where there are not sufficient members of the police department to appoint a local board consisting of at least five (5) trustees, the local board may be composed of three (3) trustees, those being the executive, the fiscal officer, and the police chief.

(c) The trustees under subsections (b)(2) and (b)(3) shall be elected at a meeting of the members of the police department at the central police station on the second Monday in February of each year. The

trustees are elected for terms of three (3) years, succeeding those trustees whose terms of office expire on that date. The trustees hold their offices until their successors are elected and qualified.

(d) If a vacancy occurs on the local board among those trustees elected by the police department, the police department shall, within a reasonable time, hold a special meeting upon the call of the municipal executive and elect a successor for the remainder of the trustee's term.

(e) A majority of all the trustees constitutes a quorum for the transaction of business.

(f) The trustees receive no pay for their services and shall be paid only their necessary expenses. However, the trustees, the secretary, and each member of the police department selected by the local board shall be paid their necessary traveling expenses from the 1925 fund when acting upon matters pertaining to the fund.

(g) The local board may make all necessary bylaws for:

- (1) meetings of the trustees;
- (2) the manner of their election, including the counting and canvassing of the votes;
- (3) the collection of all money and other property due or belonging to the 1925 fund;
- (4) all matters connected with the care, preservation, and disbursement of the fund; and
- (5) all other matters connected with the proper execution of this chapter.

SECTION 33. IC 36-8-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The municipal executive is president of the local board, the municipal fiscal officer ~~(or county treasurer)~~ is its treasurer, and the local board shall select one (1) of its members secretary. The secretary shall be paid out of the 1925 fund a sum for ~~his~~ **the secretary's** services as fixed by the local board.

(b) The president shall preside over all meetings of the local board, call special meetings of the police department of the city, and preside over the annual and called meetings of the department concerning the 1925 fund.

(c) The treasurer:

- (1) has custody of all money and securities due or belonging to the 1925 fund and shall collect the principal and interest on them;
- (2) is liable on ~~his~~ **the treasurer's** bond as an officer for the

municipality for the faithful accounting of all money and securities belonging to the fund that come into **his the treasurer's** hands;

(3) shall keep a separate account showing at all times the true condition of the fund; and

(4) shall, upon the expiration of **his the treasurer's** term of office, account to the local board for all money and securities coming into **his the treasurer's** hands, including the proceeds of them, and turn over to **his the treasurer's** successor all money and securities belonging to the fund remaining in **his the treasurer's** hands.

(d) The secretary shall:

(1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;

(2) keep a correct statement of the accounts of each member with the fund;

(3) collect and turn over to the treasurer of the local board all money belonging to the fund;

(4) give the local board a monthly account of **his the secretary's** acts and services as secretary; and

(5) turn over to **his the secretary's** successor all books and papers pertaining to the office.

(e) The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of **his the secretary's** duties.

(f) The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

(g) Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into **his the secretary's** hands.

SECTION 34. IC 36-8-7-10, AS AMENDED BY P.L.35-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The local board shall determine how much

of the 1937 fund may be safely invested and how much should be retained for the needs of the fund. Investments are restricted to the following:

(1) Interest bearing direct obligations of the United States or of the state or bonds lawfully issued by an Indiana political subdivision. The securities shall be deposited with and must remain in the custody of the treasurer of the local board, who shall collect the interest on them as it becomes due and payable.

(2) Savings deposits or certificates of deposit of a chartered national, state, or mutual bank whose deposits are insured by a federal agency. However, deposits may not be made in excess of the amount of insurance protection afforded a member or investor of the bank.

(3) Shares of a federal savings association organized under 12 U.S.C. 1461, as amended, and having its principal office in Indiana, or of a savings association organized and operating under Indiana statutes whose accounts are insured by a federal agency. However, shares may not be purchased in excess of the amount of insurance protection afforded a member or investor of the association.

(4) An investment made under IC 5-13-9.

(b) All securities must be kept on deposit with the unit's fiscal officer, ~~or county treasurer acting under IC 36-4-10-6~~, who shall collect all interest due and credit it to the 1937 fund.

(c) The fiscal officer (~~or county treasurer~~) shall keep a separate account of the 1937 fund and shall fully and accurately set forth a statement of all money received and paid out by him. The officer shall, on the first Monday of January and June of each year, make a report to the local board of all money received and distributed by him. The president of the local board shall execute the officer's bond in the sum that the local board considers adequate, conditioned that ~~he~~ **the fiscal officer** will faithfully discharge the duties of ~~his~~ **the fiscal officer's** office and faithfully account for and pay over to the persons authorized to receive it all money that comes into ~~his~~ **the fiscal officer's** hands by virtue of ~~his~~ **the fiscal officer's** office. The bond and sureties must be approved by the local board and filed with the executive of the unit. The local board shall make a full and accurate report of the condition of the 1937 fund to the unit's fiscal officer on the first Monday of

February in each year.

(d) All securities that were owned by and held in the name of the local board on January 1, 1938, shall be held and kept for the local board by the unit's fiscal officer (~~or county treasurer~~) until they mature and are retired. However, if an issue of the securities is refunded, the local board shall accept refunding securities in exchange for and in an amount equal to the securities refunded. All money received by the local board for the surrender of matured and retired securities shall be paid into and constitutes a part of the 1937 fund of the unit, as provided in section 8 of this chapter.

(e) Investments under this section are subject to section 2.5 of this chapter.

SECTION 35. IC 36-8-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. All money that is collected and received by the local board or an officer of it by virtue of subdivisions (1) through (4) of section 8 of this chapter shall be paid to the unit's fiscal officer, (~~or county treasurer~~); who shall credit this money to the 1937 fund. The 1937 fund is a public fund for purposes of IC 5-13.

SECTION 36. IC 36-8-7-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The unit's fiscal officer ~~or county treasurer acting under IC 36-4-10-6~~; is the custodian of all money belonging to the 1937 fund, and all money belonging to the fund shall be promptly paid to the officer. The officer is liable on ~~his the officer's~~ bond for the faithful performance of all duties imposed upon ~~him the officer~~ by this chapter in relation to the fund and for the faithful accounting of all money and securities that come into ~~his the officer's~~ possession and belong to the fund. The officer shall keep a separate account of the 1937 fund, which must always show the true condition of the fund.

SECTION 37. IC 36-8-12.2-8, AS ADDED BY P.L.33-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Money collected under this chapter must be deposited in **one (1) of the following**:

- (1) **The general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1). and**
- (2) **A hazardous materials response fund established under section 8.1 of this chapter by a city or town having a fire**

department established under IC 36-8-2-3.

(b) Money collected under this chapter may be used only for the following:

- (1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter.
- (2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter.
- (3) Payment to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter.

SECTION 38. IC 36-8-12.2-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 8.1. (a) The fiscal body of each city or town that establishes a fire department under IC 36-8-2-3 may, by ordinance or resolution, establish a hazardous materials response fund.**

(b) The hazardous materials response fund shall be administered by the unit's fiscal officer, and the expenses of administering the fund shall be paid from money in the fund. Money in the fund not currently needed to meet the obligations of the fund may be invested in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a particular fiscal year does not revert to the unit's general fund.

SECTION 39. IC 36-9-13-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 30. (a) For the purpose of obtaining money to pay the cost of:

- (1) acquiring or constructing government buildings;
- (2) acquiring land;
- (3) acquiring systems;
- (4) improving, reconstructing, or renovating government buildings, systems, or land;
- (5) repaying any advances for preliminary expenses made to the building authority by an eligible entity;
- (6) purchasing plans, designs, programs, and devices for governmental buildings or systems; or
- (7) refinancing any loan made under section 31 of this chapter;

the board of directors of a building authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the particular government buildings, systems, or land for which the bonds were issued.

(c) The bonds must be authorized by resolution of the board. The bonds:

- (1) bear interest payable semiannually; and
- (2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

However, the maturities of the bonds may not extend over a period longer than the period of the lease of the government buildings, systems, or land for which the bonds are issued.

(d) The bonds may, and all bonds maturing after five (5) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the building authority. Such a redemption must be at the par value of the bonds, together with the premiums, and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the bonds must:

- (1) determine the form of the bonds, including the interest coupons (if any) to be attached to them;
- (2) fix the denomination or denominations of the bonds; and
- (3) fix the place or places of payment of the principal and interest of the bonds, which must be at a state or national bank or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(g) The bonds are negotiable instruments under IC 26-1.

(h) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to principal alone.

(i) The bonds shall be executed by the president of the board of directors, the corporate seal of the authority shall be affixed to the bonds and attested by the secretary of the board, and the interest coupons (if any) attached to the bonds shall be executed by placing the facsimile signature of the treasurer of the board on them.

(j) The bonds may be sold at a private sale, a negotiated sale, or a public sale.

~~(j)~~ **(k) Notice** If the bonds are sold at a public sale, notice of the sale of the bonds shall be published in accordance with IC 5-3-1.

~~(k)~~ **(l)** The board of directors shall sell the bonds at public sale, for not less than their par value. The board shall award the bonds to the highest bidder, as determined by computing the total interest on the bonds from the date of sale to the dates of maturity and deducting from that amount the premium bid, if any. Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. If the bonds are not sold on the date fixed for the sale, then the sale may be continued from day to day until a satisfactory bid has been received.

~~(l)~~ **(m)** The board of directors may issue temporary bonds, with or without coupons. These bonds, which must be issued in the manner prescribed by this section, may be exchanged for the bonds that are subsequently issued.

SECTION 40. IC 36-10-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A tax on the taxable property in the district, as it appears on the tax duplicate, shall be levied annually by the city legislative body for park purposes.

(b) The tax shall be collected the same as other city taxes are collected, and the city fiscal officer ~~(or county treasurer acting under IC 36-4-10-6)~~ shall, between the first and fifth days of each month, notify the board of the amount of taxes collected for park purposes during the preceding month. At the date of notification, the city fiscal officer ~~(or county treasurer)~~ shall credit the park fund with the amount.

(c) The board may expend on behalf of the city all sums of money collected from:

- (1) taxes;
- (2) the sale of privileges in the parks of the city;
- (3) the sale of bonds of the city for park purposes; and
- (4) any other source.

All gifts, donations, or payments that are given or paid to the city for park purposes belong to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund to be used by the board as provided by this chapter. Warrants for expenditures shall be drawn by the city fiscal officer upon a voucher of the board signed

by the president or vice president and secretary.

(d) The city legislative body may borrow money for the use of the department and may issue the bonds of the city to pay back the borrowed money in the manner provided by statute for the issue of bonds for the general purposes of the city. However, the board may not contract debts beyond the amount of its annual income and the amount available from the sale of bonds or other sources.

(e) All money remaining in the treasury to the credit of the board at the end of the calendar year belongs to the general park fund, the special nonreverting operating fund, or the special nonreverting capital fund for use by the board for park purposes.

(f) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(g) The city legislative body may establish by ordinance upon request of the board:

- (1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the city legislative body; or
- (2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the city legislative body.

The city legislative body shall designate the fund or funds into which the city fiscal officer (~~or county treasurer~~) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the city fiscal officer (~~or county treasurer~~) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the general park fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(h) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created,

unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(i) Money procured from fees or received from the sale of surplus property shall be deposited at least once each month with the city fiscal officer.

SECTION 41. IC 36-4-10-6 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 42. [EFFECTIVE JULY 1, 2003] **(a) The state board of accounts shall review the format and content of the annual operational report required under IC 8-17-4.1-5, as amended by this act, and shall prescribe a streamlined report that addresses:**

- (1) easing the preparation of;**
- (2) the informational requirements of the users of; and**
- (3) the promotion of accuracy within;**

the revised report.

(b) This SECTION expires January 1, 2004.

SECTION 43. **An emergency is declared for this act.**

P.L.174-2003

[H.1243. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-9-23-33, AS AMENDED BY P.L.171-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. (a) An officer described in subsection (b) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (l), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. As often as the officer determines is necessary in a calendar year, the officer shall prepare **either of the following:**

(1) A list of the delinquent fees and penalties that are enforceable under this section, which must include the **following**:

(A) **The** name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.

(B) **A** description of the premises, as shown by the records of the county auditor. ~~and~~

(C) **The** amount of the delinquent fees, together with the penalty. ~~or~~

(2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

(c) The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording ~~it~~ **the list or each individual instrument** in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists and instruments prepared under subsection (b) and recorded under subsection (c), ~~after September 1 of the preceding calendar year and before September 1 of the current calendar year~~, the officer shall, ~~before December 15 of each year~~ **not later than ten (10) days after the list or each individual instrument is recorded under subsection (c)**, certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(f) The officer shall release any recorded lien when the delinquent

fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(g) On receipt of the list under subsection ~~(d)~~ or (e), the county auditor of each county ~~(excluding a county having a consolidated city)~~ shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due ~~no~~ **not** later than the due date of the next May installment of property taxes. ~~However,~~ In a county having a consolidated city, the delinquent fees, penalties, service charges, and recording fees are due not later than the due date of the next installment of property taxes. The county treasurer shall then include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(h) After ~~the date of~~ certification ~~in each year,~~ **of liens under subsection (e),** the officer may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor. This subsection does not apply to a county containing a consolidated city.

(i) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(j) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the municipality. The county treasurer shall retain the service charges and certification fees that have been collected, and shall deposit them in the county general fund.

(k) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 32(d) of this

chapter, files a verified demand with the county auditor.

(l) A board may write off a fee or penalty under subsection (a) that is for less than forty dollars (\$40).



P.L.175-2003

[H.1358. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-41-1-4.7 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.7. "Community policing volunteer" means a person who is:**

- (1) not a law enforcement officer; and**
- (2) actively participating in a plan, system, or strategy:**
 - (A) established by and conducted under the authority of a law enforcement agency; and**
 - (B) in which citizens:**
 - (i) participate with and are guided by the law enforcement agency; and**
 - (ii) work with members of the law enforcement agency to reduce or prevent crime within a defined geographic area.**

SECTION 2. IC 35-42-2-1, AS AMENDED BY HEA 1660-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:**

- (1) a Class A misdemeanor if:**
 - (A) it results in bodily injury to any other person;**
 - (B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while**

the officer is engaged in the execution of his official duty;
 (C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; ~~or~~

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; **or**

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in

the execution of the health care provider's official duty;
 (J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty; ~~or~~
 (K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; ~~or~~

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2).

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 3. IC 35-45-2-1, AS AMENDED BY P.L.241-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person who communicates a threat to another person, with the intent:

(1) that the other person engage in conduct against the other person's will;

(2) that the other person be placed in fear of retaliation for a prior lawful act; or

(3) of causing:

(A) a dwelling, a building, or another structure; or

(B) a vehicle;

to be evacuated;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) Class D felony if:

(A) the threat is to commit a forcible felony;

(B) the person to whom the threat is communicated:

(i) is a law enforcement officer;

(ii) is a judge or bailiff of any court;

(iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat; or

(iv) is an employee of a school corporation; or

(v) is a community policing volunteer;

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

(1) unlawfully injure the person threatened or another person, or damage property;

(2) unlawfully subject a person to physical confinement or restraint;

(3) commit a crime;

(4) unlawfully withhold official action, or cause such withholding;

(5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;

(6) expose the person threatened to hatred, contempt, disgrace, or ridicule;

(7) falsely harm the credit or business reputation of the person threatened; or

(8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

SECTION 4. [EFFECTIVE JULY 1, 2003] **This act applies only to crimes committed after June 30, 2003.**

P.L.176-2003

[H.1368. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning probate.

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

SECTION 1. IC 6-4.1-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) After the hearing required by section 9 of this chapter, the probate court shall determine the fair market value of the property interests transferred by the resident decedent and the amount of inheritance tax due as a result of his death. The court shall then enter an order stating the amount of inheritance tax due and the fees due witnesses under section 4 of this chapter. If the court finds that no inheritance tax is due, the court shall include a statement to that effect in the order.

(b) The court shall prepare the order required by this section on the form prescribed by the department of state revenue. The court shall include in the order a description of all Indiana real property owned by the resident decedent at the time of his death. The probate court shall spread the order of record in the office of the clerk of the circuit court. The clerk shall maintain the orders in a looseleaf ledger.

(c) The order described in this section is confidential.

SECTION 2. IC 29-1-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) The following definitions and rules of construction appearing in this section apply throughout this article, unless otherwise apparent from the context:**

(1) "Child" includes an adopted child but does not include a

grandchild or other more remote descendants, nor, except as provided in IC 29-1-2-5, a child born out of wedlock.

(2) "Claims" includes liabilities of a decedent which survive, whether arising in contract or in tort or otherwise, funeral expenses, the expense of a tombstone, expenses of administration, and all inheritance taxes imposed under IC 6-4-1: taxes imposed by reason of the person's death. However, for purposes of IC 29-1-2-1 and IC 29-1-3-1, the term does not include taxes imposed by reason of the person's death.

(3) "Court" means the court having probate jurisdiction.

(4) "Decedent" means one who dies testate or intestate.

(5) "Devise" or "legacy", when used as a noun, means a testamentary disposition of either real or personal property or both.

(6) "Devise", when used as a verb, means to dispose of either real or personal property or both by will.

(7) "Devisee" includes legatee, and "legatee" includes devisee.

(8) "Distributee" denotes those persons who are entitled to the real and personal property of a decedent under a will, under the statutes of intestate succession, or under IC 29-1-4-1.

(9) "Estate" denotes the real and personal property of the decedent or protected person, as from time to time changed in form by sale, reinvestment, or otherwise, and augmented by any accretions and additions thereto and substitutions therefor and diminished by any decreases and distributions therefrom.

(10) "Fiduciary" includes a:

(1) (A) personal representative;

(2) (B) guardian;

(3) (C) conservator;

(4) (D) trustee; and

(5) (E) person designated in a protective order to act on behalf of a protected person.

(11) "Heirs" denotes those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate, unless otherwise defined or limited by the will.

(12) "Incapacitated" has the meaning set forth in IC 29-3-1-7.5.

(13) "Interested persons" means heirs, devisees, spouses,

creditors, or any others having a property right in or claim against the estate of a decedent being administered. This meaning may vary at different stages and different parts of a proceeding and must be determined according to the particular purpose and matter involved.

(14) "Issue" of a person, when used to refer to persons who take by intestate succession, includes all lawful lineal descendants except those who are lineal descendants of living lineal descendants of the intestate.

(15) "Lease" includes an oil and gas lease or other mineral lease.

(16) "Letters" includes letters testamentary, letters of administration, and letters of guardianship.

(17) "Minor" or "minor child" or "minority" refers to any person under the age of eighteen (18) years.

(18) "Mortgage" includes deed of trust, vendor's lien, and chattel mortgage.

(19) "Net estate" refers to the real and personal property of a decedent ~~exclusive of~~ **less** the allowances provided under IC 29-1-4-1 and enforceable claims against the estate.

(20) "Person" includes natural persons and corporations.

(21) "Personal property" includes interests in goods, money, choses in action, evidences of debt, and chattels real.

(22) "Personal representative" includes executor, administrator, administrator with the will annexed, administrator de bonis non, and special administrator.

(23) "Property" includes both real and personal property.

(24) "Protected person" has the meaning set forth in IC 29-3-1-13.

(25) "Real property" includes estates and interests in land, corporeal or incorporeal, legal or equitable, other than chattels real.

(26) "Will" includes all wills, testaments, and codicils. The term also includes a testamentary instrument which merely appoints an executor or revokes or revives another will.

(b) The following rules of construction apply throughout this article unless otherwise apparent from the context:

(1) The singular number includes the plural and the plural number includes the singular.

(2) The masculine gender includes the feminine and neuter.

SECTION 3. IC 29-1-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The ~~net~~ estate of a person dying intestate shall descend and be distributed as provided in this section.

(b) Except as otherwise provided in subsection (c), the surviving spouse shall receive the following share:

(1) One-half (1/2) of the net estate if the intestate is survived by at least one (1) child or by the issue of at least one (1) deceased child.

(2) Three-fourths (3/4) of the net estate, if there is no surviving issue, but the intestate is survived by one (1) or both of the intestate's parents.

(3) All of the net estate, if there is no surviving issue or parent.

(c) If the surviving spouse is a second or other subsequent spouse who did not at any time have children by the decedent, and the decedent left surviving him a child or children or the descendants of a child or children by a previous spouse, such surviving second or subsequent childless spouse shall take only a ~~life estate in one-third (1/3)~~ **an amount equal to twenty-five percent (25%) of the fair market value as of the date of death** of the lands of the deceased spouse, and the fee shall, at the decedent's death, vest at once in such child or children, or the descendants of such as may be dead. ~~subject only to the life estate of the surviving spouse~~. Such second or subsequent childless spouse shall, however, receive the same share of the personal property of the decedent as is provided in subsection (b) with respect to surviving spouses generally.

(d) The share of the net estate not distributable to the surviving spouse, or the entire net estate if there is no surviving spouse, shall descend and be distributed as follows:

(1) To the issue of the intestate, if they are all of the same degree of kinship to the intestate, they shall take equally; or if of unequal degree, then those of more remote degrees shall take by representation.

(2) If there is a surviving spouse but no surviving issue of the intestate, then to the surviving parents of the intestate.

(3) If there is no surviving spouse or issue of the intestate, then to the surviving parents, brothers, and sisters, and the issue of deceased brothers and sisters of the intestate. Each living parent

of the intestate shall be treated as of the same degree as a brother or sister and shall be entitled to the same share as a brother or sister. However, the share of each parent shall be not less than one-fourth (1/4) of such net estate. Issue of deceased brothers and sisters shall take by representation.

(4) If there is no surviving parent or brother or sister of the intestate, then to the issue of brothers and sisters. If such distributees are all in the same degree of kinship to the intestate, they shall take equally or, if of unequal degree, then those of more remote degrees shall take by representation.

(5) If there is no surviving issue or parent of the intestate or issue of a parent, then to the surviving grandparents of the intestate equally.

(6) If there is no surviving issue or parent or issue of a parent, or grandparent of the intestate, then the estate of the decedent shall be divided into that number of shares equal to the sum of:

(A) the number of brothers and sisters of the decedent's parents surviving the decedent; plus

(B) the number of deceased brothers and sisters of the decedent's parents leaving issue surviving both them and the decedent; and

one (1) of the shares shall pass to each of the brothers and sisters of the decedent's parents or their respective issue per stirpes.

(7) If interests in real estate go to a husband and wife under this subsection, the aggregate interests so descending shall be owned by them as tenants by the entireties. Interests in personal property so descending shall be owned as tenants in common.

(8) If there is no person mentioned in subdivisions (1) through (7), then to the state.

SECTION 4. IC 29-1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) When a married individual dies testate as to any part of the individual's estate, the surviving spouse is entitled to take against the will under the limitations and conditions stated in this chapter. The surviving spouse, upon electing to take against the will, is entitled to one-half (1/2) of the net personal and real estate of the testator. However, if the surviving spouse is a second or other subsequent spouse who did not at any time have children by the decedent and the decedent left surviving a child or children or the

descendants of a child or children by a previous spouse, the surviving second or subsequent childless spouse shall upon such election take one-third (1/3) of the net personal estate of the testator plus ~~a life estate in one-third (1/3)~~ **an amount equal to twenty-five percent (25%) of the fair market value as of the date of death** of the lands of the testator. In determining the net estate of a deceased spouse for the purpose of computing the amount due the surviving spouse electing to take against the will, the court shall consider only such property as would have passed under the laws of descent and distribution.

(b) When the value of the property given the surviving spouse under the will is less than the amount the surviving spouse would receive by electing to take against the will, the surviving spouse may elect to retain any or all specific bequests or devises given to the surviving spouse in the will at their fair market value as of the time of the decedent's death and receive the balance due in cash or property.

(c) Except as provided in subsection (b), in electing to take against the will, the surviving spouse is deemed to renounce all rights and interest of every kind and character in the personal and real property of the deceased spouse, and to accept the elected award in lieu thereof.

(d) When a surviving spouse elects to take against the will, the surviving spouse shall be deemed to take by descent, as a modified share, the part of the net estate as does not come to the surviving spouse by the terms of the will. Where by virtue of an election pursuant to this chapter it is determined that the surviving spouse has renounced the surviving spouse's rights in any devise, either in trust or otherwise, the will shall be construed with respect to the property so devised to the surviving spouse as if the surviving spouse had predeceased the testator.

SECTION 5. IC 29-1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. When a surviving spouse makes no election to take against the will, he shall receive the benefit of all provisions in his favor in the will, if any, and shall share as heir, in accordance with IC 29-1-2-1, ~~and IC 29-1-2-2,~~ in any estate undisposed of by the will. The surviving spouse is not entitled to take any share against the will by virtue of the fact that the testator made no provisions for him therein, except as he shall elect pursuant to IC 29-1. By taking under the will or consenting thereto, he does not waive his right to the allowance, unless it clearly appears from the will that the provision

therein made for him was intended to be in lieu of that right.

SECTION 6. IC 29-1-5-3, AS AMENDED BY HEA 1116-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section applies to a will executed before, on, or after July 1, 2003. A will, other than a nuncupative will, **may must be attested executed** by the signature of the testator and of at least two (2) witnesses on: ~~one (1) of the following:~~

- (1) a will under subsection (b);
 - (2) a self-proving clause under section 3.1(c) of this chapter; **or**
 - (3) a self-proving clause under section 3.1(d) of this chapter.
- (b) A will may be attested as follows:
- (1) The testator, in the presence of two (2) or more attesting witnesses, shall signify to the witnesses that the instrument is the testator's will and either:
 - (A) sign the will;
 - (B) acknowledge the testator's signature already made; or
 - (C) at the testator's direction and in the testator's presence have someone else sign the testator's name.
 - (2) The attesting witnesses must sign in the presence of the testator and each other.

An attestation or self-proving clause is not required under this subsection for a valid will.

(c) A will that is executed substantially in compliance with subsection (b) will not be rendered invalid by the existence of:

- (1) an attestation or self-proving clause or other language; or
- (2) additional signatures;

not required by subsection (b).

(d) A will executed in accordance with subsection (b) is self-proved if the witness signatures follow an attestation or self-proving clause or other declaration indicating in substance the facts set forth in section 3.1(c) or 3.1(d) of this chapter.

(e) This section shall be construed in favor of effectuating the testator's intent to make a valid will.

SECTION 7. IC 29-1-2-2 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 8. [EFFECTIVE JULY 1, 2003] **IC 29-1-2-1, IC 29-1-3-1, and IC 29-1-3-7, all as amended by this act, apply only to the estate of an individual who dies after June 30, 2003.**

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 29-1-5-3, IC 29-1-5-6, and IC 29-1-5-9, this SECTION applies to a will executed before, on, or after July 1, 2003. A will, other than a nuncupative will must be executed by the signature of the testator and of at least two (2) witnesses on:

- (1) a will under subsection (b);
 - (2) a self-proving clause under SECTION 10(c) of this act; or
 - (3) a self-proving clause under SECTION 10(d) of this act.
- (b) A will may be attested as follows:
- (1) The testator, in the presence of two (2) or more attesting witnesses, shall signify to the witnesses that the instrument is the testator's will and either:
 - (A) sign the will;
 - (B) acknowledge the testator's signature already made; or
 - (C) at the testator's direction and in the testator's presence have someone else sign the testator's name.
 - (2) The attesting witnesses must sign in the presence of the testator and each other.

An attestation or self-proving clause is not required under this subsection for a valid will.

(c) A will that is executed substantially in compliance with subsection (b) will not be rendered invalid by the existence of:

- (1) an attestation or self-proving clause or other language; or
 - (2) additional signatures;
- not required by subsection (b).

(d) A will executed in accordance with subsection (b) is self-proved if the witness signatures follow an attestation or self-proving clause or other declaration indicating in substance the facts set forth in SECTION 10(c) or 10(d) of this act.

(e) This SECTION shall be construed in favor of effectuating the testator's intent to make a valid will.

(f) This SECTION expires July 1, 2003.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 29-1-5-3, IC 29-1-5-6, and IC 29-1-5-9, this SECTION applies to a will executed before, on, or after July 1, 2003. When a will is executed, the will may be:

- (1) attested; and
 - (2) made self-proving;
- by incorporating into or attaching to the will a self-proving clause

that meets the requirements of subsection (c) or (d). If the testator and witnesses sign a self-proving clause that meets the requirements of subsection (c) or (d) at the time the will is executed, no other signatures of the testator and witnesses are required for the will to be validly executed and self-proved.

(b) If a will is executed by the signatures of the testator and witnesses on an attestation clause under SECTION 9(b) of this act, the will may be made self-proving at a later date by attaching to the will a self-proving clause signed by the testator and witnesses that meets the requirements of subsection (c) or (d).

(c) A self-proving clause must contain the acknowledgment of the will by the testator and the statements of the witnesses, each made under the laws of Indiana and evidenced by the signatures of the testator and witnesses (which may be made under the penalties for perjury) attached or annexed to the will in form and content substantially as follows:

We, the undersigned testator and the undersigned witnesses, respectively, whose names are signed to the attached or foregoing instrument declare:

- (1) that the testator executed the instrument as the testator's will;
- (2) that, in the presence of both witnesses, the testator signed or acknowledged the signature already made or directed another to sign for the testator in the testator's presence;
- (3) that the testator executed the will as a free and voluntary act for the purposes expressed in it;
- (4) that each of the witnesses, in the presence of the testator and of each other, signed the will as a witness;
- (5) that the testator was of sound mind when the will was executed; and
- (6) that to the best knowledge of each of the witnesses the testator was, at the time the will was executed, at least eighteen (18) years of age or was a member of the armed forces or of the merchant marine of the United States or its allies.

Testator

Date

Witness

Witness

(d) A will is attested and self-proved if the will includes or has attached a clause signed by the testator and the witnesses that indicates in substance that:

- (1) the testator signified that the instrument is the testator's will;**
- (2) in the presence of at least two (2) witnesses, the testator signed the instrument or acknowledged the testator's signature already made or directed another to sign for the testator in the testator's presence;**
- (3) the testator executed the instrument freely and voluntarily for the purposes expressed in it;**
- (4) each of the witnesses, in the testator's presence and in the presence of all other witnesses, is executing the instrument as a witness;**
- (5) the testator was of sound mind when the will was executed; and**
- (6) the testator is, to the best of the knowledge of each of the witnesses, either:**
 - (A) at least eighteen (18) years of age; or**
 - (B) a member of the armed forces or the merchant marine of the United States or its allies.**

(e) This SECTION shall be construed in favor of effectuating the testator's intent to make a valid will.

(f) This SECTION expires July 1, 2003.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 29-1-5-6, no will in writing, nor any part thereof, except as in this article provided, shall be revoked, unless the testator, or some other person in his presence and by his direction, with intent to revoke, shall destroy or mutilate the same; or such testator shall execute other writing for that purpose, signed, subscribed and attested as required in SECTION 9 or 10 of this act. A will can be revoked in part only by the execution of a writing as herein provided. And if, after the making of any will, the testator shall execute a second, a revocation of the second shall not revive the first will, unless it shall appear by the terms of such revocation to have been his intent to revive it, or, unless, after such revocation, he shall duly republish the previous will.

(b) This SECTION expires July 1, 2003.

SECTION 12. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 29-1-5-9, an instrument creating an inter vivos trust in order to be valid need not be executed as a testamentary instrument pursuant to SECTION 9 or 10 of this act, even though such trust instrument reserves to the maker or settlor the power to revoke, or the power to alter or amend, or the power to control investments, or the power to consume the principal, or because it reserves to the maker or settlor any one or more of said powers.**

(b) This SECTION expires July 1, 2003.

SECTION 13. **An emergency is declared for this act.**

P.L.177-2003

[H.1378. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 32-30-5-7, AS ADDED BY P.L.2-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The receiver may, under control of the court or the judge:

- (1) bring and defend actions;
- (2) take and keep possession of the property;
- (3) receive rents; **and**
- (4) collect debts; **and**
- (5) sell property;**

in the receiver's own name, and generally do other acts respecting the property as the court or judge may authorize.

SECTION 2. IC 36-1-6-2, AS AMENDED BY HEA1473-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) If a condition violating an ordinance of a municipal corporation exists on real property, officers of the municipal corporation may enter onto that property and take appropriate action to

bring the property into compliance with the ordinance. However, before action to bring compliance may be taken, all persons holding a substantial interest in the property must be given a reasonable opportunity **of at least ten (10) days but not more than sixty (60) days** to bring the property into compliance. If the municipal corporation takes action to bring compliance, the expenses incurred by the municipal corporation to bring compliance constitute a lien against the property. The lien is superior to all other liens except liens for taxes, in an amount that does not exceed:

(1) two thousand five hundred dollars (\$2,500) for real property that:

(A) contains one (1) or more occupied or unoccupied single or double family dwellings or the appurtenances or additions to those dwellings; or

(B) is unimproved; or

(2) ten thousand dollars (\$10,000) for all other real property not described in subdivision (1).

(b) ~~If the violation described in subsection (a) is a violation that is located outdoors and does not involve a building or structure,~~ The municipal corporation may ~~also~~ issue a bill to the owner of the real property for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs.

(c) If the owner of the real property fails to pay a bill issued under subsection (b), the municipal corporation may, **after thirty (30) days**, certify to the county auditor the amount of the bill, plus any additional administrative costs incurred in the certification. The auditor shall place the total amount certified on the tax duplicate for the property affected, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

SECTION 3. IC 36-7-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

(1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40)

- households within those boundaries;**
(2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;
(3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;
(4) has been incorporated for at least two (2) years; and
(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by him is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a present possessory interest, or an equitable interest of a contract purchaser. In a consolidated city, the interest reflected by a deed, lease, license, mortgage, land sale contract, or lien is not a substantial property interest unless the deed, lease, license, mortgage, land sale contract, lien, or evidence of it is:

- (1) recorded in the office of the county recorder; or
- (2) the subject of a written information that is received by the division of development services and includes the name and address of the holder of the interest described.

SECTION 4. IC 36-7-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises,

including:

- (1) vacating of an unsafe building;
- (2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;
- (3) extermination of vermin in and about the unsafe premises;
- (4) removal of trash, debris, or fire hazardous material in and about the unsafe premises;
- (5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;
- (6) removal of part of an unsafe building;
- (7) removal of an unsafe building; and
- (8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:
 - (A) sealing against intrusion by unauthorized persons and the effects of weather;
 - (B) exterior improvements to make the building compatible in appearance with other buildings in the area; and
 - (C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

- (1) the name of the person to whom the order is issued;
- (2) the legal description or address of the unsafe premises that are the subject of the order;
- (3) the action that the order requires;
- (4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;
- (5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the

order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), ~~or~~ (a)(4), **or (a)(5)** becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, **but not more than sixty (60) days**, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under section 9 of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 5. IC 36-7-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A hearing must be held relative to each order of the enforcement authority, except for an order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter. An order issued under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter becomes final ten (10) days after notice is given, unless a hearing is requested before the ten (10) day period ends by a

person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises. The hearing shall be conducted by the hearing authority.

(b) The hearing shall be held on a business day no earlier than ten (10) days after notice of the order is given. The hearing authority may, however, take action at the hearing, or before the hearing if a written request is received by the enforcement authority not later than five (5) days after notice is given, to continue the hearing to a business day not later than fourteen (14) days after the hearing date shown on the order. Unless the hearing authority takes action to have the continued hearing held on a definite, specified date, notice of the continued hearing must be given to the person to whom the order was issued at least five (5) days before the continued hearing date, in the manner prescribed by section 25 of this chapter. If the order being considered at the continued hearing was served by publication, it is sufficient to give notice of the continued hearing by publication unless the enforcement authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

(c) The person to whom the order was issued, any person having a substantial property interest in the unsafe premises that are the subject of the order, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Each person appearing at the hearing is entitled to present evidence, cross-examine opposing witnesses, and present arguments.

(d) At the conclusion of any hearing at which a continuance is not granted, the hearing authority may make findings and take action to:

- (1) affirm the order;
- (2) rescind the order; or
- (3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.

In addition to affirming the order, in those cases in which the hearing authority finds that there has been a willful failure to comply with the order, the hearing authority may impose a civil penalty in an amount not to exceed ~~one~~ **five** thousand dollars ~~(\$1,000)~~. **(\$5,000)**. The effective date of the civil penalty may be postponed for a reasonable

period, after which the hearing authority may order the civil penalty reduced or stricken if the hearing authority is satisfied that all work necessary to fully comply with the order has been done. For purposes of an appeal under section 8 of this chapter or enforcement of an order under section 17 of this chapter, action of the hearing authority is considered final upon the affirmation of the order, even though the hearing authority may retain jurisdiction for the ultimate determination of a fine.

(e) If, at a hearing, a person to whom an order has been issued requests an additional period to accomplish action required by the order, and shows good cause for this request to be granted, the hearing authority may grant the request. However, as a condition for allowing the additional period, the hearing authority may require that the person post a performance bond to be forfeited if the action required by the order is not completed within the additional period.

(f) The board or commission having control over the department shall, at a public hearing, after having given notice of the time and place of the hearing by publication in accordance with IC 5-3-1, adopt a schedule setting forth the maximum amount of performance bonds applicable to various types of ordered action. The hearing authority shall use this schedule to fix the amount of the performance bond required under subsection (e).

(g) The record of the findings made and action taken by the hearing authority at the hearing shall be available to the public upon request. However, neither the enforcement authority nor the hearing authority is required to give any person notice of the findings and action.

(h) A civil penalty under subsection (d) may be collected in the same manner as costs under section 13 of this chapter. The amount of the civil penalty that is collected shall be deposited in the unsafe building fund.

SECTION 6. IC 36-7-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The enforcement authority may cause the action required by an order issued under section 5(a)(2), 5(a)(3), ~~or 5(a)(4)~~, **or 5(a)(5)** of this chapter to be performed by a contractor if:

(1) the order has been served, in the manner prescribed by section 25 of this chapter, on each person having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe

- premises that are the subject of the order;
- (2) the order has not been complied with;
- (3) a hearing was not requested under section 5(b)(6) of this chapter, or, if a hearing was requested, the order was affirmed at the hearing; and
- (4) the order is not being reviewed under section 8 of this chapter.

(b) The enforcement authority may cause the action required by an order, other than an order under section 5(a)(2), 5(a)(3), ~~or~~ 5(a)(4), **or 5(a)(5)** of this chapter, to be performed if:

- (1) service of an order, in the manner prescribed by section 25 of this chapter, has been made on each person having a substantial property interest in the unsafe premises that are the subject of the order;
- (2) the order has been affirmed or modified at the hearing in such a manner that all persons having a substantial property interest in the unsafe premises that are the subject of the order are currently subject to an order requiring the accomplishment of substantially identical action;
- (3) the order, as affirmed or modified at the hearing, has not been complied with; and
- (4) the order is not being reviewed under section 8 of this chapter.

(c) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement **by publication and indicate** that the enforcement authority intends to perform the work, ~~by publication~~; unless the authority has received information in writing that enables it to make service under section 25 of this chapter by a method other than publication.

SECTION 7. IC 36-7-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. **(a)** The department, acting through its enforcement authority, ~~or~~ a person designated by the enforcement authority, **or a community organization** may bring a civil action regarding unsafe premises in the circuit, superior, or municipal court of the county. The department is not liable for the costs of such an action. The court may grant one (1) or more of the kinds of relief authorized by sections 18 through 22 of this chapter.

(b) A civil action may not be initiated under this section before the final date of an order or an extension of an order under section 5(c) of this chapter requiring:

- (1) the completion; or**
- (2) a substantial beginning toward accomplishing the completion;**

of the required remedial action.

(c) A community organization may not initiate a civil action under this section if:

- (1) the enforcement authority or a person designated by the enforcement authority has filed a civil action under this section regarding the unsafe premises; or**
- (2) the enforcement authority has issued a final order that the required remedial action has been satisfactorily completed.**

(d) A community organization may not initiate a civil action under this section if the real property that is the subject of the civil action is located outside the specific geographic boundaries of the area defined in the bylaws or articles of incorporation of the community organization.

(e) At least sixty (60) days before commencing a civil action under this section, a community organization must issue a notice by certified mail, return receipt requested, that:

- (1) specifies:**
 - (A) the nature of the alleged nuisance;**
 - (B) the date the nuisance was first discovered;**
 - (C) the location on the property where the nuisance is allegedly occurring;**
 - (D) the intent of the community organization to bring a civil action under this section; and**
 - (E) the relief sought in the action; and**
- (2) is provided to:**
 - (A) the owner of record of the premises;**
 - (B) tenants located on the premises;**
 - (C) the enforcement authority; and**
 - (D) any person that possesses an interest of record.**

(f) In any action filed by a community organization under this section, a court may award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party.

SECTION 8. IC 36-7-9-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) A court acting under section 17 of this chapter may appoint a receiver for the unsafe premises, subject to the following conditions:

(1) The purpose of the receivership must be to take possession of the unsafe premises for a period sufficient to accomplish and pay for repairs and improvements.

(2) The receiver may be a ~~not-for-profit~~ **nonprofit** corporation the primary purpose of which is the improvement of housing conditions in the county where the unsafe premises are located, or may be any other capable person residing in the county.

(3) Notwithstanding any prior assignments of the rents and other income of the unsafe premises, the receiver must collect and use that income to repair or remove the defects as required by the order, and may, upon approval by the court, make repairs and improvements in addition to those specified in the order or required by applicable statutes, ordinances, codes, or regulations.

(4) The receiver may make any contracts and do all things necessary to accomplish the repair and improvement of the unsafe premises.

(5) **A receiver that expends money, performs labor, or furnishes materials or machinery, including the leasing of equipment or tools, for the repair of an unsafe premises may have a lien that is equal to the total expended. When a lien exists, the receiver may sell the property:**

(A) to the highest bidder at auction under the same notice and sale provisions applicable to a foreclosure sale of mechanic's liens or mortgages; or

(B) for fair market value if all persons having a substantial property interest in the unsafe premises agree to the amount and procedure.

The transferee in either a public or private sale must first demonstrate the necessary ability and experience to rehabilitate the premises within a reasonable time to the satisfaction of the receiver.

(6) The court may, after a hearing, authorize the receiver to obtain money needed to accomplish the repairs and improvement by the issuance and sale of notes or receiver's certificates to the receiver or any other person or party bearing interest fixed by the court. The notes or certificates are a first lien on the unsafe premises and the rents and income of the unsafe building. This lien is superior to all other assignments of rents, liens, mortgages, or other

encumbrances on the property, except taxes, if, within sixty (60) days following the sale or transfer for value of the notes by the receiver, the holder of the notes files a notice containing the following information in the county recorder's office:

- (A) The legal description of the tract of real property on which the unsafe building is located.
- (B) The face amount and interest rate of the note or certificate.
- (C) The date when the note or certificate was sold or transferred by the receiver.
- (D) The date of maturity.

~~(6)~~ (7) Upon payment to the holder of a receiver's note or certificate of the face amount and interest, and upon filing in the recorder's office of a sworn statement of payment, the lien of that note or certificate is released. Upon a default in payment on a receiver's note or certificate, the lien may be enforced by proceedings to foreclose in the manner prescribed for mechanic's liens or mortgages. However, the foreclosure proceedings must be commenced within two (2) years after the date of default.

~~(7)~~ (8) The receiver is entitled to the same fees, commissions, and necessary expenses as receivers in actions to foreclose mortgages. The fees, commissions, and expenses shall be paid out of the rents and incomes of the property in receivership.

(b) The issuance of an order concerning unsafe premises is not a prerequisite to the appointment of a receiver nor does such an order prevent the appointment of a receiver.

(c) If the enforcement authority or the enforcement authority's designee requests the appointment of a receiver, all persons having a substantial property interest in the unsafe premises shall be made party defendants.

(d) A court, when granting powers and duties to a receiver, shall consider:

- (1) the occupancy of the unsafe premises;**
- (2) the overall condition of the property;**
- (3) the hazard to public health, safety, and welfare;**
- (4) the number of persons having a substantial property interest in the unsafe premises; and**
- (5) other factors the court considers relevant.**

(e) Instead of appointing a receiver to sell or rehabilitate an

unsafe premises, the court may permit an owner, a mortgagee, or a person with substantial interest in the unsafe premises to rehabilitate the premises if the owner, mortgagee, or person with substantial interest:

- (1) demonstrates ability to complete the rehabilitation within a reasonable time, but not to exceed sixty (60) days;**
- (2) agrees to comply within a specified schedule for rehabilitation; and**
- (3) posts a bond as security for performance of the required work in compliance with the specified schedule in subdivision (2).**

SECTION 9. IC 36-7-9-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The enforcement authority shall record in the office of the county recorder orders issued under section 5 **5(a)(6), 5(a)(7),** or 6(a) of this chapter. **If the enforcement authority records an order issued under section 5(a)(6), 5(a)(7), or 6(a) of this chapter,** statements of rescission issued under section 6(b) of this chapter, statements that public bids are to be let under section 11 of this chapter, and records of action in which ~~an~~ **the** order is affirmed, modified, or rescinded taken by the hearing authority under section 7 of this chapter **shall be recorded.** The recorder shall charge the fee required under IC 36-2-7-10 for recording these items.

(b) A person who takes an interest in unsafe premises that are the subject of ~~an~~ **a recorded** order takes that interest, whether or not a hearing has been held, subject to the terms of the order **and other documents recorded under subsection (a)** and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders and affirmation of orders are considered satisfied. If a hearing has been held, the interest is taken subject to the terms of the order as modified at the hearing, **in other documents recorded under subsection(a),** and in such a manner that all of the requirements of sections 10, 11, and 17 through 22 of this chapter relating to the issuance of orders, service of orders, and modification of orders at hearing are considered satisfied.

(c) A person who takes an interest in unsafe premises that are the subject of a **recorded** statement that public bids are to be let takes the

interest subject to the terms of the statement and in such a manner that the notice of the statement required by section 11 of this chapter is considered given to the person.

SECTION 10. IC 36-7-15.1-15.1, AS AMENDED BY P.L.86-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15.1. (a) As used in this section, "qualifying corporation" refers to a nonprofit corporation or neighborhood development corporation that meets the requirements of subsection (b)(1) and the criteria established by the county fiscal body under subsection (i).

(b) The commission may sell or grant at no cost title to real property to a nonprofit corporation or neighborhood development corporation for the purpose of providing low or moderate income housing or other development that will benefit or serve low or moderate income families if the following requirements are met:

(1) The nonprofit corporation or neighborhood development corporation has, as a major corporate purpose and function, the provision of housing for low and moderate income families within the geographic area in which the parcel of property is located.

(2) The qualifying corporation agrees to cause development that will serve or benefit low or moderate income families on the parcel of property within a specified period, which may not exceed five (5) years from the date of the sale or grant.

(3) The qualifying corporation, if the qualifying corporation is a neighborhood development corporation, agrees that the qualifying corporation and each applicant, recipient, contractor, or subcontractor undertaking work in connection with the real property will:

(A) use lower income project area residents as trainees and as employees; and

(B) contract for work with business concerns located in the project area or owned in substantial part by persons residing in the project area;

to the greatest extent feasible, as determined under the standards specified in 24 CFR 135.

(4) The county fiscal body has determined that the corporation meets the criteria established under subsection (i).

(5) The qualifying corporation agrees to rehabilitate or otherwise

develop the property in a manner that is similar to and consistent with the use of the other properties in the area served by the qualifying corporation.

(c) To carry out the purposes of this section, the commission may secure from the county under IC 6-1.1-25-9(e) parcels of property acquired by the county under IC 6-1.1-24 and IC 6-1.1-25.

(d) Before offering any parcel of property for sale or grant, the fair market value of the parcel of property must be determined. ~~by an appraiser, who may be an~~ **The fair market value may be determined by an appraisal made by a qualified employee of the department.** However, **if the qualified employee of the department determines that:**

(1) the property:

(A) is less than five (5) acres in size; and

(B) has a fair market value that is less than ten thousand dollars (\$10,000); or

(2) if the commission has obtained the parcel in the manner described in subsection (c);

an appraisal is not required. An appraisal under this subsection is solely for the information of the commission and is not available for public inspection.

(e) The commission must decide whether the commission will sell or grant the parcel of real property at a public meeting. In making this decision, the commission shall give substantial weight to the extent to which and the terms under which the qualifying corporation will cause development to serve or benefit families of low or moderate income. If more than one (1) qualifying corporation is interested in acquiring a parcel of real property, the commission shall conduct a hearing at which a representative of each corporation may state the reasons why the commission should sell or grant the parcel to that corporation.

(f) Before conducting a hearing under subsection (e), the commission shall publish a notice in accordance with IC 5-3-1 indicating that at a designated time the commission will consider selling or granting the parcel of real property under this section. The notice must state the general location of the property, including the street address if any, or a common description of the property other than the legal description.

(g) If the county agrees to transfer a parcel of real property to the

commission to be sold or granted under this section, the commission may conduct a hearing to sell or grant the parcel to a qualifying corporation even though the parcel has not yet been transferred to the commission. After the hearing, the commission may adopt a resolution directing the department to take appropriate steps necessary to acquire the parcel from the county and to transfer the parcel to the qualifying corporation.

(h) A conveyance of property to a qualifying corporation under this section shall be made in accordance with section 15(i) of this chapter.

(i) The county fiscal body shall establish criteria for determining the eligibility of nonprofit corporations and neighborhood development corporations for sales or grants of real property under this section. A nonprofit corporation or neighborhood development corporation may apply to the county fiscal body for a determination concerning the corporation's compliance with the criteria established under this subsection.

SECTION 11. IC 36-7-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The fiscal body of a unit may by ordinance designate an agency or quasi-public corporation, or establish a new agency, to administer an urban homesteading program under which family dwellings for one (1) through four (4) families may be conveyed to individuals or families, who must occupy and rehabilitate the dwellings, **and community organizations that must rehabilitate the dwellings and offer them for sale.**

SECTION 12. IC 36-7-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person **or community organization** may apply for the program by completing a bid application.

(b) **The following** ~~An applicant is~~ **applicants are** qualified and shall be approved to receive real property offered under this chapter: ~~if he:~~

(1) **A person who:**

(A) is at least eighteen (18) years of age;

~~(2)~~ (B) possesses the financial resources to support a loan, the necessary skills to rehabilitate the property, or a combination of both; and

~~(3)~~ (C) has, including immediate family, not previously participated in the program.

(2) A community organization as described in IC 36-7-9-2.

(c) Approved applicants are entitled to receive a list of all properties owned by the unit that are available under this chapter.

(d) Approved applicants may apply for each dwelling in which they are interested. A drawing shall be held to determine those ~~persons~~ **applicants** receiving the dwellings. **Persons applying under this chapter shall receive priority over community organizations if both indicate an interest in the same dwelling.** Each approved ~~applicant~~ **person** and his ~~or her~~ immediate family may receive only one (1) dwelling in the drawing. **Each approved community organization may receive as many dwellings as the agency considers proper.**

SECTION 13. IC 36-7-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The conveyance of a dwelling to an applicant under this chapter shall be made in return for a fee of one dollar (\$1) or more and the execution by the applicant of an agreement with the following minimum conditions:

(1) The applicant must:

(A) if a person, reside in the dwelling as ~~his~~ **the person's** principal place of residence for a period of not less than three (3) years; **or**

(B) if a community organization, agree to list the dwelling for sale within twelve (12) months after possession.

(2) The applicant must bring the residence up to a minimum code standard, including building, plumbing, electrical, and fire code standards, within twelve (12) months after possession, or before possession if required under subdivision (4).

(3) The applicant must carry fire and liability insurance on the dwelling at all times.

(4) The applicant must comply with any additional terms, conditions, and requirements that the agency may impose to assure that the purposes of this chapter are carried out. This may include the requirement that the dwelling be rehabilitated to minimum building code standards before possession.

SECTION 14. IC 36-7-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The agency shall convey the real property acquired for the purposes of this chapter to those persons **or community organizations** qualified under section 6 of this chapter by using the methods prescribed by subsection (b), ~~or~~

~~subsection (c), or (d).~~

(b) The real property may be conveyed by a conditional sales contract, with title to remain in the agency for a period of at least one (1) year.

(c) The title to real property may be conveyed to ~~the purchaser a person purchasing the property~~ as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language "The property is conveyed on the conditions that the purchaser:

- (1) will reside in the dwelling as his principal place of residence for a period of not less than three (3) years;
- (2) will bring the residence up to minimum code standards in twelve (12) months;
- (3) will carry adequate fire and liability insurance on the dwelling at all times; and
- (4) will comply with such additional terms, conditions, and requirements as the agency requires before _____ (date of the deed) under IC 36-7-17".

(d) The title to real property may be conveyed to a community organization purchasing the property as a determinable fee, with the language of the granting clause in the deed of conveyance to include the language: "The property is conveyed on the conditions that the purchaser:

- (1) will list the property for sale within twelve (12) months of taking possession;**
- (2) will bring the residence up to minimum code standards within twelve (12) months;**
- (3) will carry adequate fire and liability insurance on the dwelling at all times; and**
- (4) will comply with any additional terms, conditions, and requirements as the agency requires before _____ (date of the deed) under IC 36-7-17."**

SECTION 15. IC 36-7-17-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a) When, after the purchaser purchase, a person** has resided in the dwelling for the required three (3) year period, brought the property into compliance with the required code standards, and otherwise complied with the terms of ~~his~~ **the person's** agreement, the agency shall convey to ~~him~~

the person a fee simple title to the property.

(b) When, after purchase, a community organization has brought the property into compliance with the required code standards, documented its intent to list the property for sale, and otherwise complied with the terms of its agreement, the agency shall convey to it a fee simple title to the property.

SECTION 16. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 36-1-6 and IC 36-7-9, a municipal corporation under IC 36-1-6-2, as amended by this act, and an enforcement authority under IC 36-7-9-2, as amended by this act, may establish and maintain a registry of properties within its jurisdiction known to be:

- (1) in a condition that violates local ordinances; and**
- (2) eligible for enforcement procedures under IC 36-1-6-2 and IC 36-7-9-5, both as amended by this act.**

(b) The information in the registry shall be made available to the public under IC 5-14-3 for inspection and copying during ordinary business hours.

(c) The owners of property recorded in the registry shall provide:

- (1) either:**
 - (A) their mailing address; or**
 - (B) the name and mailing address of their agent;****for the purpose of service of process; and**
- (2) the name and address of the insurance carrier providing insurance coverage on the property.**

(d) The registered owner of the property must notify the enforcement authority of a change in ownership.

(e) Beginning July 1, 2003, new enforcement activities made possible under IC 36-1-6 or IC 36-7-9 by the amendments in this act may not be initiated by a municipal corporation or an enforcement authority that affect a property recorded in a registry until October 1, 2003.

(f) This SECTION expires on October 1, 2003.

SECTION 17. [EFFECTIVE UPON PASSAGE] This act does not affect:

- (1) rights or liabilities accrued;**
- (2) penalties incurred;**
- (3) crimes committed; or**

(4) proceedings begun; before the effective date of this act. Those rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed and enforced under prior law as if this act had not been enacted.

SECTION 18. An emergency is declared for this act.

P.L.178-2003

[H.1407. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 4-1-8-1, AS AMENDED BY HEA 1935-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

- (1) Department of state revenue.
- (2) Department of workforce development.
- (3) The programs administered by:
 - (A) the division of family and children;
 - (B) the division of mental health and addiction;
 - (C) the division of disability, aging, and rehabilitative services;
 - and
 - (D) the office of Medicaid policy and planning;
 of the office of the secretary of family and social services.
- (4) Auditor of state.
- (5) State personnel department.
- (6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Health professions bureau.

(11) Indiana professional licensing agency.

(12) Indiana department of insurance, with respect to licensing of insurance ~~agents~~ **producers**.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

(2) That a sole proprietorship, a partnership, an association, a

fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the professional standards board established by IC 20-1-1.4-2 may require an individual who applies to the board for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the board only for conducting a background investigation, if the board is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 9-25-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person who receives a request for evidence of financial responsibility under section 3 of this chapter shall set forth in the certificate of compliance the following information concerning the form of financial responsibility that was in effect with respect to the motor vehicle on the date in question:

- (1) If a motor vehicle liability policy was in effect, the following:
 - (A) The name and address of the insurer.
 - (B) The limits of coverage of the policy.
 - (C) The identification number applying to the policy.
- (2) If a bond was in effect, the following:
 - (A) The name and address of the bond company or surety.
 - (B) The face amount of the bond.
- (3) If self-insurance was in effect under IC 9-25-4-11, the following:
 - (A) The date on which the certificate of self-insurance was issued by the bureau.
 - (B) The name of the person to whom the certificate of self-insurance was issued.

(b) A person who requests information or verification of coverage to complete a certificate of compliance under subsection (a) from:

- (1) an insurance company; or
- (2) an insurance ~~agent~~; **producer**;

is not required to give the company or the ~~agent~~ **producer** a reason for requesting the information unless the person has been involved in an accident.

SECTION 3. IC 12-17.6-4-5, AS ADDED BY P.L.273-1999, SECTION 177, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 5. (a) It is a violation of IC 27-4-1-4 if an insurer, or an insurance ~~agent~~ **producer** or insurance broker compensated by the insurer, knowingly or intentionally refers an insured or the dependent of an insured to the program for health insurance coverage when the insured already receives health insurance coverage through an employer's health care plan that is underwritten by the insurer.

(b) The office shall coordinate with the children's health policy board under IC 4-23-27 to evaluate the need for mechanisms that minimize the incentive for an employer to eliminate or reduce health care coverage for an employee's dependents.

SECTION 4. IC 16-21-2-16 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 16. A hospital or an ambulatory outpatient surgical center that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:**

- (1) conspicuously states that the notice is not a bill;**
- (2) does not include a tear-off portion; and**
- (3) is not accompanied by a return mailing envelope.**

SECTION 5. IC 16-25-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 11. A hospice that provides to a hospice program patient notice concerning a third party billing for a hospice service provided to the hospice program patient shall ensure that the notice:**

- (1) conspicuously states that the notice is not a bill;**
- (2) does not include a tear-off portion; and**
- (3) is not accompanied by a return mailing envelope.**

SECTION 6. IC 16-27-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 17. A home health agency that provides to a patient notice concerning a third party billing for a home health service provided to the patient shall ensure that the notice:**

- (1) conspicuously states that the notice is not a bill;**
- (2) does not include a tear-off portion; and**
- (3) is not accompanied by a return mailing envelope.**

SECTION 7. IC 16-28-2-10 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 10. A health facility that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:**

- (1) conspicuously states that the notice is not a bill;**
- (2) does not include a tear-off portion; and**
- (3) is not accompanied by a return mailing envelope.**

SECTION 8. IC 22-2-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter:

"Commissioner" means the commissioner of labor or the commissioner's authorized representative.

"Department" means the department of labor.

"Occupation" means an industry, trade, business, or class of work in which employees are gainfully employed.

"Employer" means any individual, partnership, association, limited liability company, corporation, business trust, the state, or other governmental agency or political subdivision during any work week in which they have two (2) or more employees. However, it shall not include any employer who is subject to the minimum wage provisions of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209).

"Employee" means any person employed or permitted to work or perform any service for remuneration or under any contract of hire, written or oral, express or implied by an employer in any occupation, but shall not include any of the following:

- (a) Persons less than sixteen (16) years of age.
- (b) Persons engaged in an independently established trade, occupation, profession, or business who, in performing the services in question, are free from control or direction both under a contract of service and in fact.
- (c) Persons performing services not in the course of the employing unit's trade or business.
- (d) Persons employed on a commission basis.
- (e) Persons employed by their own parent, spouse, or child.
- (f) Members of any religious order performing any service for that order, any ordained, commissioned, or licensed minister, priest, rabbi, sexton, or Christian Science reader, and volunteers performing services for any religious or charitable organization.

(g) Persons performing services as student nurses in the employ of a hospital or nurses training school while enrolled and regularly attending classes in a nurses training school chartered or approved under law, or students performing services in the employ of persons licensed as both funeral directors and embalmers as a part of their requirements for apprenticeship to secure an embalmer's license or a funeral director's license from the state, or during their attendance at any schools required by law for securing an embalmer's or funeral director's license.

(h) Persons who have completed a four (4) year course in a medical school approved by law when employed as interns or resident physicians by any accredited hospital.

(i) Students performing services for any school, college, or university in which they are enrolled and are regularly attending classes.

(j) Persons with physical or mental disabilities performing services for nonprofit organizations organized primarily for the purpose of providing employment for persons with disabilities or for assisting in their therapy and rehabilitation.

(k) Persons employed as insurance ~~agents~~, **producers**, insurance solicitors, and outside salesmen, if all their services are performed for remuneration solely by commission.

(l) Persons performing services for any camping, recreational, or guidance facilities operated by a charitable, religious, or educational nonprofit organization.

(m) Persons engaged in agricultural labor. The term shall include only services performed:

(1) on a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(2) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment if the major part of the service is performed on a farm;

(3) in connection with:

- (A) the production or harvesting of maple sugar or maple syrup or any commodity defined as an agricultural commodity in the Agricultural Marketing Act, as amended (12 U.S.C. 1141j);
 - (B) the raising or harvesting of mushrooms;
 - (C) the hatching of poultry; or
 - (D) the operation or maintenance of ditches, canals, reservoirs, or waterways used exclusively for supplying and storing water for farming purposes; and
- (4) in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, to market, or to a carrier for transportation to market, any agricultural or horticultural commodity, but only if service is performed as an incident to ordinary farming operation or, in the case of fruits and vegetables, as an incident to the preparation of fruits and vegetables for market. However, this exception shall not apply to services performed in connection with any agricultural or horticultural commodity after its delivery to a terminal market or processor for preparation or distribution for consumption.

As used in this subdivision, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, or greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(n) Those persons employed in executive, administrative, or professional occupations who have the authority to employ or discharge and who earn one hundred fifty dollars (\$150) or more a week, and outside salesmen.

(o) Any person not employed for more than four (4) weeks in any four (4) consecutive three (3) month periods.

(p) Any employee with respect to whom the Interstate Commerce Commission has power to establish qualifications and maximum hours of service under the federal Motor Carrier Act of 1935 (49 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2.1.

SECTION 9. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

- (1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and
- (2) each employer carrying the employer's own risk;

stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in

calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds one million dollars (\$1,000,000), the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than one million dollars (\$1,000,000), the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(e) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of **agent insurance producer** commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(f) The sums shall be paid by the board to the treasurer of state, to

be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation and expense of medical examinations or treatment made and ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(g) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the employee compensation from the second injury fund established by this section, as follows under subsection (h).

(h) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16

of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

- (1) not later than January 31 each calendar year; and
- (2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 10. IC 22-4-8-3, AS AMENDED BY P.L.1-2003, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. "Employment" shall not include the following:

(a) Except as provided in section 2(i) of this chapter, service performed prior to January 1, 1978, in the employ of this state, any other state, any town or city, or political subdivision, or any instrumentality of any of them, other than service performed in the employ of a municipally owned public utility as defined in this article; or service performed in the employ of the United States of America, or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by this article, except that to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation statute, all of the provisions of this article shall be applicable to such instrumentalities, in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. However, if this state shall not be certified for any year by the Secretary of Labor under Section 3304 of the Internal Revenue Code the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in IC 22-4-32-19 with respect to contribution erroneously paid or wrongfully assessed.

(b) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress; however, the board is authorized to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in IC 22-4-19-2 for rules of

the board, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this article, acquired rights to unemployment compensation under such Act of Congress, or who have, after having acquired potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this article.

(c) "Agricultural labor" as provided in section 2(1)(1) of this chapter shall include only services performed:

(i) on a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife;

(ii) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

(iii) in connection with the production or harvesting of any commodity defined as an agricultural commodity in Section 15(g) of the Agricultural Marketing Act, as amended, or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(iv)(A) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half (1/2) of the commodity with respect to which such service is performed;

(B) in the employ of a group of operators of farms (or a cooperative organization of which such operators are members) in the performance of service described in subdivision (A), but only if such operators produce more than one-half (1/2) of the commodity with respect to which such service is performed;

(C) the provisions of subdivisions (A) and (B) shall not be

deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or

(v) on a farm operated for profit if such service is not in the course of the employer's trade or business or is domestic service in a private home of the employer.

As used in this subsection, "farm" includes stock, dairy, poultry, fruit, furbearing animals, and truck farms, nurseries, orchards, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(d) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, except as provided in section 2(m) of this chapter.

(e) Service performed on or in connection with a vessel or aircraft not an American vessel or American aircraft, if the employee is employed on and in connection with such vessel or aircraft when outside the United States.

(f) Service performed by an individual in the employ of child or spouse, and service performed by a child under the age of twenty-one (21) in the employ of a parent.

(g) Service not in the course of the employing unit's trade or business performed in any calendar quarter by an individual, unless the cash remuneration paid for such service is fifty dollars (\$50) or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purposes of this subsection, an individual shall be deemed to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if:

(i) on each of some of twenty-four (24) days during such quarter such individual performs such service for some portion of the day; or

(ii) such individual was regularly employed (as determined under clause (i)) by such employing unit in the performance of such service during the preceding calendar quarter.

(h) Service performed by an individual in any calendar quarter in the employ of any organization exempt from income tax under Section

501 of the Internal Revenue Code (except those services included in sections 2(i) and 2(j) of this chapter if the remuneration for such service is less than fifty dollars (\$50).

(i) Service performed in the employ of a hospital, if such service is performed by a patient of such hospital.

(j) Service performed in the employ of a school, college, or university if such service is performed:

(i) by a student who is enrolled and is regularly attending classes at such school, college, or university; or

(ii) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

(A) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university; and

(B) such employment will not be covered by any program of unemployment insurance.

(k) Service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers.

(l) Service performed in the employ of a government foreign to the United States of America, including service as a consular or other officer or employee or a nondiplomatic representative.

(m) Service performed in the employ of an instrumentality wholly owned by a government foreign to that of the United States of America, if the service is of a character similar to that performed in foreign countries by employees of the United States of America or of an instrumentality thereof, and if the board finds that the Secretary of State of the United States has certified to the Secretary of the Treasury of the United States that the government, foreign to the United States, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in such

country by employees of the United States and of instrumentalities thereof.

(n) Service performed as a student nurse in the employ of a hospital or nurses' training school by an individual who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four (4) year course in a medical school chartered or approved pursuant to state law.

(o) Service performed by an individual as an insurance ~~agent~~ **producer** or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission.

(p)(A) Service performed by an individual under the age of eighteen (18) in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(B) Services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back.

(q) Service performed in the employ of an international organization.

(r) Except as provided in IC 22-4-7-1, services covered by an election duly approved by the agency charged with the administration of any other state or federal unemployment compensation law in accordance with an arrangement pursuant to IC 22-4-22-1 through IC 22-4-22-5, during the effective period of such election.

(s) If the service performed during one-half (1/2) or more of any pay period by an individual for an employing unit constitutes employment, all the services of such individual for such period shall be deemed to be employment; but if the services performed during more than one-half (1/2) of any pay period by such an individual do not constitute employment, then none of the services of such individual for such

period shall be deemed to be employment. As used in this subsection, "pay period" means a period of not more than thirty-one (31) consecutive days for which a payment of remuneration is ordinarily made to the individual by the employing unit. This subsection shall not be applicable with respect to services performed in a pay period by any such individual where any such service is excepted by subsection (b).

(t) Service performed by an inmate of a custodial or penal institution.

(u) Service performed as a precinct election officer (as defined in IC 3-5-2-40.1).

SECTION 11. IC 24-4.5-6-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 201. (1) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a person, including a supervised financial organization, engaged in Indiana in any of the following:

(a) Making consumer credit sales, consumer leases, or consumer loans.

(b) Taking assignments of rights against debtors that arise from sales, leases, or loans by a person having an office or a place of business in Indiana, and undertaking direct collection of payments from the debtors or enforcement of rights against the debtors.

(c) Placing consumer credit insurance, receiving commissions for consumer credit insurance, or acting as **an agent a limited line credit insurance producer** in the sale of consumer credit insurance.

(2) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 are not applicable to a seller whose credit sales consist entirely of sales made pursuant to a seller credit card issued by a person other than the seller if the issuer of the card has complied with the provisions of this section, IC 24-4.5-6-202, and IC 24-4.5-6-203.

(3) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a seller whose credit sales are made using credit cards that:

(a) are issued by a lender;

(b) are in the name of the seller; and

(c) can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

SECTION 12. IC 25-1-9-19 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2004]: **Sec. 19. A practitioner that provides to a patient notice concerning a third party billing for a health care service provided to the patient shall ensure that the notice:**

- (1) conspicuously states that the notice is not a bill;**
- (2) does not include a tear-off portion; and**
- (3) is not accompanied by a return mailing envelope.**

SECTION 13. IC 27-1-2-3, AS AMENDED BY P.L.48-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this article, and unless a different meaning appears from the context: (a) "Insurance" means a contract of insurance or an agreement by which one (1) party, for a consideration, promises to pay money or its equivalent or to do an act valuable to the insured upon the destruction, loss or injury of something in which the other party has a pecuniary interest, or in consideration of a price paid, adequate to the risk, becomes security to the other against loss by certain specified risks; to grant indemnity or security against loss for a consideration.

(b) "Commissioner" means the "insurance commissioner" of this state.

(c) "Department" means "the department of insurance" of this state.

(d) The term "company" or "corporation" means an insurance company and includes all persons, partnerships, corporations, associations, orders or societies engaged in or proposing to engage in making any kind of insurance authorized by the laws of this state.

(e) The term "domestic company" or "domestic corporation" means an insurance company organized under the insurance laws of this state.

(f) The term "foreign company" or "foreign corporation" means an insurance company organized under the laws of any state of the United States other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(g) The term "alien company" or "alien corporation" means an insurance company organized under the laws of any country other than the United States or territory or insular possession thereof or of the District of Columbia.

(h) The term "person" includes individuals, corporations, associations, and partnerships; personal pronoun includes all genders; the singular includes the plural and the plural includes the singular.

(k) The term "insurance solicitor" means any natural person

employed to aid an insurance ~~agent~~ **producer** in any manner in soliciting, negotiating, or effecting contracts of insurance or indemnity other than life.

(l) The term "principal office" means that office maintained by the corporation in this state, the address of which is required by the provisions of this article to be kept on file in the office of the department.

(m) The term "articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger, consolidation and reinsurance, and in case of corporations, heretofore organized, articles of reorganization filed in the office of the secretary of state, and all amendments thereto.

(n) The term "shareholder" means one who is a holder of record of shares of stock in a corporation, unless the context otherwise requires.

(o) The term "policyholder" means one who is a holder of a contract of insurance in an insurance company.

(p) The term "member" means one who holds a contract of insurance or is insured in an insurance company other than a stock corporation.

(q) The term "capital stock" means the aggregate amount of the par value of all shares of capital stock.

(r) The term "capital" means the aggregate amount paid in on the shares of capital stock of a corporation issued and outstanding.

(s) The term "life insurance company" means any company making one or more of the kinds of insurance set out and defined in class 1(a) of IC 27-1-5-1.

(t) The term "casualty insurance company" means any company making the kind or kinds of insurance set out and defined in class 2 of IC 27-1-5-1.

(u) The term "fire and marine insurance company" means any company making the kind or kinds of insurance set out and defined in class 3 of IC 27-1-5-1.

(v) The term "certificate of authority" means an instrument in writing issued by the department to an insurer, which sets out the authority of such insurer to engage in the business of insurance or activities connected therewith.

(w) The term "premium" means money or any other thing of value

paid or given in consideration to an insurer, ~~agent~~, **insurance producer**, or solicitor on account of or in connection with a contract of insurance and shall include as a part but not in limitation of the above, policy fees, admission fees, membership fees and regular or special assessments and payments made on account of annuities.

(x) The term "insurer" means a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or inter-insurers, or individual underwriters.

(y) The terms "assessment plan" and "assessment insurance" mean the mode or plan and the business of a corporation, association or society organized and limited to the making of insurance on the lives of persons and against disability from disease, bodily injury or death by accident, and which provides for the payment of policy claims, accumulation of reserve or emergency funds, and the expenses of the management and prosecution of its business by payments to be made either at stated periods named in the contract or upon assessments, and wherein the insured's liability to contribute is not limited to a fixed sum.

(z) "Agency billed" refers to a system in which an insured pays a premium directly to an insurance agency.

SECTION 14. IC 27-1-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commissioner may, personally or through ~~his~~ **the commissioner's** deputies and assistants, examine into the affairs of any such proposed company and inspect its books and papers, and may summon and examine under oath any officer or ~~agent~~ **insurance producer** or any person who is or has been connected with such company, and if ~~he~~ **the commissioner** finds the company is violating the law, or if the company shall not be qualified for a certificate of authority within one (1) year from date of its permit, ~~he~~ **the commissioner** may revoke its permit; and if ~~he~~ **the commissioner** finds an ~~agent~~ **insurance producer** of such company has violated the law, ~~he~~ **the commissioner** may revoke ~~his~~ **the insurance producer's** authority, and ~~he~~ **the commissioner** may for ~~such agent's~~ **the insurance producer's** violation revoke the company's permit. Any revocation shall be after notice and hearing. The commissioner may renew any company's permit or agent's authority which ~~he~~ **the commissioner** has revoked.

SECTION 15. IC 27-1-6.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. When any insurer admitted to transact business in this state transfers its domicile to this or any other state, its certificate of authority, **agents' insurance producers'** appointments and licenses, policy forms, rates, authorizations, and other filings and approvals which existed at the time of the transfer, remain in effect after the transfer of domicile occurs.

SECTION 16. IC 27-1-12-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43. (a) As used in this section, "life insurance policy" means:

- (1) an individual life insurance policy other than a credit life insurance policy; or
- (2) an individual policy of variable life insurance;

that is sold after June 30, 1994.

(b) No life insurance policy may be issued in Indiana or issued for delivery in Indiana unless it contains a provision allowing the policyholder to return the policy to:

- (1) the insurer;
- (2) the **agent insurance producer** through whom the policy was purchased; or
- (3) any agent of the insurer;

within ten (10) days after the policy is received by the policyholder for a full refund of all money paid by the policyholder.

(c) Each life insurance policy must have prominently printed on its first page a notice setting forth in substance the provisions of subsection (b).

SECTION 17. IC 27-1-12.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Each annuity contract shall contain a provision giving the purchaser an unrestricted right to return the contract to the company or to the **agent insurance producer** through whom it was purchased, on or before the tenth day after it is received by the purchaser, such return entitling the purchaser to a return of the value of a variable annuity account or the monies paid by the purchaser to a fixed account in connection with the issuance of the contract. This provision shall be conspicuously placed on the face of the contract. This provision does not apply to contracts issued in connection with a pension, annuity, or profit-sharing plan qualified or

exempt under Sections 401, 403, 404, or 501 of the Internal Revenue Code, if participation in the plan is a condition of employment.

SECTION 18. IC 27-1-12.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.7. Funding Agreements

Sec. 1. As used in this chapter, "funding agreement" means an agreement that:

- (1) is issued by a life insurance company to a holder;**
- (2) authorizes a life insurance company to accept funds; and**
- (3) provides for an accumulation of the funds for the purpose of making one (1) or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the holder of the funding agreement.**

Sec. 2. As used in this chapter, "holder" means a person described in section 5 of this chapter that is issued a funding agreement by a life insurance company.

Sec. 3. As used in this chapter, "life insurance company" means a life insurance company authorized to issue a product described in Class 1(c) of IC 27-1-5-1.

Sec. 4. As used in this chapter, "optional modes of settlement" means the manner in which the funding agreement is structured to repay interest and principal to the holder.

Sec. 5. A life insurance company may issue or issue for delivery in Indiana a funding agreement to the following:

- (1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of an insurance business.**
- (2) A person who uses the funding agreement for the purpose of funding:
 - (A) benefits under an employee benefit plan (as defined in the federal Employee Retirement Security Act of 1974, 29 U.S.C. 1001 et seq.);**
 - (B) the activities of a nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or a similar nonprofit organization domiciled in a foreign country;**
 - (C) a program of:
 - (i) the United States government;******

- (ii) a state government;
- (iii) a political subdivision;
- (iv) a foreign country; or
- (v) an agency or instrumentality of the United States or a state government, a political subdivision, or a foreign country;
- (D) an agreement providing for periodic payments in satisfaction of a claim;
- (E) a program of an institution with assets exceeding twenty-five million dollars (\$25,000,000);
- (F) a program in which a business entity, including a trust:
 - (i) purchases and holds funding agreements; and
 - (ii) issues securities by using the funding agreement to finance or collateralize the securities; or
- (G) any program or activity substantially similar to a program or an activity described in clauses (A) through (F) that is first authorized by the commissioner.

Sec. 6. The issuance of a funding agreement:

- (1) constitutes an activity necessary, convenient, or expedient to the business of a life insurance company under IC 27-1-7-2;
- (2) is not insurance under IC 27-1-5-1;
- (3) is not a security (as defined in IC 23-2-1-1(k)); and
- (4) does not constitute gross premium for taxation purposes under IC 27-1-18-2.

Sec. 7. An amount may not be guaranteed or credited under a funding agreement except:

- (1) upon reasonable assumptions as to investment income and expenses; and
- (2) on a basis equitable to all holders of funding agreements of a given class.

Sec. 8. An amount paid to a life insurance company and proceeds applied to amounts paid under optional modes of settlement under a funding agreement may be allocated by the insurer to one (1) or more segregated asset accounts in the manner described in Class 1(c) of IC 27-1-5-1.

Sec. 9. The commissioner may establish reasonable conditions or adopt rules under IC 4-22-2 regarding:

- (1) reserve amounts to be maintained by a life insurance company for funding agreements;

(2) accounting and reporting of funds credited under funding agreements; and

(3) other matters regarding funding agreements the commissioner considers necessary, proper, and advisable.

Sec. 10. Notwithstanding any other provision of law:

(1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;

(2) a funding agreement is not considered a covered policy under IC 27-8-8-1(a); and

(3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40.

SECTION 19. IC 27-1-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. At all such meetings of the governing body held at Indianapolis, Indiana, as set out in section 10 of this chapter, any aggrieved policyholder, ~~agent,~~ **insurance producer**, company, representative, or any other aggrieved person may appear before such meeting to have complaints heard in full, and it shall be the duty of such rating bureau to rectify such conditions as are justly complained of in such manner as is reasonably possible.

SECTION 20. IC 27-1-20-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. (a) No company acting through its officers or members, attorney-in-fact, or by any other party, no officer of a company acting on ~~his~~ **the officer's** own behalf and no insurance ~~agent,~~ **producer**, broker, or solicitor, personally or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, any rebate of or part of the premium payable on a policy, or any ~~agent's~~ **insurance producer's** commission thereon, or earnings, profits, dividends or other benefits founded, arising, accruing, or to accrue thereon or therefrom, or any special advantage in date of policy or age of issue, or any paid employment or contract for services of any kind, or any other valuable consideration or inducement, to or for insurance on any risk in this state, now or hereafter to be written, or for or upon any renewal of any such insurance, which is not specified in the policy contract of insurance, or offer, promise, give, option, sell or purchase any stocks, bonds, securities, or property, or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in connection therewith, or any renewal

thereof, which is not specified in the policy. Nothing in this section shall prevent a company which transacts industrial life insurance on a weekly payment plan from returning to policyholders who have made a premium payment for a period of at least one (1) year directly to the company at its home or district office a percentage of premium which the company would otherwise have paid for the weekly collection of such premium, nor shall this section be construed to prevent the taking of a bona fide obligation, with legal interest, in payment of any premium.

(b) No insured person or party or applicant for insurance shall directly or indirectly, receive or accept, or agree to receive or accept, any rebate of premium or of any part thereof, or all or any part of any ~~agent's~~ **insurance producer's** or broker's commission thereon, or any favor or advantage, or share in any benefit to accrue under any policy of insurance, or any valuable consideration or inducement, other than such as are specified in the policy.

SECTION 21. IC 27-1-22-2.5, AS AMENDED BY P.L.132-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this chapter, "exempt commercial policyholder" means an entity that:

- (1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;
- (2) has purchased the policy of insurance through an insurance ~~agent~~ **producer** licensed under IC 27-1-15.6 or IC 27-1-15.8; and
- (3) meets any three (3) of the following criteria:
 - (A) Has a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is issued.
 - (B) Has a net revenue or sales of more than fifty million dollars (\$50,000,000) in the preceding fiscal year.
 - (C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued.
 - (D) Has aggregate annual commercial insurance premiums, excluding any worker's compensation and professional liability insurance premiums, of more than seventy-five thousand dollars (\$75,000) in the preceding fiscal year.
 - (E) Is a nonprofit or a public entity with an annual budget of

at least twenty-five million dollars (\$25,000,000) or assets of at least twenty-five million dollars (\$25,000,000) in the preceding fiscal year.

(F) Procures commercial insurance with the services of a risk manager.

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted under subdivision (1) and if there has been no significant material change in the entity's status.

(b) As used in this chapter, "risk manager" means a person qualified to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager may be:

(1) a full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or

(2) a person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.

SECTION 22. IC 27-1-22-4, AS AMENDED BY P.L.268-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks, which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance, other than workers compensation insurance or professional liability insurance, issued to exempt commercial policyholders.

(c) Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

(d) The information furnished in support of a filing may include:

(1) the experience and judgment of the insurer or rating organization making the filing;

- (2) its interpretation of any statistical data it relies upon;
- (3) the experience of other insurers or rating organizations; or
- (4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

(e) Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

(f) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(g) Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

(h) Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

- (1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and
- (2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:

(A) requiring a member, before making an independent filing, first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

- (i) to make such filing as a rating organization filing;
- (ii) to make such filing on an agency basis solely on behalf of the requesting member; or
- (iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

(i) Under such rules as ~~he~~ **the commissioner** shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as ~~he~~ **the commissioner** may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

(j) Upon the written application of the insured, stating ~~his~~ **the insured's** reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(k) An insurer shall not make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

(l) The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance ~~agent,~~ **producer,** or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. ~~He~~ **The commissioner** shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a

system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to:

- (1) implement the exemption under subsection (b);
- (2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and
- (3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

- (1) The account number, policy number, or other number used by the insurer to identify the insured.
- (2) The amount of aggregate annual commercial premium.
- (3) The inception date and expiration date of commercial insurance coverage provided by the insurer.
- (4) The criteria in section 2.5(a)(3) of this chapter used to establish the entity as an exempt commercial policyholder.

(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).

SECTION 23. IC 27-1-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Upon ~~his own~~ **the commissioner's** motion, or upon written request by any insured affected thereby or by any licensed insurance ~~agent~~ **producer** or broker, if such request is made in good faith and states reasonable grounds, the commissioner, if ~~he~~ **the commissioner** shall have reason to believe that any filing is not in compliance with the applicable provisions of section 3 of this chapter, or in the case of an alleged violation of section 6 of the chapter if ~~he~~ **the commissioner** finds on the basis of the information on file with the department that there has been a prima facie showing of a violation of that section, shall hold a hearing upon not less than ten (10) days written notice to the rating

organization or insurer which made the filing in issue, specifying the items and matters to be considered and stating in what manner and to what extent noncompliance is alleged to exist. No other matter or subject shall be considered at such hearing. Only the rating organization or insurer which made such filing and the commissioner may be parties to any hearing or to any judicial appeal resulting therefrom. Within a reasonable time, the commissioner shall notify every person making request as to ~~his~~ **the** decision as to the validity of the request and subsequently shall notify every such person of any action which may thereafter be taken with reference to such request.

(b) If, after such hearing, the commissioner finds, based upon a preponderance of the evidence adduced at such hearing and made a part of the record thereof, that such filing is not in compliance with the provisions of section 3 of this chapter, ~~he~~ **the commissioner** shall immediately issue a written order to the parties specifying in detail in what respects and upon what evidence such noncompliance exists and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said order shall not affect any contract policy made or issued prior to the expiration of the period set forth in said order.

(c) If after such hearing the commissioner finds that such filing does not violate the provisions of section 3 of this chapter, ~~he~~ **the commissioner** shall immediately issue a written order to the parties dismissing the proceedings.

(d) The finding and order of the commissioner shall be made within ninety (90) days after the close of such hearing or within such reasonable time extensions as may be fixed by the commissioner.

(e) No manual of classifications, rule, rate, rating schedule, rating plan, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, which has been filed pursuant to section 4 of this chapter shall be disapproved if the rates produced thereby meet the requirements of section 3 of this chapter.

(f) All actions of the commissioner under this chapter and all appeals from ~~his~~ **the commissioner's** action shall be governed by IC 4-21.5, except where a different specific provision is made in this chapter.

SECTION 24. IC 27-1-22-7 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) When a filing or deviation involving a rate adjustment depends upon a change in the relationship between the proposed rates and the anticipated production expense portion thereof from the relationship anticipated under any rates previously filed and currently in effect for the company or rating organization involved, such filing or deviation shall be subject to the provisions of subsection (b).

(b) Each filing or deviation subject to this section shall be on file for a waiting period of twenty (20) days before it becomes effective. If within such waiting period or after hearing as provided in this section, the commissioner finds that the filing or deviation does not meet the requirements of this chapter, ~~he~~ **the commissioner** shall send to the insurer or rating organization which made the filing or to the insurer which filed the deviation written notice of disapproval specifying therein in what respects the filing or deviation fails to meet the requirements of this chapter and stating that the same shall not become effective. Such filing or deviation shall be deemed to meet the requirements of this act unless disapproved:

- (1) within such waiting period; or
- (2) if a hearing has been called and written notice thereof given by the commissioner during such waiting period, then within ten (10) days after the date of commencement of such hearing.

Upon ~~his~~ **the commissioner's** own motion, or upon timely written request by any ~~agent insurance producer~~ or broker of the company or companies to which such filing or deviation is applicable, if such request is in good faith and states reasonable grounds, the commissioner may at any time within the waiting period call a hearing upon not less than ten (10) nor more than fifteen (15) days written notice to the company or rating organization making the filing or to the company filing the deviation. Within ten (10) days after the commencement of such hearing, the commissioner shall in writing either approve such filing or deviation or shall disapprove the same as provided in this section.

SECTION 25. IC 27-1-22-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. No insurer, broker, or ~~agent insurance producer~~ shall knowingly charge, demand, or receive a premium for any policy of insurance except in accordance with the provisions of this chapter. No insurer or employee thereof, and

no broker or ~~agent~~ **insurance producer** shall pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filings. No insured named in any policy of insurance shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of, nor permitting the regulation of the payment of, commissions or other compensation to duly licensed ~~agents~~ **insurance producers** and brokers, nor as prohibiting, or permitting the regulation of, any insurer from allowing or returning to its participating policyholders or members, dividends or savings.

SECTION 26. IC 27-1-22-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Nothing in this chapter abridges or restricts the freedom of contract of insurers, ~~agents~~, **insurance producers**, or brokers with reference to the amount of commission to be paid to ~~agents~~ **insurance producers** or brokers by insurers, and such payments are expressly authorized.

SECTION 27. IC 27-1-25-1, AS AMENDED BY P.L.132-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

(a) "Administrator", except as provided in section 7.5 of this chapter, means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of Indiana in connection with life or health coverage or annuities, whether provided for by an insurer or a self-funded plan. The term "administrator" does not include the following persons:

- (1) An employer for its employees or for the employees of a subsidiary or affiliated corporation of the employer.
- (2) A union for its members.
- (3) An insurer, including:
 - (A) an insurer operating a health maintenance organization or a limited service health maintenance organization; and

(B) the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.

(4) A life or health insurance ~~agent~~ **producer** licensed under IC 27-1-15.6 whose activities are limited exclusively to the sale of insurance.

(5) A creditor for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities.

(9) A credit card issuing company that advances for and collects premiums or charges from its credit cardholders as long as that company does not adjust or settle claims.

(10) An individual who adjusts or settles claims in the normal course of ~~his~~ **the individual's** practice or employment as an attorney at law, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(b) "Certificate of registration" refers to the certificate required by section 11 of this chapter.

(c) "Commissioner" refers to the commissioner of insurance.

(d) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

(e) "Insurer" means a person who obtains a certificate of authority under IC 27-1-3-20.

(f) "Person" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association.

(g) "Self-funded plan" means a plan for providing benefits for life, health, or annuity coverage by a person who is not an insurer.

SECTION 28. IC 27-1-27-1, AS AMENDED BY HEA 1692-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The term "public adjuster" shall include every individual or corporation who, or which, for compensation or reward, renders advice or assistance to the insured in the adjustment of a claim or claims for loss or damages under any policy of insurance covering real or personal property and any person or corporation who, or which, advertises, solicits business, or holds itself out to the public as an adjuster of such claims. However, no public adjuster shall:

- (1) act in any manner in relation to claims for personal injury or automobile property damage; or
- (2) bind the insured in the settlement of claims.

(b) This chapter does not apply to, and the following are not included in the term "public adjuster":

- (1) An attorney at law admitted to practice in the state of Indiana who adjusts insurance losses in the course of the practice of ~~his~~ **the attorney's** profession.
- (2) An officer, regular salaried employee, or other representative of an insurer or of an attorney in fact of any reciprocal insurer of Lloyd's underwriter licensed to do business in Indiana who adjusts losses arising under ~~his an~~ employer's or principal's own policies.
- (3) An adjustment bureau or association owned and maintained by insurers to adjust or investigate losses of such insurers, or any regular salaried employee who devotes substantially all ~~of his the~~ **the employee's** time to the business of such bureau or association.
- (4) Any licensed ~~agent~~ **insurance producer** or an authorized insurer or officer or employee of the same who adjusts losses for such insurer, and any ~~agent~~ **insurance producer** or representative of a farm mutual insurance company operating under the farm mutual insurance laws of this state on behalf of an insurer.
- (5) Any independent adjuster representing an insurer.

SECTION 29. IC 27-1-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each applicant for a certificate of authority as a public adjuster shall file with the

commissioner of insurance ~~his, or its,~~ **an** application therefor on forms furnished by the commissioner of insurance, which application shall set forth:

- (1) the name and address of the applicant, and if the applicant be a corporation, the name and address of each of its officers and directors;
- (2) whether the person is applying as a resident or nonresident;
- (3) whether any license or certificate of authority as ~~agent,~~ **insurance producer**, broker, public adjuster, or independent adjuster has been issued previously by the commissioner of insurance of the state of Indiana or by the insurance department of any other state, any territorial possession of the United States, or any foreign country to the applicant; and
- (4) the business or employment in which the applicant has been engaged for the five (5) years next preceding the date of the application, and the name and address of such business and the name or names and addresses of ~~his~~ **the applicant's** employer or employers.

(b) An application for any certificate of authority must be signed and verified under oath by the applicant.

(c) An annual fee of fifty dollars (\$50) is to be paid to the commissioner of insurance by the applicant for such public adjuster's certificate of authority before the application or annual renewal thereof is granted. However, the commissioner may, by rule adopted under IC 4-22-2, change the amount of the fee to an amount necessary to pay all of the direct and indirect costs of administering this chapter. Fees collected shall be used by the department to administer this chapter.

(d) Every public adjuster's certificate of authority shall expire on December 31 of the calendar year in which the same shall have been issued, but if an application for the renewal of such certificate shall have been filed with the commissioner of insurance before January 1 of any year, the certificate of authority sought to be renewed shall continue in full force and effect until the issuance by the commissioner of insurance of the new certificate applied for or until five (5) days after the commissioner of insurance shall have refused to issue such new certificate and shall have served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered mail directed to the applicant at the place of business specified in the

application.

(e) The applicant shall file with the commissioner of insurance a surety bond in a sum equal to ten thousand dollars (\$10,000) payable to the state of Indiana and conditioned on the principal's faithful performance and discharge of ~~his~~ **the principal's** duties under this title and under any rule of the department of insurance. The bond must be renewed annually.

SECTION 30. IC 27-1-34-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A reinsurer may not issue a policy of insurance to a multiple employer welfare arrangement that does not have a certificate of registration from the department.

(b) An ~~agent~~ **insurance producer** licensed by the department may not solicit, offer, or provide coverage through a multiple employer welfare arrangement that does not have a certificate of registration from the department.

(c) A reinsurer or ~~agent~~ **insurance producer** who knows or reasonably should have known that the arrangement does not have a current certificate of registration is liable for any claims for benefits that are due and unpaid.

SECTION 31. IC 27-1-36-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 46. (a) The comparison of an insurer's total adjusted capital to any of its RBC levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer and it is not intended as a means to rank insurers generally. Except as provided in subsection (b), the action of an insurer, an ~~agent~~, **insurance producer**, a broker, or other person engaged in any manner in the insurance business, in:

- (1) making, publishing, disseminating, circulating, or placing before the public; or
- (2) causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way;

an advertisement, an announcement, or a statement containing an assertion, a representation, or a statement regarding the RBC level of an insurer or any component derived in the calculation of the RBC

level of an insurer is misleading and is prohibited.

(b) If:

- (1) a materially false statement with respect to the comparison regarding an insurer's total adjusted capital to an RBC level of the insurer or an inappropriate comparison of any other amount to the insurer's RBC levels is published in any written publication; and
- (2) the insurer is able to demonstrate to the commissioner with substantial proof the:

- (A) falsity; or
- (B) inappropriateness;

of the statement;

the insurer may publish an announcement in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

SECTION 32. IC 27-2-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "independent ~~agent~~ **insurance producer**" means an ~~agent~~ **insurance producer** who:

- (1) represents an insurer in the sale of insurance as an independent contractor rather than as an employee; and
- (2) is not limited to representing:
 - (A) one (1) insurer; or
 - (B) several insurers that are under common management.

SECTION 33. IC 27-2-17-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An insurance company that issues property or casualty insurance shall not discriminate in the appointment of an independent ~~agent~~ **insurance producer** on the basis of race, color, national origin, or gender.

(b) Except as provided in subsection (c), the department has exclusive jurisdiction to investigate any complaints of discrimination in the appointment of independent ~~agents~~ **insurance producers** in violation of subsection (a).

(c) If the commissioner of the department determines after a hearing that an insurance company has violated subsection (a), the commissioner may order one (1) of the following remedies:

- (1) Payment of a civil penalty of not more than two thousand dollars (\$2,000) for each violation.
- (2) Suspension or revocation of the insurance company's

certificate of authority if the commissioner determines that the violation was willful or wanton and that similar violations have been committed by that company with a frequency that constitutes a general business practice.

(3) Any other remedy agreed to by the department and the insurance company.

(d) Any determination made by the commissioner under this section is subject to IC 4-21.5.

(e) Findings of the department under this section may not be considered as evidence in any civil action other than an appeal as provided under IC 4-21.5.

SECTION 34. IC 27-4-1-2, AS AMENDED BY HEA 1692-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. When and as used in this chapter:

(a) The term "person" shall mean any individual, corporation, company including any farm mutual insurance company, association, partnership, firm, reciprocal exchange, inter-insurer, Lloyds insurers, society, fraternal benefit society, lodge, order, council, corps, and any other association or legal entity, engaged in the business of insurance, including but not in limitation of the foregoing, **agents, insurance producers**, brokers, solicitors, advisors, auditors, and adjusters.

(b) "Department" shall mean the department of insurance of this state created and defined as a department in the state government of the state of Indiana by IC 27-1.

(c) "Commissioner" shall mean the insurance commissioner of this state appointed pursuant to, and on and in whom the powers, duties, management, and control of the department are conferred and vested by, the provisions of IC 27-1.

SECTION 35. IC 27-4-1-4, AS AMENDED BY P.L.130-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender ~~his~~ **the policyholder's** insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of ~~his~~ **the person's** insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any

person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair

discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

- (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
- (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
- (iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not

specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or ~~agent~~ **insurance producer** thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed ~~agent~~ **insurance producer** thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, ~~agent~~, **insurance producer**, or solicitor duly licensed under the laws of this state, but such broker, ~~agent~~, **insurance producer**, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent~~ **producer** or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ **the** right to approve or disapprove of the insurance company

selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents~~ **insurance producers** or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent,~~ **insurance producer**, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of ~~his, her, or its~~ **the** right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health

insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

SECTION 36. IC 27-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. It is hereby declared unlawful for any two (2) or more insurance companies writing the same class, or classes, of risks and doing business in this state, directly or indirectly, to enter into any arrangement, contract, agreement, understanding, combination or association to require, coerce or induce any ~~agent~~ **insurance producer** or representative of any two (2) or more of such insurance companies within the state of Indiana to refrain from representing other such insurance companies, or to afford any advantage to any ~~such agent~~ **insurance producer** to refrain from representing other such insurance companies or to impose upon ~~such agent~~ **the insurance producer** any disadvantage by reason of ~~his~~ **the insurance producer's** acting as representative of other such insurance companies.

SECTION 37. IC 27-4-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** It ~~shall be~~ **is** unlawful for any insurance ~~agent~~ **producer** representing or acting for two (2) or more insurance companies writing the same class or classes, of risks to enter, either directly or indirectly, into any agreement, arrangement, contract or understanding with one (1) or more of such companies that ~~he~~ **the insurance producer** will refrain from representing any other like company or companies, and it ~~shall be~~ **is**

unlawful for any such insurance company, not having a contract requiring an **agent insurance producer** to represent **it the insurance company** alone, in any manner to require, coerce, or induce any **agent insurance producer** to refrain from representing any other like company or companies.

~~Provided, however, That this shall not be construed to~~ **(b) This section does not** prevent any insurance company or **agent insurance producer** from at any time entering into a bona fide contract whereby ~~such agent an insurance producer~~ agrees that ~~he the insurance producer~~ will thereafter represent a single company exclusively.

SECTION 38. IC 27-4-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. For violation of any provision of this chapter, the license of the offending company or **agent insurance producer** to transact the business of insurance within the state of Indiana shall be suspended for a period of three (3) years. Whenever information of any such violation shall come to the knowledge of the commissioner of insurance, ~~he the commissioner~~ shall issue an order fixing a day certain, not more than thirty (30) nor less than twenty (20) days from the making thereof, upon which the offender shall appear and show cause why such penalty should not be enforced, such order specifying with reasonable certainty the violation charged, and if, after hearing, the commissioner shall determine that the company or **agent insurance producer** is guilty of such violation, ~~he the commissioner~~ shall forthwith suspend the license of the offender for a period of three (3) years. Such hearing shall be public, and at any such hearing any person or corporation having lodged information of such violation with the commissioner shall be entitled to be present and submit evidence. Within thirty (30) days after the suspension of any such license, the **agent insurance producer** or company whose license has been suspended may appeal from the ruling of the commissioner of insurance to the circuit or superior court of the county in which ~~such agent the insurance producer~~ resides or in which such company has its principal place of business, and if such company be a foreign insurance company then such appeal may be taken by such company to the circuit or superior court of Marion County.

SECTION 39. IC 27-5-3-3, AS AMENDED BY P.L.132-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 3. (a) With respect to writing, making, or taking the kinds of insurance specifically excepted in IC 27-5-2-1(1)(B) and with respect to writing, making, or taking liability insurance, worker's compensation, fidelity, and surety insurance such farmers' mutual insurance company shall be subject to the following statutes, anything in IC 27-1 or IC 27-5-1 to the contrary notwithstanding:

(1) IC 27-1-3, IC 27-9, IC 27-1-5-3, IC 27-1-6-15, IC 27-1-7-14, IC 27-1-7-15, IC 27-1-7-16, IC 27-6-1.1-2, IC 27-1-7-21, IC 27-1-7-22, IC 27-1-7-23, IC 27-1-9, IC 27-1-13-3, IC 27-1-13-4, IC 27-1-13-6, IC 27-1-13-7, IC 27-1-13-8, IC 27-1-13-9, IC 27-1-20-1, IC 27-1-20-4, IC 27-1-20-6, IC 27-1-20-9, IC 27-1-20-10, IC 27-1-20-11, IC 27-1-20-14, IC 27-1-20-19, IC 27-1-20-20, IC 27-1-20-21, IC 27-1-20-23, ~~IC 27-1-20-24~~, and IC 27-1-20-30.

(2) All of IC 27-1-22.

(3) IC 27-1-13-7.

(4) All of IC 27-7-2.

(b) An **agent insurance producer** representing a farmers' mutual insurance company with respect to insurance authorized to be written by this chapter and not authorized before March 13, 1953, to be written by a farmers' mutual insurance company shall comply with IC 27-1-15.6.

SECTION 40. IC 27-5-4-2, AS AMENDED BY P.L.132-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Any such farmers' mutual insurance company may elect to become subject to the provisions of IC 27-1 as provided by IC 27-1-11-1 and thereafter may avail itself of all rights, privileges, and franchises provided by IC 27-1 in accordance with IC 27-1. Nothing contained in IC 27-1 shall affect or invalidate any policies issued or bound by such company and in full force and effect at the time said election becomes effective, but any such policy or contract of insurance and the rights and obligations thereunder may continue in full force and effect until expiration or termination; provided, that not later than five (5) years following the effective date of said election, all such policies or contracts of insurance shall be subject to the provisions of IC 27-1. Any **agent insurance producer** or representative of such company who is exempt from the provisions of IC 27-1-15.6 at the time said election becomes effective may continue to represent such

company only within the scope of such existing representation without compliance with the provisions of IC 27-1-15.6 for a period not to exceed one (1) year following the effective date of said election, but thereafter such representation shall be subject to compliance with IC 27-1-15.6. Such election provided for in this section shall become effective upon the date of issuance of the new certificate of authority pursuant to IC 27-1-11-7.

SECTION 41. IC 27-6-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commissioner shall:

- (i) Notify the association of the existence of an insolvent insurer not later than three (3) working days after ~~he the commissioner~~ receives an order of liquidation.
 - (ii) Upon request of the board of directors, provide the association with a statement of the net direct written premiums of each member insurer.
- (b) The commissioner may:
- (i) Require that the association notify the insureds of the insolvent insurer and any other interested parties of the order of liquidation and of their rights under this chapter. This notification shall be by mail at their last known address, where available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation in all counties in which the insolvent insurer transacted insurance business shall be sufficient.
 - (ii) Require each ~~agent~~ **insurance producer** of the insolvent insurer to give prompt written notice by first class mail of such insolvency and the rights of the insured under this chapter to each insured of the insolvent insurer for whom ~~he the insurance producer~~ is ~~agent~~ **insurance producer** of record, at such insured's last known address.
 - (iii) Suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a fine on any member insurer which fails to pay an assessment when due. The fine shall not exceed five percent (5%) of the unpaid assessment per month, except that no fine shall be

less than one hundred dollars (\$100) per month.

(iv) Revoke the designation of any servicing facility if ~~he~~ **the commissioner** finds claims are being handled unsatisfactorily.

(v) Any final action or order of the commissioner under this chapter shall be subject to judicial review in a court of competent jurisdiction.

SECTION 42. IC 27-6-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (Effect of Paid Claims) (a) Any person recovering under this chapter shall be deemed to have assigned ~~his~~ **the person's** rights under the policy to the association to the extent of ~~his~~ **the person's** recovery from the association. Every insured or claimant seeking the protection of this chapter shall cooperate with the association to the same extent as the person would have been required to cooperate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out except such causes of action as the insolvent insurer would have had if such sums had been paid by the insolvent insurer. In the case of an insolvent insurer operating on a plan with assessment liability, payments of claims of the association shall not operate to reduce the liability of insureds to the receiver, liquidator, or statutory successor for unpaid assessments previously made and no assessment shall be thereafter made for the purpose of reimbursing the association.

(b) The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by settlements of covered claims by the association or a similar organization in another state functioning pursuant to IC 27-6-8-8(d). The court having jurisdiction shall grant such claims priority equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer. The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

(c) The association shall periodically file with the receiver or liquidator of the insolvent insurer statements of the covered claims paid by the association and estimates of anticipated claims on the association which shall preserve the rights of the association against the assets of the insolvent insurer.

(d) The association shall have a right to recover from the ~~agent~~

insurance producer of record any part of the paid claim for unearned premium that represents unearned commission to the ~~agent~~. **insurance producer**.

SECTION 43. IC 27-6-8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. No person, including an insurer, ~~agent~~, **insurance producer**, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Indiana insurance guaranty association law. ~~Provided~~, However, this section does not apply to Indiana insurance guaranty association or to any other entity which does not sell or solicit insurance.

SECTION 44. IC 27-6-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. As used in this chapter, "licensed producer" means an ~~agent~~, **insurance producer**, broker, or reinsurance intermediary licensed pursuant to the applicable provision of the insurance law.

SECTION 45. IC 27-7-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. No notice of cancellation of a policy to which section 4 of this chapter applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least ten (10) days notice of cancellation accompanied by the reason therefor shall be given. In the event such policy was procured by an ~~agent~~ **insurance producer** duly licensed by the state of Indiana, notice of intent to cancel shall be mailed or delivered to ~~such agent~~ **the insurance producer** at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~such agent~~. **the insurance producer**. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be

accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation. This section shall not apply to nonrenewal.

SECTION 46. IC 27-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a)** No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was procured by an **agent insurance producer** duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to ~~such agent~~ **the insurance producer** at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~such agent~~ **the insurance producer**.

(b) This section shall not apply:

- ~~(a)~~ **(1)** if the insurer has manifested its willingness to renew; ~~nor~~
~~or~~
- ~~(b)~~ **(2)** in case of nonpayment of premium.

~~Provided, That,~~ **However**, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

SECTION 47. IC 27-7-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner of insurance or against any insurer, its authorized representative, its ~~agents~~, **insurance producers**, its employees, or any firm, person, limited liability company, or corporation furnishing to the insurer information as to reasons for cancellation, for any statement made by any of them in any written notice of cancellation, or in any other communication, oral or written specifying the reasons for cancellation, or the providing of information pertaining thereto, or for statements made or evidence submitted at any

hearings conducted in connection therewith.

SECTION 48. IC 27-7-9-9, AS AMENDED BY P.L.182-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) An insurer making the type of insurance described in Class 3(a) of IC 27-1-5-1 shall enter into a reinsurance agreement with the commissioner. The reinsurance agreement must include the following terms:

(1) The insurer agrees to cede to the commissioner one hundred percent (100%) of any mine subsidence coverage issued under this chapter, subject to a maximum limit of two hundred thousand dollars (\$200,000) per structure insured.

(2) The insurer shall collect the premiums for mine subsidence insurance, may retain a ceding commission in an amount set by the commissioner, and shall remit the remainder of the premiums to the commissioner for deposit in the mine subsidence insurance fund.

(3) The insurer, in consideration of the ceding commission, shall:

(A) undertake the adjustment of losses under the mine subsidence coverage issued under this chapter by the insurer, with technical assistance provided under section 9.5 of this chapter; and

(B) pay the taxes and absorb all other expenses necessarily incurred by the insurer in the sale of policies and the administration of the mine subsidence insurance program under this chapter.

(4) The commissioner shall reimburse the insurer from the mine subsidence insurance fund for all amounts paid to policyholders for mine subsidence insurance claims.

(5) The insurer is not required to pay a claim for any mine subsidence loss insured under this chapter if the amount available in the mine subsidence insurance fund is insufficient to reimburse the insurer for the claim.

(b) The determination of the commissioner as to the amount of the ceding commission that an insurer may retain under subsection (a)(2) must be based on a consideration of the insurer's reasonable administrative costs (including ~~agents'~~ **insurance producers'** commissions).

SECTION 49. IC 27-7-10-15 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) A risk retention group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within Indiana, and shall report to the commissioner of this state the net premiums written for risks resident or located within Indiana. A risk retention group that is chartered and licensed in a state other than Indiana is subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(b) A licensed ~~agent~~ **insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall report to the commissioner the premiums for direct business for risks resident or located within Indiana that the ~~agent~~ **insurance producer** has placed with or on behalf of a risk retention group that is not chartered in Indiana.

(c) A licensed ~~agent~~ **insurance producer** who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall keep a complete and separate record of all policies procured from each such risk retention group. The record kept under this subsection must be open to examination by the commissioner and must, for each policy and each kind of insurance provided, include the following information:

- (1) The limit of liability.
- (2) The time period covered.
- (3) The effective date.
- (4) The name of the risk retention group that issued the policy.
- (5) The gross premium charged.
- (6) The amount of return premiums, if any.

SECTION 50. IC 27-7-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed ~~agent~~ **insurance producer** or broker acting under the surplus lines laws and regulations of that state.

(b) A purchasing group that obtains liability insurance from an insurer that is not admitted in Indiana or from a risk retention group

shall inform each of the members of the group who have a risk resident or located in Indiana that the risk is not protected by an insurance insolvency guaranty fund in Indiana and that the risk retention group or insurer may not be subject to all insurance laws and rules of Indiana.

(c) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole. However, coverage may provide for a deductible or self-insured retention applicable to individual members of the purchasing group.

(d) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits that are applicable to all purchases of group insurance.

SECTION 51. IC 27-7-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. Premium taxes and taxes on premiums paid for coverage of risks resident or located in Indiana by a purchasing group or any member of a purchasing group shall be:

- (1) imposed at the same rate and subject to the same interest, fines, and penalties that apply to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and
- (2) paid first by the insurance source, and if not by the insurance source, then by the **agent insurance producer** or broker for the purchasing group, and if not by the **agent insurance producer** or broker, then by the purchasing group, and if not by the purchasing group, then by each of its members.

SECTION 52. IC 27-7-10-30, AS AMENDED BY P.L.132-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. No individual, firm, association, limited liability company, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance in Indiana from a risk retention group unless the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

SECTION 53. IC 27-7-10-31, AS AMENDED BY P.L.132-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance in Indiana for a purchasing group from an

authorized insurer or a risk retention group chartered in a state unless the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

(b) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance coverage in Indiana for any member of a purchasing group under a purchasing group's policy unless the individual, firm, association, or corporation is licensed as an insurance **agent producer** under IC 27-1-15.6.

(c) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance from an insurer not authorized to do business in Indiana on behalf of a purchasing group located in Indiana unless the individual, firm, association, or corporation is licensed as a surplus lines **agent producer** under IC 27-1-15.8.

SECTION 54. IC 27-7-10-32, AS AMENDED BY P.L.132-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. (a) For purposes of acting as an **agent insurance producer** for a risk retention group or purchasing group under section 30 or 31 of this chapter, the requirement of residence in Indiana does not apply.

(b) Every individual, firm, association, or corporation licensed under IC 27-1-15.6, in regard to business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by section 18 of this chapter in the case of a risk retention group and section 27(c) of this chapter in the case of a purchasing group.

SECTION 55. IC 27-7-12-3, AS ADDED BY P.L.203-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:

- (1) be in writing;
 - (2) be delivered or mailed to the named insured at the last known address of the named insured;
 - (3) state the effective date of the cancellation; and
 - (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the cancellation.
- (b) An insurer shall provide written notice of cancellation to the

named insured at least:

- (1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;
- (2) twenty (20) days before canceling a policy, if the cancellation occurs more than sixty (60) days after the date of issuance of the policy; and
- (3) ten (10) days before canceling a policy, if the cancellation occurs not more than sixty (60) days after the date of issuance of the policy.

(c) If the policy was procured by an independent **agent insurance producer** licensed in Indiana, the insurer shall deliver or mail notice of cancellation to the **agent insurance producer** not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the **agent insurance producer** is waived in writing by the **agent insurance producer**.

SECTION 56. IC 27-7-12-4, AS ADDED BY P.L.203-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Notice of nonrenewal by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the insurer's intention not to renew the policy upon expiration of the current policy period;
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the nonrenewal; and
- (5) be provided to the named insured at least twenty (20) days before the expiration of the current policy period.

(b) If the policy was procured by an independent **agent insurance producer** licensed in Indiana, the insurer shall deliver or mail notice of nonrenewal to the **agent insurance producer** not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the **agent insurance producer** is waived in writing by the **agent insurance producer**.

(c) If an insurer mails or delivers to an insured a renewal notice, bill, certificate, or policy indicating the insurer's willingness to renew a policy and the insured does not respond, the insurer is not required to provide to the insured notice of intention not to renew.

SECTION 57. IC 27-7-12-9, AS ADDED BY P.L.203-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The following persons are immune from civil liability for any communication giving notice of or specifying the reasons for a termination or for any statement made in connection with an attempt to discover or verify the existence of conditions that would be a reason for a termination under this chapter:

- (1) Employees of the department of insurance.
- (2) An insurer or its authorized representative, agent, or employee.
- (3) A licensed insurance ~~agent~~ **producer**.
- (4) A person furnishing information to an insurer as to reasons for a termination.

(b) This section does not apply to statements made in bad faith with malice in fact.

SECTION 58. IC 27-8-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The provisions of this chapter shall in no way apply to any secret or fraternal society or lodge or association which, under the supervision of a grand or supreme lodge, secures membership through the lodge system exclusively, and provides insurance to its members, nor to insurance organizations of a purely benevolent character which pay no commission nor employ any paid ~~agent~~, **insurance producer**, organized under the laws of this or any other state.

SECTION 59. IC 27-8-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. The fees to be paid by each such corporation, association, or society to the insurance commissioner for the authority to such corporation, association, or society, and its ~~agents~~ **insurance producers** under the license granted by him to each corporation, association, or society, to transact business in the state of Indiana shall be as follows:

For filing copy of charter or articles of incorporation, twenty-five dollars (\$25).

For filing each annual statement, twenty dollars (\$20).

For issuing certificate of authority or license to company, corporation, association or society, one dollar (\$1).

For issuing license to each ~~agent~~, **insurance producer**, one dollar (\$1).

For affixing seal and certifying to any paper, one dollar (\$1).

For renewal of license, each such corporation, association, or society shall file with the commissioner its annual statement, for which it shall pay the sum of twenty dollars (\$20).

~~For issuing license to each agent, one dollar (\$1):~~

~~For affixing seal and certifying any paper, one dollar (\$1):~~

For the privilege of transacting business in this state, a foreign or alien company, association, or society, admitted and licensed under this chapter, shall pay an annual tax upon premiums or assessments derived from business written within this state, such tax to be as defined and determined under IC 27-1-18-2, which is declared to be applicable in its terms and provisions to such a company, association, or society; provided also, that when any other state or country shall impose any obligations in excess of those imposed by this chapter upon any such corporation, association, or society of this state, a like obligation shall be imposed on similar corporations and their agents of such state or country doing business in this state; and provided also, that such corporation, association, or society, in transacting business in this state, shall be subject only to the provisions of this chapter.

SECTION 60. IC 27-8-5-3, AS AMENDED BY P.L.162-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (c), each policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section. However, the insurer may, at its option, substitute for one (1) or more of the provisions corresponding provisions of different wording approved by the commissioner that are in each instance no less favorable in any respect to the insured or the beneficiary. The provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurer, by appropriate individual or group captions or subcaptions as the commissioner may approve.

(1) A provision as follows: ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No ~~agent~~ **insurance producer** has authority to change this policy or to waive any

of its provisions.

(2) A provision as follows: TIME LIMIT ON CERTAIN DEFENSES: (A) After two (2) years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two (2) year period.

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy of denial of a claim during such initial two (2) year period, nor to limit the application of subsection (b), (1), (2), (3), (4), and (5) in the event of misstatement with respect to age or occupation or other insurance.

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium:

(1) until at least age fifty (50); or

(2) in the case of a policy issued after forty-four (44) years of age, for at least five (5) years from its date of issue;

may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE": After this policy has been in force for a period of two (2) years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(B) No claim for loss incurred or disability (as defined in the policy) commencing after two (2) years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition, not excluded from coverage by name or specific description effective on the date of loss, had existed prior to the effective date of coverage of this policy.

(3) A provision as follows: GRACE PERIOD: A grace period of (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

A policy in which the insurer reserves the right to refuse renewal shall have, at the beginning of the above provision: "Unless not less than thirty (30) days prior to the premium due date the insurer has

delivered to the insured or has mailed to the insured's last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

Each policy in which the insurer reserves the right to refuse renewal on an individual basis shall provide, in substance, in a provision of the policy, in an endorsement on the policy, or in a rider attached to the policy, that subject to the right to terminate the policy upon non-payment of premium when due, such right to refuse renewal shall not be exercised before the renewal date occurring on, or after and nearest, each anniversary, or in the case of lapse and reinstatement at the renewal date occurring on, or after and nearest, each anniversary of the last reinstatement, and that any refusal or renewal shall be without prejudice to any claim originating while the policy is in force. The preceding sentence shall not apply to accident insurance only policies.

(4) A provision as follows: REINSTATEMENT: If any renewal premium is not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy. Provided, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten (10) days after such date. In all other respects the insured and insurer shall have the same rights as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty (60) days prior to the date of reinstatement.

The last sentence of the above provision may be omitted from any

policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

- (1) until at least fifty (50) years of age; or
- (2) in the case of a policy issued after forty-four (44) years of age, for at least five (5) years from its date of issue.

(5) A provision as follows: NOTICE OF CLAIM: Written notice of claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at _____ (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer.

In a policy providing a loss-of-time benefit which may be payable for at least two (2) years, an insurer may insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two (2) years, the insured shall, at least once in every six (6) months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six (6) months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insurer's right to any indemnity which would otherwise have accrued during the period of six (6) months preceding the date on which such notice is actually given.

(6) A provision as follows: CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen (15) days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character, and the extent of the loss for which claim is made.

(7) A provision as follows: PROOFS OF LOSS: Written proof of

loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety (90) days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety (90) days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one (1) year from the time proof is otherwise required.

(8) A provision as follows: TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid:

(1) immediately upon receipt of due written proof of such loss; or

(2) in accordance with IC 27-8-5.7;

whichever is more favorable to the policyholder. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid _____ (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof. This provision must reflect compliance with IC 27-8-5.7.

(9) A provision as follows: PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$ _____ (insert an amount which shall not exceed \$1,000), to any relative by blood or connection by

marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.

For the purposes of this section a "minor" is a person under the age of eighteen (18) years. A person eighteen (18) years of age or over is competent, insofar as the person's age is concerned, to sign a valid release.

(10) A provision as follows: **PHYSICAL EXAMINATIONS AND AUTOPSY:** The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

(11) A provision as follows: **LEGAL ACTIONS:** No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three (3) years after the time written proof of loss is required to be furnished.

(12) A provision as follows: **CHANGE OF BENEFICIARY:** Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy.

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

(13) A provision as follows: **GUARANTEED RENEWABILITY:** In compliance with the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191), renewability is guaranteed.

(b) Except as provided in subsection (c), no policy delivered or issued for delivery to any person in Indiana shall contain provisions respecting the matters set forth below unless the provisions are in the words in which the provisions appear in this section. However, the insurer may use, instead of any provision, a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any substitute provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by appropriate individual or group captions or subcaptions as the commissioner may approve.

(1) A provision as follows: **CHANGE OF OCCUPATION:** If the insured be injured or contract sickness after having changed the insured's occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes the insured's occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

(2) A provision as follows: **MISSTATEMENT OF AGE:** If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

(3) A provision as follows: OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured are in force concurrently herewith, making the aggregate indemnity for _____ (insert type of coverage or coverages) in excess of \$ _____ (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to the insured's estate. Or, instead of that provision: Insurance effective at any one (1) time on the insured under a like policy or policies, in this insurer is limited to the one (1) such policy elected by the insured, the insured's beneficiary or the insured's estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

(4) A provision as follows: INSURANCE WITH OTHER INSURER: If there is other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro-rata portion of the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase "EXPENSE INCURRED BENEFITS". The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service

organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any worker's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage".

(5) A provision as follows: INSURANCE WITH OTHER INSURERS: If there is other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined. If the foregoing policy provision is included in a policy which also contains the next preceding policy provision, there shall be added to the caption of the foregoing provision the phrase "-OTHER BENEFITS". The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage to the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided

for such insured pursuant to any compulsory benefit statute (including any worker's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage".

(6) A provision as follows: RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the insured's average monthly earnings for the period of two (2) years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two (2) years as shall exceed the pro rata amount of the premiums for the benefits actually paid; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars (\$200) or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:

- (1) until at least fifty (50) years of age; or
- (2) in the case of a policy issued after forty-four (44) years of age, for at least five (5) years from its date of issue.

The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada,

or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition the term shall not include any coverage provided for the insured pursuant to any compulsory benefit statute (including any worker's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

(7) A provision as follows: UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(8) A provision as follows: CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(9) A provision as follows: ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

(10) A provision as follows: INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

(c) If any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(d) The provisions which are the subject of subsections (a) and (b), or any corresponding provisions which are used in lieu thereof in accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part

unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered, or issued.

(e) "Insured", as used in this chapter, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

(f)(1) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than is provided in this chapter and which is prescribed or required by the law of the state under which the insurer is organized.

(f)(2) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

(g) The commissioner may make reasonable rules under IC 4-22-2 concerning the procedure for the filing or submission of policies subject to this chapter as are necessary, proper, or advisable to the administration of this chapter. This provision shall not abridge any other authority granted the commissioner by law.

SECTION 61. IC 27-8-5.7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) Beginning on the effective date of the date referred to in Section 262 of the federal Health Insurance Portability and Accountability Act (42 U.S.C. 1320d-4), an insurer may request from the commissioner appointed under IC 27-1-1-2 a waiver from the requirements of this chapter that apply to claims filed on paper.**

(b) The commissioner may grant a waiver under this section if, not more than six (6) months after the effective date described in subsection (a), the requesting insurer experiences an increase of the lesser of:

(1) ten thousand (10,000); or

(2) at least twenty percent (20%);

in the volume of claims filed on paper.

(c) A waiver granted under this section is effective for a set period determined by the commissioner.

(d) This section expires December 31, 2005.

SECTION 62. IC 27-8-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. A person, including an insurer, ~~agent~~ **insurance producer**, or affiliate of an insurer shall not place before the public, directly or indirectly, an announcement or statement that uses the existence of the association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by this chapter. This section does not apply to the association or any other entity that does not sell or solicit insurance.

SECTION 63. IC 27-8-10-2.1, AS AMENDED BY P.L.192-2002(ss), SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of seven (7) members whose principal residence is in Indiana selected as follows:

- (1) Three (3) members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.
- (2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.
- (3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

- (1) establish procedures for the handling and accounting of assets and money of the association;
 - (2) establish the amount and method of reimbursing members of the board;
 - (3) establish regular times and places for meetings of the board of directors;
 - (4) establish procedures for records to be kept of all financial transactions, and for the annual fiscal reporting to the commissioner;
 - (5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;
 - (6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and
 - (7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.
- (d) The plan of operation may provide that any of the powers and

duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health insurance described in section 1 of this chapter and also has the specific authority to do the following:

- (1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.
- (2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.
- (3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.
- (4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.
- (5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.
- (6) Pool risks among members.
- (7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.
- (8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.
- (9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(f) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may not be more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year. In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits identical to those issued by the association. All rates adopted by the association must be submitted to the commissioner for approval.

(g) Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year)

coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation. For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided. In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

(h) The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

(i) The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

(j) All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

(k) The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

(l) The association shall pay an ~~agent's~~ **insurance producer's** referral fee of twenty-five dollars (\$25) to each insurance ~~agent~~ **producer** who refers an applicant to the association if that applicant is accepted.

(m) The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

(n) Members who after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

(o) The association shall provide for the option of monthly collection of premiums.

SECTION 64. IC 27-8-10-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. Before January 1, 1996, the board of directors of the association shall establish eligibility guidelines for the issuance of an association policy under this chapter to prohibit an:

- (1) employer;
- (2) insurance ~~agent~~; **producer**; or
- (3) insurance broker;

from placing in or referring to the association an individual who works for an employer who offers employees an employee welfare benefit plan (as defined in 29 U.S.C. 1002).

SECTION 65. IC 27-8-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The insurance commissioner shall adopt rules under IC 4-22-2 establishing standards of full and fair disclosure concerning long term care insurance policies. The standards must require disclosure of information concerning the

following:

- (1) The sale of the policies.
- (2) Terms of renewability.
- (3) Initial and subsequent terms of eligibility.
- (4) Nonduplication of coverage provisions.
- (5) Coverage of dependents.
- (6) Preexisting conditions.
- (7) Termination of insurance coverage.
- (8) Probationary periods.
- (9) Limitations on coverage.
- (10) Exceptions to coverage.
- (11) Reductions from coverage.
- (12) Elimination periods.
- (13) Requirements for replacement.
- (14) Recurrent conditions.
- (15) Definitions of terms.
- (16) Continuation or conversion of coverage.

(b) The insurance commissioner shall adopt rules under IC 4-22-2 to establish minimum standards concerning:

- (1) marketing practices;
- (2) **agent insurance producer** continuing education;
- (3) penalties; and
- (4) reporting practices;

for long term care insurance.

(c) Rules adopted by the insurance commissioner under this section must:

- (1) recognize the unique, developing, and experimental nature of long term care insurance; and
- (2) where necessary or appropriate, recognize the distinctions between group insurance policies and individual insurance policies.

SECTION 66. IC 27-8-12-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The insurer shall deliver an outline of the coverage provided by an individual long term care insurance policy to the prospective applicant at the time of initial solicitation through means that prominently direct the attention of the recipient to the document and the document's purpose.

(b) The commissioner shall prescribe a standard format regarding:

- (1) style;
- (2) arrangement;
- (3) overall appearance; and
- (4) content;

for an outline of coverage.

(c) An **agent insurance producer** who solicits a long term care insurance policy shall deliver the outline of coverage before the presentation of an application or enrollment form.

(d) The outline of coverage must be presented in conjunction with any application or enrollment form when there is a direct response solicitation of long term care insurance.

(e) An outline of coverage required under this section must include the following:

- (1) A description of the principal benefits and coverage provided in the policy.
- (2) A statement of the principal exclusions, reductions, and limitations set forth in the policy.
- (3) A statement of the policy's renewal provisions, including any reservation by the insurer of a right to change premiums.
- (4) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine the exact terms of the coverage provided by the policy.
- (5) A description of the terms under which the policy may be returned and the premium refunded.
- (6) A brief description of the relationship of the cost of care and benefits.
- (7) A statement of the terms under which the policy or certificate may continue or be discontinued, including any reservation in the policy of the right to change the premium.
- (8) A specific statement of the provisions for continuation or conversion of group coverage.

SECTION 67. IC 27-8-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) As used in this section, "compensation" includes pecuniary and nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, the following:

- (1) Bonuses.

- (2) Gifts.
- (3) Prizes.
- (4) Awards.
- (5) Finders fees.

(b) An insurer or other entity that provides a commission or other compensation to an **agent insurance producer** or other representative for the sale of a long term care insurance policy may not violate the following conditions:

- (1) The amount of the first year commission or first year compensation for selling or servicing the policy may not exceed two hundred percent (200%) of the amount of the commission or other compensation paid in the second year.
- (2) The amount of commission or other compensation provided in years after the second year must be equal to the amount provided in the second year.
- (3) A commission or other compensation must be provided each year for at least five (5) years after the first year.

(c) If an existing long term care policy or certificate is replaced, the insurer or other entity that issues the replacement policy may not provide, and its **agent insurance producer** may not accept, compensation in an amount greater than the renewal compensation payable by the replacing insurer on renewal policies, unless the benefits of the replacement policy or certificate are clearly and substantially greater than the benefits under the replaced policy or certificate.

(d) This section does not apply to the following:

- (1) Life insurance policies and certificates.
- (2) A policy or certificate that is sponsored by an employer for the benefit of:
 - (A) the employer's employees; or
 - (B) the employer's employees and their dependents.

SECTION 68. IC 27-8-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In addition to any other sanction provided under this article, the commissioner may impose a civil penalty against an insurer who has violated this chapter or rules adopted under this chapter. A penalty imposed under this section must be the greater of:

- (1) three (3) times the amount of the commissions paid for each

policy involved in the violation; or

(2) ten thousand dollars (\$10,000).

(b) In addition to any other sanction provided under this title, the commissioner may impose a penalty against an insurance ~~agent~~ **producer** who has violated this chapter or rules adopted under this chapter. The penalty must be the greater of:

(1) up to three (3) times the amount of the commissions paid to **that insurance producer** for each policy involved in the violation; or

(2) twenty-five hundred dollars (\$2,500).

SECTION 69. IC 27-8-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "Medicare supplement insurance solicitation" means a meeting between an insurance ~~agent~~ **producer** and another individual at which the ~~agent~~ **insurance producer** discusses the possible issuance of a medicare supplement policy to the other individual.

SECTION 70. IC 27-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Following a Medicare supplement insurance solicitation, an ~~agent~~ **insurance producer** shall give the individual involved in the solicitation a receipt for materials received by the ~~agent~~ **insurance producer** as a result of the solicitation.

(b) The receipt required under subsection (a) must be dated and signed by the ~~agent~~ **insurance producer** and must set forth the following:

(1) An itemized list of the materials received by the ~~agent~~ **insurance producer**.

(2) The ~~agent's~~ **insurance producer's** name.

(3) The address and telephone number of the ~~agent's~~ **insurance producer's** office.

(c) As used in this section, "materials" includes any:

(1) document;

(2) cash;

(3) money order; or

(4) check or draft;

received by the ~~agent~~ **insurance producer**. The term does not include an application for a policy.

SECTION 71. IC 27-8-19.8-8.5, AS AMENDED BY P.L.132-2001,

SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. The following must be licensed as a ~~life insurance agent~~ **an insurance producer with a life qualification** under ~~IC 27-1-15.6~~: **IC 27-1-15.6-7**:

- (1) A viatical settlement broker.
- (2) A person who solicits, offers, or attempts to negotiate a viatical settlement contract with a viator.

SECTION 72. IC 27-8-28-17, AS AMENDED BY P.L.1-2002, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) An insurer shall establish written policies and procedures for the timely resolution of appeals of grievance decisions. The procedures for registering and responding to oral and written appeals of grievance decisions must include the following:

- (1) Written or oral acknowledgment of the appeal not more than five (5) business days after the appeal is filed.
- (2) Documentation of the substance of the appeal and the actions taken.
- (3) Investigation of the substance of the appeal, including any aspects of clinical care involved.
- (4) Notification to the covered individual:
 - (A) of the disposition of an appeal; and
 - (B) that the covered individual may have the right to further remedies allowed by law.
- (5) Standards for timeliness in:
 - (A) responding to an appeal; and
 - (B) providing notice to covered individuals of:
 - (i) the disposition of an appeal; and
 - (ii) the right to initiate an external grievance review under IC 27-8-29;

that accommodate the clinical urgency of the situation.

(b) In the case of an appeal of a grievance decision described in section 6(1) or 6(2) of this chapter, an insurer shall appoint a panel of one (1) or more qualified individuals to resolve an appeal. The panel must include one (1) or more individuals who:

- (1) have knowledge of the medical condition, procedure, or treatment at issue;
- (2) are licensed in the same profession and have a similar

specialty as the provider who proposed or delivered the health care procedure, treatment, or service;

(3) are not involved in the matter giving rise to the appeal or in the initial investigation of the grievance; and

(4) do not have a direct business relationship with the covered individual or the health care provider who previously recommended the health care procedure, treatment, or service giving rise to the grievance.

(c) An appeal of a grievance decision must be resolved:

(1) as expeditiously as possible, reflecting the clinical urgency of the situation; and

(2) not later than forty-five (45) days after the appeal is filed.

An insurer that violates this subsection commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

(d) If an insurer violates subsection (c), the insurer shall file a report with the department during the quarter in which the violation occurred concerning the insurer's compliance with subsection (c). The report must include the following:

(1) The number of appealed grievance decisions that were not resolved as required under subsection (c).

(2) The reason each appeal described in subdivision (1) was not resolved.

~~(d)~~ **(e)** An insurer shall allow a covered individual the opportunity to:

(1) appear in person before; or

(2) if unable to appear in person, otherwise appropriately communicate with;

the panel appointed under subsection (b).

~~(e)~~ **(f)** An insurer shall notify a covered individual in writing of the resolution of an appeal of a grievance decision within five (5) business days after completing the investigation. The appeal resolution notice must include the following:

(1) A statement of the decision reached by the insurer.

(2) A statement of the reasons, policies, and procedures that are the basis of the decision.

(3) Notice of the covered individual's right to further remedies allowed by law, including the right to external grievance review

by an independent review organization under IC 27-8-29.

(4) The department, address, and telephone number through which a covered individual may contact a qualified representative to obtain more information about the decision or the right to an external grievance review.

SECTION 73. IC 27-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A delinquency proceeding under this chapter may only be commenced by the commissioner. A court may not entertain, hear, or determine a proceeding commenced by any other person.

(b) A court may not entertain, hear, or determine any complaint requesting:

(1) the dissolution, liquidation, rehabilitation, sequestration, conservation, or receivership of any insurer; or

(2) an injunction, restraining order, or other relief preliminary to, incidental to, or relating to those proceedings other than in accordance with this article.

(c) In addition to other grounds for jurisdiction provided by the law, an Indiana court having jurisdiction of the subject matter has jurisdiction over a person served under the Indiana rules of court or other applicable law in an action brought by the receiver of a domestic insurer or an alien insurer domiciled in Indiana if the person served is:

(1) obligated to the insurer in any way as an incident to any agency or brokerage arrangement that may exist or has existed between the insurer and the ~~agent~~ **insurance producer** or broker, in any action on or incident to the obligation;

(2) a reinsurer who:

(A) has at any time written a policy of reinsurance for an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced; or

(B) is an ~~agent~~ **insurance producer** or broker of, or for, the reinsurer in any action on or incident to the reinsurance contract; or

(3) or has been an officer, manager, trustee, organizer, promoter, or person in a position of comparable authority or influence in an insurer against which a rehabilitation or liquidation order is in effect when the action is commenced in any action resulting from such a relationship with the insurer.

(d) If it appears to a receiver appointed in a proceeding under this article that there has been criminal or tortious conduct, breach of any contractual or fiduciary obligation, or other unlawful conduct detrimental to the insurer by any director, officer, manager, ~~agent~~, **insurance producer**, broker, employee, or other person or entity, the receiver may pursue all appropriate legal remedies on behalf of the insurer.

(e) If the court on motion of any party finds that any action should as a matter of substantial justice be tried in a forum outside Indiana, the court may enter an order to stay further proceedings on the action in Indiana.

(f) All action authorized by this section must be brought in the Marion County circuit court.

SECTION 74. IC 27-9-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) An officer, manager, director, trustee, owner, employee, or ~~agent~~ **insurance producer** of any insurer, or any other persons with authority over or in charge of any segment of the insurer's affairs, shall cooperate with the commissioner in any proceeding under IC 27-9 or any investigation preliminary to the proceeding. The term "person", as used in this section, includes any person who exercises control, directly or indirectly, over activities of **an** insurer through any holding company or other affiliate of the insurer. "To cooperate" includes:

- (1) replying promptly in writing to any inquiry from the commissioner requesting such a reply; and
- (2) making available to the commissioner all books, accounts, documents, or other records, information, or property of or pertaining to the insurer and in ~~his~~ **the insurer's** possession, custody, or control.

(b) A person may not obstruct or interfere with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary to or incidental to an investigation.

(c) This section does not abridge existing legal rights, including the right to resist a petition for liquidation, other delinquency proceedings, or other orders.

(d) A person who:

- (1) is included within subsection (a) and who fails to cooperate with the commissioner;

(2) obstructs or interferes with the commissioner in the conduct of any delinquency proceeding or any investigation preliminary or incidental to a delinquency proceeding; or

(3) violates any order of the commissioner under IC 27-9; commits a Class A infraction.

SECTION 75. IC 27-9-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commissioner may petition for an order dissolving the corporate existence of a domestic insurer, or the United States branch of an alien insurer domiciled in Indiana, at the time ~~he~~ **the commissioner** applies for a liquidation order. The Marion County circuit court shall order dissolution of the corporation upon petition by the commissioner upon or after the granting of a liquidation order. If the dissolution has not previously been ordered, the dissolution shall be effected by operation of law upon the discharge of the liquidator if the insurer is insolvent but may be ordered by the court upon the discharge of the liquidator if the insurer is under a liquidation order for some other reason.

(b) The liquidator may do all acts necessary or appropriate for the accomplishment of the liquidation, including the following:

(1) Appoint a special deputy to act for ~~him~~ **the liquidator** under this article, and determine a reasonable compensation for that special deputy.

(2) Employ employees and ~~agents~~, **insurance producers**, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel as ~~he~~ **the liquidator** considers necessary to assist in the liquidation.

(3) Fix the reasonable compensation of employees and ~~agents~~, **insurance producers**, legal counsel, actuaries, accountants, appraisers, and consultants with the approval of the court.

(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer.

(5) Hold hearings, subpoena witnesses to compel their attendance, administer oaths, examine any person under oath, and compel any person to subscribe to ~~his~~ **the person's** testimony after it has been correctly reduced to writing, and in connection with hearings and the examination of witnesses require the production of any books,

papers, records, or other documents which ~~he~~ **the liquidator** deems relevant to the inquiry.

(6) Collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose:

(A) institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against those debts;

(B) do other acts necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as ~~he~~ **the liquidator** considers best; and

(C) pursue any creditor's remedies available to enforce ~~his~~ **the liquidator's** claims.

(7) Conduct public and private sales of the property of the insurer.

(8) Use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 40 of this chapter.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with, any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable.

(10) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

(11) Enter into contracts that are necessary to carry out the order to liquidate, and affirm or disavow any contracts to which the insurer is a party.

(12) Continue to prosecute and to institute in the name of the insurer, or in ~~his~~ **the liquidator's** own name, all suits and other legal proceedings, in Indiana or elsewhere, and abandon the prosecution of claims ~~he~~ **the liquidator** considers unprofitable to pursue further.

(13) Prosecute any action that may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any director or officer of the insurer, or any other person.

(14) Remove all records and property of the insurer to the offices

of the commissioner or to some other place as may be convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one (1) or more banks in Indiana sums required for meeting current administration expenses and dividend distributions.

(16) Invest all sums not currently needed, unless the court orders otherwise.

(17) File any necessary documents for record in the office of any recorder of deeds or record office in Indiana or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitation, statutes of frauds, and the defense of usury.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by the general law and that is not included in sections 14 through 16 of this chapter.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Exercise all powers conferred upon receivers by the laws of Indiana not inconsistent with this article.

SECTION 76. IC 27-9-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Unless the Marion County circuit court otherwise directs, the liquidator shall give notice of the liquidation order as soon as possible by:

(1) first-class mail and either by telegram or telephone to the insurance commissioner of each jurisdiction in which the insurer is doing business;

(2) first-class mail to any guaranty association or foreign guaranty association that is or may become obligated as a result of the liquidation;

- (3) first-class mail to all insurance ~~agents~~ **producers** of the insurer;
- (4) first-class mail to all persons known or reasonably expected to have claims against the insurer, including all policyholders, at their last known address as indicated by the records of the insurer;
- (5) first-class mail to the secretary of state's office; and
- (6) publication in a newspaper of general circulation in the county in which the insurer has its principal place of business and in all other locations the liquidator considers appropriate.

(b) Notice to potential claimants under subsection (a) must require claimants to file with the liquidator their claims, together with proper proof of those claims under section 34 of this chapter, before a date the liquidator specifies in the notice. The liquidator need not require persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. All claimants must keep the liquidator informed of any changes of address.

(c) If notice is given in accordance with this section, the distribution of assets of the insurer under this chapter shall be conclusive with respect to all claimants, whether or not they received notice.

SECTION 77. IC 27-9-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Every person who receives notice in the form prescribed in section 10 of this chapter that an insurer whom ~~he~~ **the person** represents as an **agent insurance producer** is the subject of a liquidation order must, within fifteen (15) days of that notice, give notice of the liquidation order to each policyholder as provided by subsection (b).

(b) The notice must be sent by first class mail to the last address contained in the **agent's insurance producer's** records to each policyholder or other person named in any policy issued through that **agent insurance producer** by the insurer, if ~~he~~ **the insurance producer** has a record of the address of the policyholder or other person.

(c) A policy shall be treated as though it were issued through an **agent insurance producer** if the **agent insurance producer** has a property interest in the expiration of the policy, or if the **agent insurance producer** has had in ~~his~~ **the insurance producer's** possession a copy of the declarations of the policy at any time during the life of the policy, except where the ownership of the expiration of

the policy has been transferred to another.

(d) The written notice must include:

- (1) the name and address of the insurer;
- (2) the name and address of the ~~agent~~; **insurance producer**; and
- (3) identification of the policy impaired and the nature of the impairment, including termination of coverage as described in section 8 of this chapter.

(e) Notice by a general agent satisfies the notice requirement for any ~~agents~~ **insurance producers** under contract to ~~him~~; **the general agent**. Each ~~agent~~ **insurance producer** obligated to give notice under this section shall file a report of compliance with the liquidator.

(f) After a hearing under IC 4-21.5-3, an ~~agent~~ **insurance producer** failing to give notice or file a report of compliance as required by subsection (e) may be subject to payment of a penalty of not more than one thousand dollars (\$1,000) and may have ~~his~~ **the insurance producer's** license suspended.

(g) The liquidator may waive the duties imposed by this section if ~~he~~ **the liquidator** determines that other notice to the policyholders of the insurer under liquidation is adequate.

SECTION 78. IC 27-9-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) An ~~agent~~; **insurance producer**, a broker, an agency, a premium finance company, an insured, or any other person responsible for the payment of a premium shall be obligated to pay any earned but unpaid premium for any policy that is due the insurer for coverage provided before the declaration of insolvency. However, an ~~agent~~; **insurance producer**, a broker, an agency, a premium finance company, an insured, or any other person responsible for the payment of a premium shall not be responsible for any unpaid premium unearned as of the time of the declaration of insolvency.

(b) In addition to the obligation owed under subsection (a), an ~~agent~~; **insurance producer**, broker, agency, premium finance company, or any other person, other than the insured, responsible for the payment of a premium to the insurance company or any holding company shall pay any unearned premium collected from the insured before the declaration of insolvency. The commissioner may also recover from that person any part of an unearned premium that represents a commission of that person.

(c) Credits or setoffs or both may not be allowed to an ~~agent~~, **insurance producer**, broker, or premium finance company for any amounts advanced to the insurer by the ~~agent~~, **insurance producer**, broker, or premium finance company on behalf of, but in the absence of a payment by, the insured.

(d) Upon satisfactory evidence of a violation of this section, the commissioner may pursue the following courses of action against those parties licensed by the department of insurance:

- (1) Suspend, revoke, or refuse to renew the licenses of the offending party.
- (2) Impose a penalty of not more than one thousand dollars (\$1,000) for each and every act in violation of this article by the party.

These penalties are in addition to and not in lieu of the obligations owed under subsections (a) and (b).

(e) Before the commissioner may take any action as provided in subsection (d), ~~he~~ **the commissioner** shall give written notice to the person accused of violating the law, stating specifically the nature of the alleged violation, and fixing a time (at least ten (10) days after the notice is sent) and place when a hearing on the matter is to be held. After the hearing, if the commissioner finds a violation, or upon failure of the accused to appear at the hearing, the commissioner shall impose whatever penalties allowed under subsection (d) as ~~he~~ **the commissioner** considers advisable.

(f) Subsection (a) does not relieve an insured of any obligation that may exist to reimburse any agency, ~~agent~~, **insurance producer**, broker, premium finance company, or other person for amounts advanced to the insurer on behalf of the insured.

SECTION 79. IC 27-9-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The domiciliary liquidator of an insurer domiciled in a reciprocal state shall, except as to special deposits and security on secured claims under section 4(c) of this chapter, be vested by operation of law with the title to all of the assets, property, contracts, and rights of action, ~~agents'~~ **insurance producers'** balances, and all of the books, accounts, and other records of the insurer located in Indiana. The date of vesting shall be the date of the filing of the petition, if that date is specified by the domiciliary law for the vesting of property in the domiciliary state. Otherwise, the

date of vesting shall be the date of entry of the order directing possession to be taken. The domiciliary liquidator shall have the immediate right to recover balances due from ~~agents~~ **insurance producers** and to obtain possession of the books, accounts, and other records of the insurer located in Indiana. ~~He~~ **The domiciliary liquidator** also shall have the right to recover all other assets of the insurer located in Indiana, subject to section 4 of this chapter.

(b) If a domiciliary liquidator is appointed for an insurer not domiciled in a reciprocal state, the commissioner shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books, accounts, and other records of the insurer located in Indiana, at the same time that the domiciliary liquidator is vested with title in the domicile. The Indiana insurance commissioner may petition for a conservation or liquidation order under ~~sections~~ **section** 1 or 2 of this chapter, or for an ancillary receivership under section 4 of this chapter, or after approval by the Marion County circuit court may transfer title to the domiciliary liquidator, as the interests of justice and the equitable distribution of the assets require.

(c) Claimants residing in Indiana may file claims with the liquidator or ancillary receiver, if any, in Indiana or with the domiciliary liquidator, if the domiciliary law permits. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary liquidation proceedings.

SECTION 80. IC 27-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. "All lines fire and casualty ~~agent~~" **insurance producer**" means an ~~agent~~ **insurance producer** who holds a valid license issued by the department of insurance to engage in the writing and transacting of all of the following lines and kinds of insurance:

- (1) Property insurance.
- (2) Casualty insurance.
- (3) Surety insurance.
- (4) Disability insurance.
- (5) Inland marine insurance.

SECTION 81. IC 27-10-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person may not act in the capacity of a bail agent or recovery agent or perform any of

the functions, duties, or powers prescribed for bail agents or recovery agents under this article unless the person is qualified and licensed as provided in this article. However, none of the terms of this section shall prohibit any individual or individuals from:

- (1) pledging real or other property as security for a bail bond in judicial proceedings and where the individual does not receive, or is not promised, money or other things of value; or
- (2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between the insurer and any automobile club or association, financing institution, insurance company, or other organization or association, and on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

(b) A license:

- (1) may not be issued except in compliance with this article; and
- (2) may only be issued to an individual.

However, upon an affirmative showing to the commissioner in writing by an individual that the individual is an all lines fire and casualty ~~agent~~, **insurance producer**, a surety bail agent license shall be issued to the individual without further qualification or fee to represent an insurer the individual is licensed to represent. The individual shall be subject to and governed by laws and rules relating to bail agents when engaged in the activities of a bail agent.

(c) A firm, a partnership, an association, a limited liability company, or a corporation may not be licensed.

(d) The applicant must apply in writing, on forms prepared and supplied by the commissioner, and the commissioner may propound any reasonable interrogatories to an applicant for a license under this article or on any renewal of a license relating to the applicant's qualifications, residence, prospective place of business, and any other matters which, in the opinion of the commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The commissioner may also conduct any reasonable inquiry or investigation the commissioner sees fit, relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(e) The failure of the applicant to secure approval of the commissioner shall not preclude the applicant from applying as many

times as the applicant desires. However, an applicant's application may not be considered by the commissioner within one (1) year subsequent to the date upon which the commissioner denied the applicant's last application.

SECTION 82. IC 27-10-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The application for license, in addition to the matters set out in section 1 of this chapter, to serve as a bail agent must affirmatively show that:

(1) the applicant is at least eighteen (18) years of age and is of good moral character;

(2) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-1.1, or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(B) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; and

(3) the applicant has knowledge, experience, or instruction in the bail bond business, or has held a valid all lines fire and casualty ~~agent's~~ **insurance producer's** license for one (1) year within the last five (5) years, or has been employed by a company engaged in writing bail bonds in which field the applicant has actively engaged for at least one (1) year of the last five (5) years.

(b) The application must affirmatively show that the applicant has been a bona fide resident of ~~the state~~ **Indiana** for one (1) year immediately preceding the date of application. However, the commissioner may waive this requirement.

SECTION 83. IC 27-11-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) ~~Agents~~ **Insurance producers** of societies shall be licensed in accordance with the laws regulating the licensing and the revocation, suspension, or termination of license of resident and nonresident ~~agents~~ **insurance producers**.

(b) No examination or license shall be required of any regular salaried officer, employee, or member of a licensed society who

devotes substantially all of the officer's, employee's or member's services to activities other than the solicitation of fraternal insurance contracts from the public and who receives for the solicitation of those contracts no commission or other compensation directly dependent upon the amount of business obtained.

SECTION 84. IC 27-13-1-3, AS AMENDED BY P.L.132-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. "~~Agent~~" "**Insurance producer**" means a person who is a licensed insurance ~~agent~~ **producer** under IC 27-1-15.6 and who:

- (1) solicits, negotiates, effects, procures, delivers, renews, or continues a policy or contract for membership in a health maintenance organization or a prepaid limited health service organization;
- (2) takes or transmits a membership fee or premium for the policy or contract other than for the ~~agent~~ **insurance producer**; or
- (3) causes the ~~agent~~ **insurance producer** to be held out to the public, through advertising or otherwise, as a producer for a health maintenance organization or a prepaid limited health service organization.

SECTION 85. IC 27-13-10-8, AS AMENDED BY P.L.133-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A health maintenance organization shall establish written policies and procedures for the timely resolution of appeals of grievance decisions. The procedures for registering and responding to oral and written appeals of grievance decisions must include the following:

- (1) Acknowledgment of the appeal, orally or in writing, within three (3) business days after receipt of the appeal being filed.
- (2) Documentation of the substance of the appeal and the actions taken.
- (3) Investigation of the substance of the appeal, including any aspects of clinical care involved.
- (4) Notification to enrollees or subscribers of the disposition of the appeal and that the enrollee or subscriber may have the right to further remedies allowed by law.
- (5) Standards for timeliness in responding to appeals and providing notice to enrollees or subscribers of the disposition of

the appeal and the right to initiate an external appeals process that accommodate the clinical urgency of the situation.

(b) The health maintenance organization shall appoint a panel of qualified individuals to resolve an appeal. An individual may not be appointed to the panel who has been involved in the matter giving rise to the complaint or in the initial investigation of the complaint. Except for grievances that have previously been appealed under IC 27-8-17, in the case of an appeal from the proposal, refusal, or delivery of a health care procedure, treatment, or service, the health maintenance organization shall appoint one (1) or more individuals to the panel to resolve the appeal. The panel must include one (1) or more individuals who:

- (1) have knowledge in the medical condition, procedure, or treatment at issue;
- (2) are in the same licensed profession as the provider who proposed, refused, or delivered the health care procedure, treatment, or service;
- (3) are not involved in the matter giving rise to the appeal or the previous grievance process; and
- (4) do not have a direct business relationship with the enrollee or the health care provider who previously recommended the health care procedure, treatment, or service giving rise to the grievance.

(c) An appeal of a grievance decision must be resolved as expeditiously as possible and with regard to the clinical urgency of the appeal. However, an appeal must be resolved not later than forty-five (45) days after the appeal is filed. **A health maintenance organization that violates this subsection commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.**

(d) If a health maintenance organization violates subsection (c), the health maintenance organization shall file a report with the department during the quarter in which the violation occurred concerning the insurer's compliance with subsection (c). The report must include the following:

- (1) The number of appealed grievance decisions that were not resolved as required under subsection (c).**
- (2) The reason each appeal described in subdivision (1) was not resolved.**

(e) A health maintenance organization shall allow enrollees and

subscribers the opportunity to appear in person at the panel or to communicate with the panel through appropriate other means if the enrollee or subscriber is unable to appear in person.

(e) (f) A health maintenance organization shall notify the enrollee or subscriber in writing of the resolution of the appeal of a grievance within five (5) business days after completing the investigation. The grievance resolution notice must contain the following:

- (1) The decision reached by the health maintenance organization.
- (2) The reasons, policies, or procedures that are the basis of the decision.
- (3) Notice of the enrollee's or subscriber's right to further remedies allowed by law, including the right to review by an independent review organization under IC 27-13-10.1.
- (4) The department, address, and telephone number through which an enrollee may contact a qualified representative to obtain more information about the decision or the right to an appeal.

SECTION 86. IC 27-13-21-1, AS AMENDED BY P.L.132-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. To qualify to represent a health maintenance organization or a limited service health maintenance organization, an **agent insurance producer** shall be licensed ~~and regulated as with~~ an accident and health ~~insurance agent or sickness qualification~~ under ~~IC 27-1-15-6~~. **IC 27-1-15.6-7.**

SECTION 87. IC 27-13-34-18, AS AMENDED BY P.L.132-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Except as provided in subsection (c), a limited service health maintenance organization shall maintain in force a fidelity bond in its own name on its officers and employees:

- (1) in an amount not less than fifty thousand dollars (\$50,000); or
- (2) in any other amount prescribed by the commissioner.

(b) The fidelity bond required by this section must be issued by an insurance company not affiliated in any way with the limited service health maintenance organization, that is licensed to do business in Indiana. However, if a fidelity bond is not available from an insurance company that holds a certificate of authority in Indiana, a limited service health maintenance organization may satisfy the requirement of this section by maintaining a fidelity bond procured by a surplus lines insurance **agent producer** not affiliated in any way with the

limited service health maintenance organization who holds a license issued under IC 27-1-15.8.

(c) Instead of maintaining a fidelity bond under subsection (a), a limited service health maintenance organization may deposit with the commissioner:

- (1) cash;
- (2) certificates of deposit;
- (3) United States government obligations acceptable to the commissioner;
- (4) any other securities acceptable to the commissioner of the types referred to in IC 27-13-11-1; or
- (5) a combination of the items described in subdivisions (1) through (4).

A deposit made under this subsection is in addition to any other required deposit, and must also be maintained in joint custody with the commissioner in the amount and subject to the same conditions required for a fidelity bond under this section.

SECTION 88. IC 27-13-36.2-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 7. (a) Beginning on the effective date of the date referred to in Section 262 of the federal Health Insurance Portability and Accountability Act (42 U.S.C. 1320d-4), a health maintenance organization may request from the insurance commissioner appointed under IC 27-1-1-2 a waiver from the requirements of this chapter that apply to claims filed on paper.**

(b) The commissioner may grant a waiver under this section if, not more than six (6) months after the effective date described in subsection (a), the requesting health maintenance organization experiences an increase of the lesser of:

- (1) ten thousand (10,000); or**
- (2) at least twenty percent (20%);**

in the volume of claims filed on paper.

(c) A waiver granted under this section is effective for a set period determined by the commissioner.

(d) This section expires December 31, 2005.

SECTION 89. IC 28-1-11-2, AS AMENDED BY P.L.134-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 2. Any bank or trust company shall have power to act as fiscal or transfer agent of the United States or of any state, municipality, body politic or corporation; and in such capacity to receive and disburse money; to transfer, register and countersign certificates of stock, bonds or other evidence of indebtedness; to authenticate and certify any such bonds and certificates of indebtedness; to act as agent to buy and sell domestic and foreign transportation; to solicit and write insurance as ~~agent~~ **an insurance producer** or broker for any insurance company authorized to do business in the state or states where the ~~agent~~ **insurance producer** or broker operates; and to act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

SECTION 90. IC 28-1-11-2.5, AS AMENDED BY HEA 1653-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) A bank or trust company may act as an ~~agent~~ **insurance producer** for the sale of any life insurance policy or annuity contract issued by a life insurance company authorized to do business in any state in which the agent operates.

(b) A bank or trust company that acts as an ~~agent~~ **insurance producer** for the sale of a life insurance policy or an annuity contract in Indiana:

- (1) is subject to all requirements of IC 27; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(c) A bank or trust company may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of services; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the bank or trust company or an affiliate (as defined in IC 28-2-13-3) of the bank or trust company.

(d) This section does not prohibit a bank or trust company from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the bank or

trust company.

SECTION 91. IC 28-5-1-6.5, AS AMENDED BY P.L.130-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.5. (a) Notwithstanding any other provision of this title, an industrial loan and investment company may act as an **agent insurance producer** for the sale of any annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) An industrial loan and investment company that acts as an **agent insurance producer** for the sale of an annuity contract:

- (1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an **agent insurance producer** under IC 27-1-15.6; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(c) This section does not give power to, or otherwise affect the power of, an industrial loan and investment company to act as an **agent insurance producer** for the sale of life insurance other than an annuity contract.

SECTION 92. IC 28-6.1-6-14, AS AMENDED BY P.L.130-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) A savings bank may solicit and write insurance as an **agent insurance producer** or a broker for any insurance company authorized to do business in the state or states where the **agent insurance producer** or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an **agent insurance producer** for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the **agent insurance producer** operates.

(c) A savings bank or its affiliate that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract under subsection (b):

- (1) is subject to all requirements of IC 27 with respect to the **agent's insurance producer's** activity in Indiana; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

(d) A savings bank or its affiliate may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the savings bank or its affiliate.

(e) This section does not prohibit a savings bank or its affiliate from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the savings bank or its affiliate.

SECTION 93. IC 28-7-1-9.1, AS AMENDED BY P.L.130-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.1. (a) A credit union or a related credit union service organization (as defined in section 0.5(7) of this chapter) that acts as an **agent insurance producer** for the sale of a life insurance policy or an annuity contract issued by a life insurance company (as defined in IC 27-1-2-3):

- (1) is subject to the requirements of IC 27; and
- (2) must comply with the disclosure requirements of IC 27-1-38.

(b) A credit union or credit union service organization may not condition:

- (1) an extension of credit;
- (2) a lease or sale of real or personal property;
- (3) the performance of a service; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the credit union or related credit union service organization.

(c) This section does not prohibit a credit union or a credit union service organization from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the credit union or credit union service organization.

SECTION 94. IC 28-14-3-10, AS AMENDED BY P.L.215-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. A corporate fiduciary has the power to act as fiscal or transfer agent of the United States or any state, municipality, body politic, or corporation, and may, in that capacity:

- (1) receive and disburse money;
- (2) transfer, register, and countersign certificates of stocks, bonds, and other evidence of indebtedness;
- (3) authenticate and certify bonds and certificates of indebtedness referred to in subdivision (2);
- (4) act as agent to buy and sell domestic and foreign transportation;
- (5) solicit and write insurance as ~~agent~~ **insurance producer** or broker for any insurance company authorized to do business in Indiana; and
- (6) act as attorney in fact or agent of any person or corporation, foreign or domestic, for any lawful purpose.

SECTION 95. IC 28-14-3-11, AS AMENDED BY P.L.130-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Notwithstanding any other provision of this title, a corporate fiduciary may act as an ~~agent~~ **insurance producer** for the sale of any annuity contract or any life insurance policy issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) A corporate fiduciary that acts as an agent for the sale of an annuity contract or a life insurance policy:

- (1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an ~~agent~~ **insurance producer** under IC 27-1-15.6; and
- (2) must comply with the disclosure requirements under IC 27-1-38.

SECTION 96. IC 34-18-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The surcharge shall be collected on the same basis as premiums by each insurer, risk manager, or surplus lines ~~agent.~~ **producer.**

(b) The surcharge is due and payable within thirty (30) days after the premium for malpractice liability insurance has been received by the insurer, risk manager, or surplus lines ~~agent~~ **producer** from a

health care provider in Indiana. If a surcharge is not paid as required by this section, the insurer, risk manager, or surplus lines **agent producer** responsible for the delinquency is liable for the surcharge plus a penalty equal to ten percent (10%) of the amount of the surcharge.

(c) If the annual premium surcharge is not paid within the time limit specified in subsection (b), the certificate of authority of the insurer, risk manager, and surplus lines **agents producer** shall be suspended until the annual premium surcharge is paid.

SECTION 97. IC 35-43-9-4, AS AMENDED BY P.L.132-2001, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this chapter, "title insurance agent" means a person who holds a limited **insurance representative's lines producer's** license issued under IC 27-1-15.6-18(4) and disburses funds from a title insurance escrow account to a party in connection with a residential real property transaction.

SECTION 98. [EFFECTIVE JULY 1, 2003] **(a) IC 27-8-28-17 and IC 27-13-10-8, both as amended by this act, apply to an appeal of a grievance that is filed after June 30, 2003.**

(b) This SECTION expires June 30, 2006.

SECTION 99. **An emergency is declared for this act.**



P.L.179-2003

[H.1417. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 16-18-2-353.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 353.5. "Training or educational purposes", for purposes of IC 16-39-7.1, has the meaning set forth in IC 16-39-7.1-1.5.**

SECTION 2. IC 16-39-7.1-1.5, IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: **Sec. 1.5. As used in this chapter, "training or educational purposes" means for the purpose of:**

- (1) teaching or giving lectures to:**
 - (A) medical students;**
 - (B) physicians;**
 - (C) coroners;**
 - (D) law enforcement personnel;**
 - (E) public safety personnel;**
 - (F) attorneys; or**
 - (G) an individual who relies upon information or records regulated under this chapter in the course of the individual's profession or occupation;**
- (2) publication in professional medical:**
 - (A) books; or**
 - (B) periodicals; or**
- (3) use in:**
 - (A) training videos; or**
 - (B) computer programs.**

SECTION 3. IC 16-39-7.1-3, AS ADDED BY P.L.271-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A surviving spouse may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this subsection. If there is no surviving spouse or parent, an adult child shall have access to the records.

(b) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential.

(c) The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may use or allow the use of the photograph, video recording, or audio recording of the autopsy

for case consultation with a pathologist or forensic scientist. The physician having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording of the autopsy for training or educational purposes if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:

- (1) the name;
- (2) the address;
- (3) the Social Security number;
- (4) a full view of the face; or
- (5) identifying marks on the body that are unrelated to the educational purpose of the information or to the medical condition or the medical status;

of the deceased individual. A physician who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the physician releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. A physician who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(d) Except as provided in subsection (c), the physician having custody of a photograph, a video recording, or an audio recording of an autopsy may not permit a person to:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy without a court order.

(e) Information disclosed under subsection (c) is confidential.

SECTION 4. IC 16-39-7.1-6, AS ADDED BY P.L.271-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A provider who:

- (1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and
- (2) knowingly or intentionally violates this section; chapter;

commits a ~~Class D felony~~. **Class A misdemeanor.**

(b) A person who knowingly or intentionally violates a court order

issued under this ~~section~~ **chapter** commits a ~~Class D felony~~: **Class A misdemeanor.**

(c) A person who:

- (1) receives autopsy information under section 3(c) of this chapter; and**
- (2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;**

commits a Class A misdemeanor.

SECTION 5. IC 36-2-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Whenever the coroner is notified that a person in the county:

- (1) has died from violence;
- (2) has died by casualty;
- (3) has died when apparently in good health;
- (4) has died in an apparently suspicious, unusual, or unnatural manner; or
- (5) has been found dead;

he shall, before the scene of the death is disturbed, notify a law enforcement agency having jurisdiction in that area. The agency shall assist the coroner in conducting an investigation of how the person died and a medical investigation of the cause of death.

(b) The coroner shall file with the person in charge of interment a coroner's certificate of death within seventy-two (72) hours after being notified of the death. If the cause of death is not established with reasonable certainty within seventy-two (72) hours, the coroner shall file with the person in charge of interment a coroner's certificate of death, with the cause of death designated as "deferred pending further action". As soon as he determines the cause of death, the coroner shall file a supplemental report indicating his exact findings with the local health officer having jurisdiction, who shall make it part of his official records.

(c) If this section applies, the body and the scene of death may not be disturbed until the coroner has photographed them in the manner that most fully discloses how the person died. However, a coroner or law enforcement officer may order a body to be moved before photographs are taken if the position or location of the body unduly interferes with activities carried on where the body is found, but the

body may not be moved from the immediate area and must be moved without substantially destroying or altering the evidence present.

(d) When acting under this section, if the coroner considers it necessary to have an autopsy performed, **is required to perform an autopsy under subsection (f)**, or is requested ~~to do so~~ by the prosecuting attorney of the county ~~he to perform an autopsy, the coroner~~ shall employ a physician:

- (1) certified by the American board of pathology; or
- (2) holding an unlimited license to practice medicine in Indiana and acting under the direction of a physician certified by the American board of pathology;

to perform the autopsy. The physician performing the autopsy shall be paid a fee of at least fifty dollars (\$50) from the county treasury. A coroner may employ the services of the medical examiner system, provided for in IC 4-23-6-6, when an autopsy is required, as long as this subsection is met.

(e) If:

- (1) at the request of:
 - (A) the decedent's spouse;
 - (B) a child of the decedent, if the decedent does not have a spouse;
 - (C) a parent of the decedent, if the decedent does not have a spouse or children;
 - (D) a brother or sister of the decedent, if the decedent does not have a spouse, children, or parents; or
 - (E) a grandparent of the decedent, if the decedent does not have a spouse, children, parents, brothers, or sisters;
- (2) in any death, where two (2) or more witnesses who corroborate the circumstances surrounding death are present; and
- (3) two (2) physicians who are licensed to practice medicine in the state and who have made separate examinations of the decedent certify the same cause of death in an affidavit within twenty-four (24) hours after death;

an autopsy need not be performed. The affidavits shall be filed with the circuit court clerk.

(f) A county coroner may not certify the cause of death in the case of the sudden and unexpected death of a child who is at least one (1) week old and not more than three (3) years old unless an

autopsy is performed at county expense. However, a coroner may certify the cause of death of a child described in this subsection without the performance of an autopsy if subsection (e) applies to the death of the child.

SECTION 6. IC 36-2-14-10, AS AMENDED BY P.L.271-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written report giving an accurate description of the deceased person, his name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c), (d), and (e), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

- (1) view and copy a photograph or video recording; and
- (2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of ~~their~~ **official** duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may **use or** allow the use of the photograph, video recording, or audio recording of the autopsy for **case consultation with a pathologist or forensic scientist. The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording**

of an autopsy may also use or allow the use of the photograph, video recording, or audio recording for training or educational purposes (as defined in IC 16-39-7.1-1.5) if all information that identifies the individual on whom the autopsy was performed is masked or removed from the photograph, video recording, or audio recording. For purposes of this subsection, information that identifies an individual consists of:

- (1) the name;**
- (2) the address;**
- (3) the Social Security number;**
- (4) a full view of the face; or**
- (5) identifying marks on the body that are unrelated to the medical condition or medical status;**

of the deceased individual. A coroner or coroner's designee who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the coroner or coroner's designee releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. Information disclosed under this subsection is confidential. A coroner or coroner's designee who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(f) **Except as provided in subsection (e),** the coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

- (1) view or copy the photograph or video recording; and
- (2) listen to or copy the audio recording;

of an autopsy without a court order.

(g) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and
- (2) listen to or copy an audio recording;

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(h) In determining good cause under subsection (g), the court shall consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;

(2) the seriousness of the intrusion into the family's right to privacy;

(3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and

(4) the availability of similar information in other public records, regardless of form.

(i) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(j) A surviving spouse shall be given:

(1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;

(2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and

(3) reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(k) If there is no surviving spouse, the notice under subsection (j) must be given to the deceased's parents, and if the deceased has no living parent, the notice must be given to the adult children of the deceased.

(l) A coroner or coroner's designee who:

(1) is the custodian of a photograph, a video recording, or an audio recording of an autopsy; and

(2) knowingly or intentionally violates this section;

commits a ~~Class D felony~~: **Class A misdemeanor.**

(m) A person who knowingly or intentionally violates a court order issued under this section commits a ~~Class D felony~~: **Class A misdemeanor.**

(n) **A person who:**

(1) receives autopsy information under subsection (e); and

(2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a Class A misdemeanor.

P.L.180-2003
[H.1423. Approved May 7, 2003.]

AN ACT concerning taxation.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to state income tax liability of a shareholder, partner, beneficiary, or member of a taxpayer that is a pass through entity and that incurred an expenditure:

- (1) described in IC 6-3.1-6-2;**
- (2) under an agreement with the commissioner of the department of correction;**
- (3) for an operation conducted for inmates of Rockville Correctional Facility; and**
- (4) in a taxable year beginning after December 31, 1997, and ending before January 1, 2002.**

(b) The definitions in IC 6-3.1-6-1 apply throughout this SECTION.

(c) A shareholder, partner, beneficiary, or member of a pass through entity is entitled to a tax credit under IC 6-3.1-6 for a taxable year described in subsection (a) to the same extent as if IC 6-3.1-6-6, as added by P.L.129-2001, SECTION 6, had been in effect for that taxable year.

(d) Any penalties or interest assessed against a shareholder, partner, beneficiary, or member of the pass through entity solely because the pass through entity reported or because a shareholder, partner, beneficiary, or member of the pass through entity claimed a credit under IC 6-3.1-6 on a return filed for a taxable year described in subsection (a) is waived.

(e) If a shareholder, partner, beneficiary, or member of a pass through entity is entitled to a refund as a result of the enactment of this SECTION, the taxpayer or shareholder, partner, beneficiary, or member of a taxpayer may claim the refund under IC 6-8.1-9. The three (3) year time limitation imposed under IC 6-8.1-9-1 on

filing a claim for refund does not apply to a refund claimed as a result of the enactment of this SECTION.

(f) This SECTION expires January 1, 2005.

SECTION 2. An emergency is declared for this act.

P.L.181-2003

[H.1431. Approved May 5, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-33.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 33.6. "Coalition", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-1.**

SECTION 2. IC 12-7-2-69.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 69.5. "Domestic violence", for purposes of IC 12-18-8, has the meaning set forth in IC 34-6-2-34.5.**

SECTION 3. IC 12-7-2-82.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 82.2. "Family or household member", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-3.**

SECTION 4. IC 12-7-2-85.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 85.2. "Final judgment", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-4.**

SECTION 5. IC 12-7-2-124.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 124.7. "Local domestic violence fatality review team", for purposes of IC 12-18-8, has the meaning set forth in IC 12-18-8-5.**

SECTION 6. IC 12-18-8 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY

1, 2003]:

Chapter 8. Domestic Violence Fatality Review Team

Sec. 1. As used in this chapter, "coalition" refers to the Indiana coalition against domestic violence.

Sec. 2. As used in this chapter, "domestic violence" has the meaning set forth in IC 34-6-2-34.5.

Sec. 3. (a) As used in this chapter, an individual is a "family or household member" of another person if the individual:

- (1) is a current or former spouse of the other person;
- (2) is dating or has dated the other person;
- (3) is or was engaged in a sexual relationship with the other person;
- (4) is related by blood or adoption to the other person;
- (5) is or was related by marriage to the other person;
- (6) cohabits or formerly cohabited with the other person; or
- (7) has or previously had an established legal relationship:
 - (A) as a guardian of the other person;
 - (B) as a ward of the other person;
 - (C) as a custodian of the other person;
 - (D) as a foster parent of the other person; or
 - (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D).

(b) As used in this chapter, an individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of one (1) of the persons.

Sec. 4. As used in this chapter, "final judgment" means:

- (1) an acquittal of a criminal offense; or
- (2) a conviction for a criminal offense:
 - (A) in which the defendant fails to file a timely:
 - (i) notice of appeal under the Indiana rules of appellate procedure; and
 - (ii) motion under Indiana Trial Rule 60(B);
 - (B) in which transfer is denied to the Indiana supreme court; or
 - (C) that is upheld:
 - (i) on appeal;
 - (ii) following a 60(B) hearing; or
 - (iii) both.

Sec. 5. As used in this chapter, "local domestic violence fatality review team" means the county or regional domestic violence fatality review team established under this chapter.

Sec. 6. (a) A county may establish a county domestic violence fatality review team for the purpose of reviewing a death resulting from domestic violence. The team shall review only those deaths in which the person who commits the act of domestic violence resulting in death:

- (1)** is charged with a criminal offense that results in final judgment of conviction; or
- (2)** commits suicide:
 - (A)** that is related in time, place, and circumstance to the death of the victim of domestic violence; and
 - (B)** as determined by a coroner's certificate of death under IC 36-2-14-6 or death verdict under IC 36-2-14-10.

(b) The legislative body (as defined in IC 36-1-2-9) of a county must determine by majority vote if the county will establish a local domestic violence fatality review team.

(c) If a county elects not to establish a county domestic violence fatality review team, the county may join with one **(1)** or more other counties that have not established a county domestic violence fatality review team and form a regional domestic violence fatality review team.

(d) To establish a regional domestic violence fatality review team as described in subsection **(c)**, the legislative body of each county comprising the region must cast a majority of votes in favor of establishing a regional domestic violence fatality review team.

Sec. 7. (a) A local domestic violence fatality review team shall do the following:

- (1)** Assist a local agency in identifying and reviewing a homicide or suicide that results from domestic violence.
- (2)** Develop recommendations for coordinated community prevention and intervention strategies to prevent future homicides or suicides resulting from domestic violence.
- (3)** Collect data described in section 14 of this chapter related to a death resulting from domestic violence.

(b) A local domestic violence fatality review team may develop a protocol to assist a person who performs an autopsy in:

- (1)** identifying a victim of domestic violence; and

(2) preparing a written report identifying a person as the victim of domestic violence and describing the cause of death.

(c) A local domestic violence fatality review team shall be operated in conjunction with a:

- (1) local domestic violence shelter;
- (2) domestic violence program; or
- (3) domestic violence coordinated community response team.

Sec. 8. (a) To complete its review of a death that it believes to have resulted from domestic violence, the fatality review performed by a local domestic violence fatality review team may include information from reports generated or received by:

- (1) agencies;
- (2) organizations; or
- (3) individuals;

responsible for the investigation, prosecution, or treatment concerning a death being investigated by the domestic fatality review team.

(b) An entity or individual that in good faith provides information described in subsection (a) is immune from civil or criminal liability that might otherwise be imposed as the result of providing this information.

Sec. 9. The recommendations of a domestic violence fatality review team may be disclosed at the discretion of a majority of the members at the conclusion of a review.

Sec. 10. (a) A local domestic violence fatality review team consists of the following members:

- (1) A survivor of domestic violence.
- (2) A domestic violence direct service provider.
- (3) A representative of law enforcement from the area served by the local domestic violence review team.
- (4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.
- (5) An expert in the field of forensic pathology.
- (6) A medical practitioner with expertise in domestic violence.
- (7) A judge who hears civil or criminal cases.
- (8) An employee of a child protective services agency.

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to

establish the local domestic violence fatality review team under section 6 of this chapter shall:

- (1) adopt an ordinance for the appointment and reappointment of members of the local domestic violence fatality review team; and
- (2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

- (1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local domestic violence fatality review team; and
- (2) appoint members to the local domestic violence fatality review team under the ordinances adopted.

(d) A local domestic violence fatality review team may not have more than fifteen (15) members.

Sec. 11. In accordance with the ordinance adopted under section 10 of this chapter, a local domestic violence fatality review team may have the following additional members:

- (1) A clergy member.
- (2) A representative of county government.
- (3) A representative from a county health department.
- (4) A representative from a local bar association.
- (5) A defense attorney.
- (6) An educator.
- (7) A probation officer.
- (8) A representative from the business community.
- (9) An animal control officer.
- (10) An attorney who represents victims of domestic violence.
- (11) A provider of a batterers intervention program.

Sec. 12. (a) Any member of a local domestic violence fatality review team may serve as chairperson. The chairperson shall be elected annually by the members of the local domestic violence fatality review team at the first meeting of the local domestic violence fatality review team.

(b) The local domestic violence fatality review team shall meet at the call of the chairperson.

(c) The local domestic violence fatality review team chairperson shall determine the agenda for each meeting.

Sec. 13. (a) Except as provided in subsection (b), meetings of a local domestic violence fatality review team are open to the public.

(b) Meetings of a local domestic violence fatality review team that involve:

(1) confidential records; or

(2) identifying information regarding a death;

shall be held as an executive session with the public excluded, except those persons necessary to carry out the fatality review.

(c) If an executive session is held under subsection (b), each individual who:

(1) attends a meeting of a local domestic violence fatality review team; and

(2) is not a member of the local domestic violence fatality review team;

shall sign a confidentiality agreement.

(d) A local domestic violence fatality review team shall keep all confidentiality statements signed under this section.

Sec. 14. The coalition shall collect and document information surrounding the deaths reviewed by a local domestic violence fatality review team. The coalition shall develop a data collection form that includes the following:

(1) Identifying and nonidentifying information.

(2) Information regarding the circumstances surrounding a death.

(3) Factors contributing to a death.

(4) Findings and recommendations.

Sec. 15. The coalition's annual report shall be made available to the public. The coalition may not charge more than the amount set by IC 5-14-3-8 to offset the cost of copying the annual report.

SECTION 7. IC 34-30-2-45.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 45.8. IC 12-18-8-7 and IC 12-18-8-12 (Concerning an entity or person who provides a record or report to a local domestic violence fatality review team or members of a local domestic violence fatality review team and persons who attend a meeting of a local child fatality review team as invitees of the chairperson).

P.L.182-2003

[H.1438. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-26-13-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) As used in this section, "impaired pharmacist" means a licensed pharmacist who has been affected by the use or abuse of alcohol or other drugs.

(b) The board shall assist in the rehabilitation of an impaired or a licensed pharmacist. The board may:

- (1) enter into agreements, provide grants, and make other arrangements with statewide nonprofit professional associations, ~~or~~ foundations, **or entities specifically devoted to the rehabilitation of impaired health care professionals** to identify and assist impaired pharmacists or licensed pharmacists; and
- (2) accept and designate grants, public and private financial assistance, and licensure fees to fund programs under subdivision (1).

(c) Except as provided in subsection (e), all:

- (1) information furnished to a nonprofit professional organization or foundation, including interviews, reports, statements, and memoranda; and
- (2) findings, conclusions, or recommendations that result from a proceeding of a professional organization or foundation;

are privileged and confidential.

(d) The records of a proceeding under subsection (c) may be used only in the exercise of the proper functions of the board and may not become public records or be subject to a subpoena or discovery proceeding.

(e) Information received by the board from the board designated rehabilitation program for noncompliance by the licensed pharmacist may be used by the board in any disciplinary or criminal proceedings

instituted against the impaired licensed pharmacist.

(f) The board designated rehabilitation program shall:

(1) immediately report to the board the name and results of any contact or investigation concerning an impaired licensed pharmacist that the program believes constitutes an imminent danger to either the public or the impaired licensed pharmacist; and

(2) in a timely fashion report to the board an impaired licensed pharmacist:

(A) who refuses to cooperate with the program;

(B) who refuses to submit to treatment; or

(C) whose impairment is not substantially alleviated through treatment.

SECTION 2. IC 25-26-13-10, AS AMENDED BY P.L.187-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An applicant for registration as a pharmacist intern or pharmacist extern must furnish proof satisfactory to the board that the applicant is a high school graduate or its equivalent, has obtained a general educational development (GED) diploma, or is enrolled in a pre-pharmacy or pharmacy curriculum at an accredited school of pharmacy. The board may require the applicant to successfully complete an examination prior to registering the applicant as a pharmacist intern or pharmacist extern.

(b) A registration issued under subsection (a) of this section is valid for ~~six (6) years from the date of issuance~~ **one (1) year** and may be renewed by the board for an additional ~~five (5) years for good cause shown~~ **year until the expiration date established by the health professions bureau under IC 25-1-5-4.**

(c) An application for registration or renewal must be accompanied by the appropriate fee.

SECTION 3. IC 25-26-13-23, AS AMENDED BY HEA 1167-2003, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) The board shall establish appropriate fees to carry out this chapter.

(b) All fees are nonrefundable. A receipt shall be issued for all fees and fines submitted.

(c) All fees collected under this section ~~and, except as provided in IC 25-23-1-34(b)(4), all fines collected under IC 25-1-9~~ shall be

transferred to the treasurer of state and deposited in the general fund of the state.

~~(d) The board may adopt rules that provide that at the time of license renewal, each licensed pharmacist pay an additional fee not to exceed ten dollars (\$10). The amounts collected under this subsection shall be deposited in the impaired pharmacists account established under section 30 of this chapter.~~ **(d) The board shall adopt rules to establish fines for violation of an article listed in IC 25-26 or a rule adopted under IC 25-26-13-4, IC 25-26-14-13 or IC 35-48-3-1.**

(e) A fine collected by the board shall be transferred to the treasurer of state and deposited in the state general fund.

(f) No fine established under subsection (d) shall be less than twenty-five dollars (\$25).

(g) At the time of license renewal, each licensed pharmacist shall pay a renewal fee, a part of which shall be used for the rehabilitation of impaired pharmacists. Notwithstanding subsection (c), the lesser of the following amounts from fees collected under this subsection shall be deposited in the impaired pharmacists account of the state general fund established by section 30 of this chapter:

(1) Sixteen percent (16%) of the license renewal fee for each license renewed under this section.

(2) The amount per license needed to operate the impaired pharmacists program, as determined by the health professions bureau.

SECTION 4. IC 25-26-13-25, AS AMENDED BY P.L.1-2002, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) Except as provided in subsection (c) before the expiration of subsection (c) on June 30, 2003, a prescription for any drug, the label

of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner if all of the following conditions are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription

refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill". ~~This subsection expires June 30, 2003.~~

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(e) The original prescription form or the other board approved record described in subsection (d) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

- (2) The date of each refill.
- (3) The quantity dispensed.
- (4) The identity of the pharmacist who dispensed the refill.
- (5) The total number of refills for that prescription.

(f) A prescription is valid for not more than one (1) year after the original date of issue.

(g) A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

(h) A pharmacist may not knowingly dispense a prescription after the demise of the patient.

(i) A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

- (1) was dispensed to a patient residing in an institutional facility (as defined in 856 IAC 1-28-1(a));
- (2) was properly stored and securely maintained according to sound pharmacy practices;
- (3) is returned unopened and:
 - (A) was dispensed in the manufacturer's original:
 - (i) bulk, multiple dose container with an unbroken tamper resistant seal; or
 - (ii) unit dose package; or
 - (B) was packaged by the dispensing pharmacy in a:
 - (i) multiple dose blister container; or
 - (ii) unit dose package;
- (4) was dispensed by the same pharmacy as the pharmacy accepting the return;
- (5) is not expired; and
- (6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in IC 25-26-13-17).

(j) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under subsection ~~(h)~~: **(i)**.

(k) A pharmacist who violates subsection (c) commits a Class A infraction.

SECTION 5. IC 35-48-7-2, AS AMENDED BY P.L.107-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 2. As used in this chapter, "central repository" refers to the central repository designated by the **state police department advisory committee** under section 10 of this chapter.

SECTION 6. IC 35-48-7-8, AS AMENDED BY P.L.107-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The ~~state police department, with the approval of the~~ advisory committee shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the central repository the following information:

- (A) The recipient's name.
- (B) The recipient's or the recipient representative's identification number.
- (C) The recipient's date of birth.
- (D) The national drug code number of the controlled substance dispensed.
- (E) The date the controlled substance is dispensed.
- (F) The quantity of the controlled substance dispensed.
- (G) The number of days of supply dispensed.
- (H) The dispenser's United States Drug Enforcement Agency registration number.
- (I) The prescriber's United States Drug Enforcement Agency registration number.
- (J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(2) The information required to be transmitted under this section must be transmitted not more than fifteen (15) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

- (A) an electronic device compatible with the receiving device of the central repository;
- (B) a computer diskette;
- (C) a magnetic tape; or
- (D) a pharmacy universal claim form;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms and serially numbered prescription forms for any prescriptions written. The committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

SECTION 7. IC 35-48-7-9, AS AMENDED BY P.L.107-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The ~~state police department health professions bureau~~ or the central repository is responsible for the costs of the program, including the following costs:

- (1) Telephone access charges, line charges, and switch charges for transmission of data by dispensers to the central repository.
- (2) Purchase of modems and other hardware required for program participation.
- (3) Software and software modifications to allow dispensers to participate in the program.

(b) A dispenser may not be penalized for failure to comply with the program if the ~~state police department health professions bureau~~ or the central repository cannot secure adequate funding to implement the program and cover the costs under subsection (a).

SECTION 8. IC 35-48-7-10, AS AMENDED BY P.L.107-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The ~~state police department, with the advice of the~~ advisory committee shall designate a central repository for the collection of information transmitted under section 8 of this chapter.

- (b) The central repository shall do the following:

- (1) Create a data base for information required to be transmitted under section 8 of this chapter in the form required under rules adopted by the advisory committee, including search capability for the following:
 - (A) A recipient's name.
 - (B) A recipient's or recipient representative's identification number.
 - (C) A recipient's date of birth.
 - (D) The national drug code number of a controlled substance dispensed.
 - (E) The dates a controlled substance is dispensed.
 - (F) The quantities of a controlled substance dispensed.
 - (G) The number of days of supply dispensed.
 - (H) A dispenser's United States Drug Enforcement Agency registration number.
 - (I) A prescriber's United States Drug Enforcement Agency registration number.
 - (J) Whether a prescription was transmitted to the pharmacist orally or in writing.
- (2) Provide the ~~state police department and the~~ advisory committee with continuing twenty-four (24) hour a day on-line access to the data base maintained by the central repository.
- (3) Secure the information collected by the central repository and the data base maintained by the central repository against access by unauthorized persons.
- (4) If the relationship between the ~~state police department~~ **advisory committee** and the central repository is terminated by statute, provide to the ~~state police department and the~~ advisory committee, within a reasonable time, all collected information and the data base maintained by the central repository.
- (c) The ~~state police department, with the advice of the~~ advisory committee may execute a contract with a vendor designated by the ~~state police department~~ **advisory committee** as the central repository under this section, or the ~~state police department or~~ advisory committee may act as the central repository under this chapter.
- (d) The central repository may gather prescription data from the Medicaid retrospective drug utilization review program (DUR) established by IC 12-15-35.

(e) The ~~state police department and the~~ advisory committee may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the central repository.

SECTION 9. IC 35-48-7-13, AS AMENDED BY P.L.107-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The controlled substances data fund is established to fund the operation of the central repository. The fund shall be administered by the ~~state police department~~: **health professions bureau.**

(b) Expenses of administering the fund shall be paid from money in the fund. The fund consists of grants, public and private financial assistance, and ~~licensure~~ **sixteen percent (16%) of the controlled substances registration fees imposed under IC 35-48-3-1.**

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

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

SECTION 10. **An emergency is declared for this act.**



P.L.183-2003

[H.1445. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.3-3-8, AS AMENDED BY P.L.61-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The board may do any of the following:

(1) Establish and amend rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.

(2) Make contracts and sue and be sued as the board of trustees of the public employees' retirement fund of Indiana.

(3) Delegate duties to its employees.

(4) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, dental, vision, long term care, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies.

(5) Enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies.

(6) For the 1977 police officers' and firefighters' pension and disability fund, deduct from benefits paid and remit to the appropriate entities amounts authorized by IC 36-8-8-17.2.

(7) Whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees.

~~(7)~~ **(8)** Amortize prior service liability over a period of forty (40) years or less.

~~(8)~~ **(9)** Recover payments made under false or fraudulent representation.

~~(9)~~ **(10)** Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(b) An agreement under subsection (a)(4) may be for a duration of three (3) years.

(c) This subsection does not apply to investments of the board. A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 2. IC 36-8-8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) The benefits of this chapter are exempt from attachment and garnishment and may not be seized, taken, or levied upon by any execution or process.

(b) Except as provided in subsection (c) **and section 17.2 of this chapter**, a person receiving a benefit under this chapter may not transfer, assign, or sell the benefit.

(c) Notwithstanding any other provision of this chapter, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L.102-318), and any amendments and regulations related to Section 401(a)(31), the 1977 fund shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

SECTION 3. IC 36-8-8-17.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.2. (a) **Notwithstanding any other provision of this chapter, a person receiving a disability, retirement, or survivor monthly benefit under this chapter may, after June 30, 2004, authorize the PERF board to make a deduction from the benefit.**

(b) **An authorization for a deduction from a disability, retirement, or survivor monthly benefit paid under this chapter is valid only if all the following requirements are met:**

(1) **The authorization is:**

(A) **in writing;**

(B) **signed personally by the person receiving the benefit;**

(C) **revocable at any time by the person receiving the benefit upon written notice to the PERF board; and**

(D) **agreed to in writing by the PERF board.**

(2) **An executed copy of the authorization is delivered to the PERF board within ten (10) days after its execution.**

(3) **The deduction is made for a purpose described in subsection (c).**

(c) **A deduction under this section may be made for the purpose of paying any of the following:**

(1) **A premium on a policy of insurance for medical, surgical, hospitalization, dental, vision, long term care, or Medicare supplement coverage offered to retired fund members by the**

fund member's former employer, the state, or the PERF board.

(2) A pledge or contribution to a charitable or nonprofit organization.

(3) Dues payable by the person receiving the benefit to a labor organization of which the person is a member.

P.L.184-2003

[H.1458. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 2-5-26-15, AS ADDED BY P.L.256-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. This chapter expires December 31, ~~2003~~ **2008**.

SECTION 2. IC 12-7-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. "Administrator", for purposes of:

(1) IC 12-10-15, has the meaning set forth in IC 12-10-15-1.5; and

(2) IC 12-24-17, has the meaning set forth in IC 12-24-17-1.

SECTION 3. IC 12-10-15-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. As used in this chapter, "administrator" means a natural person who administers, manages, supervises, or is in general administrative charge of a housing with services establishment.**

SECTION 4. IC 12-10-15-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. **(a)** The director shall adopt rules under IC 4-22-2 necessary to carry out this chapter.

(b) The director shall adopt rules concerning the following:

(1) Procedures for the posting of notices at housing with

services establishments, area agencies on aging, and centers for independent living (as defined by IC 12-12-8-1) that advise residents of their rights under this chapter.

(2) Procedures for residents and their representatives to file complaints with the director concerning violations of this chapter.

SECTION 5. IC 12-10-15-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15. (a) The director shall enforce this chapter.**

(b) The director may impose a penalty of not less than one hundred dollars (\$100) but not more than one thousand dollars (\$1,000) for each day of violation of this chapter. However, the total penalty for each violation may not exceed ten thousand dollars (\$10,000).

(c) A person aggrieved by a penalty imposed under this section may request a review under IC 4-21.5-3-7. If a request for a hearing is not filed within fifteen (15) days after the penalty is imposed, the determination of the director and the penalty is final.

(d) If the director determines that a housing with services establishment has had substantial and repeated violations of this chapter, the director may prohibit a housing with services establishment from using the term "assisted living" to describe the housing with services establishment's services and operations to the public.

(e) If the director determines that an operator or administrator of a housing with services establishment has intentionally violated this chapter or has made fraudulent and material misrepresentations to a resident, the director may request the attorney general to investigate and take appropriate action against the operator or administrator.

(f) Penalties collected under this section shall be deposited in the state general fund.

SECTION 6. IC 12-15-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) An application or a request for Medicaid for an individual must be made in the manner required by the office:**

(1) at enrollment centers specified by the office; or

(2) through the United States mail, as described in subsection

(h), if the individual has a developmental disability.**(b) Enrollment centers:**

- (1) shall be located at each county office; and
- (2) may be located at other locations including the following:
 - (A) A hospital licensed under IC 16-21.
 - (B) The office of a provider who is eligible to receive payments under this article.
 - (C) A public or private elementary or secondary school.
 - (D) A day care center licensed under IC 12-17.2.
 - (E) The county health department.
 - (F) A federally qualified health center (as defined in 42 U.S.C. 1396d(1)(2)(B)).
 - (G) A rural health clinic (as defined in 42 U.S.C. 1396d(1)(1)).

(c) An entity described in subsection (b) other than the county office must enter into an agreement with the office for authorization to serve as an enrollment center where individuals may apply for Medicaid.

(d) One (1) or more authorized workers at each enrollment center may:

- (1) accept applications for Medicaid; ~~and~~
- (2) conduct interviews with applicants; **and**
- (3) accept applications for services under a Medicaid waiver by an individual who has a developmental disability;**

during hours and days of the week agreed upon by the office and the enrollment center.

(e) The office shall provide each enrollment center with the materials and training needed by the enrollment center to comply with this section.

(f) An enrollment center shall provide:

- (1) each application taken by the enrollment center; and
- (2) any accompanying materials;

to the county office located in the same county as the enrollment center at least one (1) time each week by any reasonable means. **Except as provided in subsection (g),** the county office staff shall make the final determination of an applicant's eligibility for Medicaid.

(g) The office shall make the final determination of eligibility of an individual who has a developmental disability to receive services under a Medicaid waiver.

(h) An individual who has a developmental disability may

submit to the office through the United States mail an application to receive services under a Medicaid waiver.

(i) The office shall make available:

- (1) on the Internet;**
- (2) at an enrollment center; and**
- (3) through the United States mail;**

an application form for an individual who has a developmental disability to receive services under a Medicaid waiver.

SECTION 7. IC 12-15-35-28, AS AMENDED BY P.L.107-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The board has the following duties:

- (1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.
- (2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.
- (3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.
- (4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.
- (5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year.
- (6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies,

including the following:

- (A) The Indiana board of pharmacy.
 - (B) The medical licensing board of Indiana.
 - (C) The SURS staff.
- (7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.
- (8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:
- (A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
 - (B) Potential or actual severe or adverse reactions to drugs.
 - (C) Therapeutic appropriateness.
 - (D) Overutilization or underutilization.
 - (E) Appropriate use of generic drugs.
 - (F) Therapeutic duplication.
 - (G) Drug-disease contraindications.
 - (H) Drug-drug interactions.
 - (I) Incorrect drug dosage and duration of drug treatment.
 - (J) Drug allergy interactions.
 - (K) Clinical abuse and misuse.
- (9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.
- (10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.
- (11) The research, development, and approval of a preferred drug list for:
- (A) Medicaid's fee for service program;
 - (B) Medicaid's primary care case management program; and
 - (C) the primary care case management component of the

children's health insurance program under IC 12-17.6; in consultation with the therapeutics committee.

(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.

(13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:

(1) Use literature abstracting technology.

(2) Use commonly accepted guidance principles of disease management.

(3) Develop therapeutic classifications for the preferred drug list.

(4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.

(5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date **on which the manufacturer notifies the board in writing** of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly

approved by the federal Food and Drug Administration, and that is:

(1) in a therapeutic classification:

(A) that has not been reviewed by the board; and

(B) for which prior authorization is not required; or

(2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

(f) The board may not exclude a drug from the preferred drug list based solely on price.

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):

(1) **Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c)**, the office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:

(A) To override a prospective drug utilization review alert.

(B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.

(C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.

(D) To permit implementation of a disease management program.

(E) To implement other initiatives permitted by state or federal law.

(2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.

(3) The office may add a ~~new single source~~ drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.

(4) The board may add a ~~new single source~~ drug that has been approved by the federal Food and Drug Administration to the preferred drug list.

(h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:

(1) The cost of administering the preferred drug list.

(2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred

drug list.

(3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.

(4) The number of times prior authorization was requested, and the number of times prior authorization was:

(A) approved; and

(B) disapproved.

(i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

SECTION 8. IC 12-15-35-28.7, AS ADDED BY P.L.107-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.7. (a) The board shall submit the initial approved preferred drug list to the office not later than August 1, 2002.

(b) Except as permitted under subsection (g), the office may not further restrict the status of a drug in the Medicaid program or the children's health insurance program until the board reviews a therapeutic classification and the office implements the therapeutic classification on the preferred drug list.

(c) The office shall provide advance notice to providers of the contents of the preferred drug list submitted by the board under subsection (a).

(d) Notwithstanding IC 12-15-13-6, the office shall implement any change in the preferred drug list not later than thirty (30) days after the date the board submits the amended list to the office.

(e) **Except as provided by section 28(g)(3) of this chapter**, the office may not implement a preferred drug list or an amendment to the preferred drug list that has not been approved by the board.

(f) The office may not require prior authorization for a drug that is excluded from the preferred drug list unless the board has made the determinations required under section 35 of this chapter.

(g) The office may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 9. IC 12-15-35-43.5, AS ADDED BY P.L.107-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 43.5. (a) The board, the therapeutics committee, or the office may not release proprietary or confidential information obtained as part of the development, implementation, or

maintenance of a preferred drug list under this chapter.

(b) Information described in subsection (a) is confidential for purposes of IC 5-14-3-4(a)(1).

SECTION 10. IC 12-15-35.5-2.5, AS ADDED BY P.L.107-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. As used in this chapter, "unrestricted access" means the ability of a recipient to obtain a prescribed drug without being subject to limits or preferences imposed by the office or the board for the purpose of cost savings except as provided under ~~IC 12-15-35-8~~ and section 7 of this chapter.

SECTION 11. IC 12-15-35.5-7, AS ADDED BY P.L.6-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Subject to subsection (b), the office may place limits on quantities dispensed or the frequency of refills for any covered drug for the purpose of:

- (1) preventing fraud, abuse, waste, overutilization, or inappropriate utilization; or
- (2) implementing a disease management program.

(b) Before implementing a limit described in subsection (a), the office shall:

- (1) consider quality of care and the best interests of Medicaid recipients;
- (2) seek the advice of the drug utilization review board, established by IC 12-15-35-19, at a public meeting of the board; and
- (3) publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(c) Subject to subsection (d), the board may establish and the office may implement a restriction on a drug described in section 3(b) of this chapter if:

- (1) the board determines that data provided by the office indicates that a situation described in IC 12-15-35-28(a)(8)(A) through IC 12-15-35-28(a)(8)(K) requires an intervention to:**
 - (A) prevent fraud, abuse, waste, overutilization, or inappropriate utilization; or**
 - (B) implement a disease management program;**
- (2) the board approves and the office implements an educational intervention program for providers to address the**

situation; and

(3) at least six (6) months after the implementation of the educational intervention program described in subdivision (2), the board determines that the situation requires further action.

(d) A restriction established under subsection (c) for any drug described in section 3(b) of this chapter:

(1) must comply with the procedures described in IC 12-15-35-35;

(2) may include requiring a recipient to be assigned to one (1) practitioner and one (1) pharmacy provider for purposes of receiving mental health medications;

(3) may not lessen the quality of care; and

(4) must be in the best interest of Medicaid recipients.

(e) Implementation of a restriction established under subsection (c) must provide that only the prescribing practitioner may authorize an override of the restriction.

(f) Before implementing a restriction established under subsection (c), the office shall publish a provider bulletin that complies with the requirements of IC 12-15-13-6.

(g) Subsections (c) through (f):

(1) apply only to drugs described in section 3(b) of this chapter; and

(2) do not apply to a restriction on a drug described in section 3(b) of this chapter that was approved by the board and implemented by the office before April 1, 2003.

SECTION 12. IC 12-21-2-5, AS AMENDED BY HEA 1395-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Subject to subsection (b), the director may delegate statutory duties or powers of the division, a bureau of the division, the director, or other statutorily created personnel.

(b) If the director decides that a final decision is to be made concerning the placement of a mentally ill individual in a mental health facility, the final decision must be made:

(1) by the director, if the director is a licensed psychiatrist or licensed psychologist; or

(2) by a licensed psychiatrist or licensed psychologist who is delegated the authority by the director;

in consultation with the patient's psychiatrist or psychologist.

(c) Subsection (b) does not apply to an initial placement designation made under IC 12-24-12-10(b).

SECTION 13. IC 25-22.5-5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) The board may authorize the service bureau to issue temporary fellowship permits for the practice of medicine. A temporary fellowship is subject to any termination date specified by the board.**

(b) The board may issue a temporary fellowship permit to a graduate of a school located outside the United States, its possessions, or Canada if the graduate:

- (1) applies in the form and manner required by the board;**
- (2) pays a fee set by the board;**
- (3) has completed the academic requirements for the degree of doctor of medicine from a medical school approved by the board;**
- (4) has been issued a valid permit by another state for participation in a postgraduate medical education or training program located in a state that has standards for postgraduate medical education and training satisfactory to the board;**
- (5) has been accepted into a postgraduate medical fellowship training program that:**
 - (A) is affiliated with a medical school located in a state that issued a permit under subdivision (4);**
 - (B) has a training site located in Indiana; and**
 - (C) has standards for postgraduate medical education and training satisfactory to the board;**
- (6) provides the board with documentation of the areas of medical practice for which the training is sought;**
- (7) provides the board with at least two (2) letters of reference documenting the individual's character; and**
- (8) demonstrates to the board that the individual is a physician of good character who is in good standing outside the United States, its possessions, or Canada where the person normally would practice.**

(c) Applications for the temporary fellowship permit for graduates of foreign medical schools must be made to the board

subject to this section.

(d) A permit issued under this section expires one (1) year after the date it is issued and, at the discretion of the board, may be renewed for additional one (1) year periods upon the payment of a renewal fee set by the board by rule.

(e) An individual who applies for a temporary fellowship permit under this section is not required to take any step of the United States Medical Licensure Examination.

(f) A temporary fellowship permit must be kept in the possession of the fellowship training institution and surrendered by it to the board within thirty (30) days after the person ceases training in Indiana.

(g) A temporary fellowship permit authorizes a person to practice in the training institution only and, in the course of training, to practice only those medical acts approved by the board but does not authorize the person to practice medicine otherwise.

(h) The board may deny an application for a temporary fellowship permit if the training program that has accepted the applicant has:

- (1) violated; or
- (2) authorized or permitted a physician to violate;

this section.

(i) A person issued a temporary medical permit under this section must file an affidavit that:

- (1) is signed by a physician licensed in Indiana;
- (2) includes the license number of the signing physician;
- (3) attests that the physician will monitor the work of the physician holding the temporary medical permit; and
- (4) is notarized.

The affidavit must be filed with the service bureau before the person holding the temporary medical permit may provide medical services.

(j) This section expires July 1, 2008.

SECTION 14. P.L.107-2002, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 36. (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning.

(b) The office shall develop a federal Medicaid waiver application under which a prescription drug program may be established or

implemented to provide access to prescription drugs for low-income senior citizens.

(c) Before the office may submit an application for a federal Medicaid waiver that will have an effect on the Indiana prescription drug program established under IC 12-10-16, the following must occur:

- (1) The office shall submit the proposed Medicaid waiver to the prescription drug advisory committee established under this act.
- (2) The prescription drug advisory committee must review, allow public comment, and approve the proposed Medicaid waiver.

(d) A prescription drug program established or implemented by the office or a contractor of the office under this SECTION may **only not** limit access to prescription drugs for prescription drug program recipients, **except under the following circumstances:**

(1) Access may be limited to the extent that restrictions **are were** in place in the Medicaid program on **the date of enactment of this act: March 26, 2002.**

(2) Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c), access may be limited to:

(A) prevent the following:

(i) Fraud.

(ii) Abuse.

(iii) Waste.

(iv) Overutilization of prescription drugs.

(v) Inappropriate utilization of prescription drugs; or

(B) implement a disease management program.

IC 12-15-35.5-7 applies to a limit implemented under this subdivision.

(e) Changes to a prescription drug program that:

- (1) is established or implemented by the office or a contractor of the office under this SECTION; and
- (2) uses money from the Indiana prescription drug account established under IC 4-12-8-2;

must be approved by the prescription drug advisory committee established under this act.

(f) Before July 1, 2002, the office shall apply to the United States Department of Health and Human Services for approval of any waiver necessary under the federal Medicaid program to provide access to prescription drugs for low income senior citizens.

(g) A Medicaid waiver developed under this SECTION must limit a prescription drug program's state expenditures to funding appropriated to the Indiana prescription drug account established under IC 4-12-8-2 from the Indiana tobacco master settlement agreement fund.

(h) The office may not implement a waiver under this SECTION until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(i) If the office receives a waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection ~~(f)~~, **(h)**, the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

SECTION 15. An emergency is declared for this act.

P.L.185-2003

[H.1519. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 4-33-13-5, AS AMENDED BY P.L.192-2002(ss), SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

- (1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (d).
- (2) Subject to subsection (b), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be

paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

- (i) a city described in IC 4-33-12-6(b)(1)(A); or
- (ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);

(B) in equal shares to the counties described in IC 4-33-1-1(3), in the case of a riverboat whose home dock is on Patoka Lake; or

(C) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A) or a county described in clause (B).

(3) Subject to subsection (c), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund.

(b) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

- (1) exceeds a particular city or county's base year revenue; and
- (2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(c) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars (\$250,000,000):

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.
- (3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(d) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. **Except as provided in subsection (g), the county treasurer auditor shall distribute the money received by the county under this subsection as follows:**

- (1) To each city located in the county according to the ratio the city's population bears to the total population of the county.
- (2) To each town located in the county according to the ratio the town's population bears to the total population of the county.
- (3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(e) Money received by a city, town, or county under subsection (d) **or (g) may be used only for any of the following purposes:**

- (1) To reduce the property tax levy of the city, town, or county for a particular year. A property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.
- (2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas **or debt repayment.**
- (3) To fund sewer and water projects, including storm water management projects. ~~or~~

(4) For police and fire pensions.

However, not more than twenty percent (20%) of the money received under subsection (d) may be used for the purpose described in subdivision (4).

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(f) Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

(g) This section applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (d) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

SECTION 2. [EFFECTIVE UPON PASSAGE] Subject to the appropriation requirements in IC 6-1.1 and any agreement entered into by a city, town, or county that commits the money for a

particular purpose, money received under IC 4-33-13-5(d) before, on, or after the effective date of this SECTION may be used after the effective date of this SECTION for any purpose authorized by IC 4-33-13-5, as amended by this act.

SECTION 3. An emergency is declared for this act.

P.L.186-2003

[H.1552. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 6-1.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Land may be classified as a forest plantation if it is cleared land which has growing on it a good stand of timber producing trees as that concept is understood by ~~competent foresters:~~ **a district forester or a professional forester.**

SECTION 2. IC 6-1.1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Land may be classified as native forest land if it ~~has never been plowed or cultivated~~ **and** contains at least forty (40) square feet of basal area per acre or at least ~~one thousand (1,000)~~ **four hundred (400)** timber producing trees, of any size, per acre.

SECTION 3. IC 6-1.1-6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) Open areas may exist within the confines of a parcel of land identified as a native forest or a forest plantation if the open areas do not exceed the lesser of five (5) acres or ten percent (10%) of the total area to be classified under this chapter and if the open areas contain any of the following:**

(1) Nonforest areas containing a good stand of vegetation capable of supporting wildlife that is conducive to wildlife

management. A good stand of vegetation must include a diverse stand of vegetation other than monotypic stands or tall fescue (*Festuca arundinacea*). However, the state forester may allow tall fescue to be used for erosion control.

(2) Nonforest wetland areas.

(3) A body of water that:

(A) is less than two (2) acres in size; or

(B) has an average depth less than four (4) feet.

A parcel may contain more than one (1) isolated body of water.

(b) A parcel may not be converted from native forest land or a forest plantation to a non-forest area without a special permit issued under section 17 of this chapter.

SECTION 4. IC 6-1.1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. For purposes of this chapter, the following types of trees are not considered timber producing trees: dogwoods (*Cornus*); water-beech (*Carpinus*); ironwood (*Ostrya*); red bud (*Cercis*); ~~sassafras; persimmon;~~ pawpaw; black haw; ~~willows (*Salix*);~~ pomaceous trees; ~~and~~ Christmas trees which are grown for commercial purposes; **and other trees listed by the state forester.**

SECTION 5. IC 6-1.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A parcel of land may not be classified as native forest land or a forest plantation unless it contains at least ten (10) **contiguous** acres. ~~but~~ The parcel may be of any shape ~~whatsoever. This section does not apply to land classified before July 26, 1967. but must be at least fifty (50) feet in width.~~

SECTION 6. IC 6-1.1-6-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) A landowner may file an application with the state forester under section 11 of this chapter to have classified as native forest land or a forest plantation a parcel of land that:

(1) consists of at least one (1) acre;

(2) meets the requirements of section 3 of this chapter; and

(3) is contiguous to a parcel of land owned by the landowner that is already classified as native forest land or a forest plantation.

(b) A parcel of land described in subsection (a) must be:

(1) described and platted under section 9 of this chapter; and

(2) assessed under section 10 of this chapter.

SECTION 7. IC 6-1.1-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A parcel of land may not be classified as native forest land or as a forest plantation if a dwelling or other building is situated on the parcel. ~~However, this section does not apply if the building is utilized by the landowner for the purpose of maintaining a sugar camp or operating a sawmill.~~

SECTION 8. IC 6-1.1-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. A parcel of land may not be classified as native forest land or as a forest plantation if it is grazed by a domestic animal. ~~However, this section does not apply to domestic fowl if they do not have a detrimental effect on timber production.~~ **animals or confined nondomesticated animals.**

SECTION 9. IC 6-1.1-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) A person who wishes to have a parcel of land classified as native forest land or as a forest plantation must have it ~~surveyed~~ **the parcel described** by a registered land surveyor. ~~The surveyor shall make the survey~~ **parcel must be described** by metes and bounds ~~or other professionally accepted practices and he shall~~ **must** locate the parcel with reference to ~~some~~ **an** established corner. In addition, the ~~surveyor shall~~ **description must** identify the parcel by section, township, range, and county references. The surveyor shall prepare plats of the parcel in ink, and ~~he~~ **the surveyor** shall prepare the plats on the scale, and in the number, prescribed by the department of natural resources.

(b) The registered land surveyor may use an aerial photograph in order to ~~obtain~~ **prepare** a description of the parcel. However, the surveyor's description must be accurate and it must meet the requirements specified in subsection (a) of this section. If an aerial photograph is used, that fact shall be noted on the application referred to in section 11 of this chapter.

SECTION 10. IC 6-1.1-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. ~~(a) A person who wishes to have a parcel of land classified as native forest land or as a forest plantation must have the land assessed by the county assessor of the county in which the land is located.~~

~~(b)~~ **(a)** The county assessor shall assess the land at its fair market value, including any mineral, stone, oil, or gas value it may have; but,

the county assessor shall not consider the standing timber on the land in making the assessment. In addition to assessing the specific parcel of land, the county assessor shall also assess, at its fair market value, all of the remaining land (exclusive of improvements) which is situated in the section in which the land proposed for classification lies and which is not within a city or town. In making these assessments, the county assessor shall value each quarter section separately and shall designate the assessment for each quarter section.

~~(c)~~ **(b)** If the assessment made by the county assessor is not satisfactory to the owner, ~~he~~ **the owner** may appeal the assessment to a board consisting of the assessor, auditor, and treasurer of the county in which the land proposed for classification is located. The decision of the board is final.

SECTION 11. IC 6-1.1-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. ~~(a)~~ A person who wishes to have a parcel of land classified as native forest land or as a forest plantation must file an application in duplicate with the state forester on the forms prescribed by the state forester. The application must include the following items:

- ~~(1)~~ **(1)** The plats referred to in section 9 of this chapter.
- ~~(2)~~ **(2)** The assessment required under section 10 of this chapter entered in ink by the county assessor.
- ~~(3)~~ **(3)** The signature of the owner, the registered land surveyor, **the state forester**, and the county assessor.

~~(b)~~ If an error or omission affecting the eligibility of the application is discovered by the state forester or county assessor, the state forester or county assessor shall promptly notify the applicant of the deficiency and allow the applicant to amend the application.

SECTION 12. IC 6-1.1-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. If in ~~his~~ **the state forester's** opinion an application filed under section 11 of this chapter and the land to be classified comply with the provisions of this chapter, the state forester shall approve the application. In addition, ~~he~~ **the state forester** shall notify the auditor ~~and the recorder~~ of the county in which the land is located that the application has been approved and ~~he shall~~ return one (1) approved application form to the applicant.

SECTION 13. IC 6-1.1-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. Land which is

classified under this chapter as native forest land or as a forest plantation shall be assessed at one dollar (~~(\$1.00)~~ **(\$1)**) per acre for general property taxation purposes.

SECTION 14. IC 6-1.1-6-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) The natural resources commission shall, by rule, establish minimum standards of good timber **and wildlife** management.

(b) The department of natural resources shall prescribe a ~~timber~~ management plan for each classified forest **parcel**.

(c) The management plan must be followed for the owner to be in compliance with this chapter.

SECTION 15. IC 6-1.1-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. ~~(a) The state forester may issue special permits for the establishment of small lake areas, wildlife food plots, or similar uses that have the primary purpose of wildlife production or fire protection. The state forester may also issue special permits for other purposes if the land use authorized by the permit is not inconsistent with this chapter. The maximum amount of land to be utilized in the manner authorized by a special permit may not exceed one (1) acre. the lesser of the following:~~

(1) Ten percent (10%) of the total acreage.

(2) Five (5) acres.

~~(b) The landowner shall record a special permit in the office of the recorder of the county in which the land is situated.~~

SECTION 16. IC 6-1.1-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The owner of a parcel of land which is classified as native forest land or as a forest plantation shall ~~mark post four (4) signs on the parcel. with four (4) signs.~~ The owner shall place the signs on the boundaries of, and on different sides of, the parcel at the points which are the most conspicuous to the public **or at the property corners**. The department of natural resources shall furnish the signs and shall designate the size and the wording of the signs.

SECTION 17. IC 6-1.1-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. At least once every five (5) years the state forester, or ~~his~~ **the state forester's** deputy, shall inspect each parcel of land which is classified as native forest land, or as a forest plantation. On each inspection trip the ~~state~~ forester, or ~~his~~

the state forester's deputy, shall, if possible, have the owner go over the parcel with him and shall point out to the owner any needed improvement. In addition, ~~he~~ **the state forester** shall give the owner a written report of the inspection and ~~his~~ **the state forester's** recommendations. A permanent record of each inspection shall be maintained in the office of the state forester.

SECTION 18. IC 6-1.1-6-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. If the owner of land which is classified as native forest land or as a forest plantation wishes to have the land withdrawn from the classification, ~~he~~ **the owner** shall have the county assessor of the county in which the land is situated assess the land. The county assessor shall ~~make the assessment in the manner prescribed in section 10(b) of this chapter.~~ **determine the taxes that are required under section 24 of this chapter.** The owner shall then file a withdrawal request in duplicate with the state forester on forms prescribed by the state forester. The state forester shall withdraw the land from the classification on receipt of the withdrawal forms.

SECTION 19. IC 6-1.1-6-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. The state forester shall withdraw land which is classified as native forest land or as a forest plantation from the classification if ~~he~~ **the state forester** finds that the provisions of this chapter are not being complied with and that the owner of the land refuses to make the changes necessary for compliance. If the state forester withdraws land under this section, ~~he~~ **the state forester** shall have the county assessor of the county in which the land is situated assess the land. The county assessor shall ~~make the assessment in the manner prescribed in section 10(b) of this chapter.~~ **determine the taxes that are required under section 24 of this chapter.** In addition, the state forester shall immediately notify the owner that the land has been withdrawn.

SECTION 20. IC 6-1.1-6-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. If an assessment made by a county assessor under section 20 or section 21 of this chapter is not satisfactory to the owner, ~~he~~ **the owner** may appeal the assessment in the manner prescribed in section ~~10(c)~~ **10(b)** of this chapter.

SECTION 21. IC 6-1.1-6-23 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. If land classified as native forest land or as a forest plantation is withdrawn from the classification, the state forester shall immediately notify the ~~recorder and the~~ auditor of the county in which the land is situated that the land has been withdrawn. In addition, when land is withdrawn, the owner of the land shall make a notation of the withdrawal in the records of the county recorder.

SECTION 22. IC 6-1.1-6-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) If land that is classified as native forest land or as a forest plantation is withdrawn from the classification, the owner shall pay an amount equal to the sum of:

- (1) the total property taxes that, if it were not for the classification, would have been assessed on the land during the period of classification or the ten (10) year period immediately preceding the date on which the land is withdrawn from the classification, whichever is lesser; plus
- (2) interest on the property taxes at the rate of ten percent (10%) **simple interest** per year.

(b) The liability imposed by this section is a lien upon the land withdrawn from the classification. When the amount is collected, it shall be paid into the county general fund. If the amount is not paid, it shall be treated in the same manner the delinquent taxes on real property are treated.

(c) The county auditor shall determine the tax owed under subsection (a) using the assessment required in section 10(a) of this chapter.

SECTION 23. IC 6-1.1-6-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. The expense of the ~~survey surveyor's plat~~ required by section 9 of this chapter shall be paid by the applicant. The expense of ~~an assessment which is required under this chapter a recording~~ shall be paid ~~from the county general fund of the county in which the parcel is located. For his services in making an assessment which is required under this chapter, the county assessor shall receive his necessary expenses:~~ **by the applicant.**

SECTION 24. IC 6-1.1-6.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. ~~For the purpose of property taxation certain~~ **This chapter applies to parcels a parcel of**

land ~~may be~~ classified as a windbreak and assessed as provided in this chapter **before July 1, 2003.**

SECTION 25. IC 6-1.1-6.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person who wishes to have a parcel of land **that is** classified as a windbreak **withdrawn from classification under section 15 of this chapter** must have the land assessed by the county assessor of the county in which the land is located.

(b) If the assessment made by the county assessor is not satisfactory to the owner, the owner may appeal the assessment to a board consisting of the assessor, auditor, and treasurer of the county in which the land ~~proposed for classification~~ is located. The decision of the board is final.

SECTION 26. IC 6-1.1-6.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) A landowner may file an application with the department of natural resources under section 5 of this chapter to have a parcel of land classified as a wildlife habitat if:

- (1) the parcel consists of at least one (1) acre;
- (2) the parcel is contiguous to a parcel of land owned by the landowner that is already classified as a wildlife habitat;
- (3) the parcel contains a good stand of vegetation that is capable of supporting wildlife species;
- (4) the parcel is conducive to wildlife management;
- (5) the parcel does not contain a dwelling or other usable building;
- (6) no part of the parcel lies within a licensed shooting preserve; and
- (7) the landowner enters into an agreement with the department of natural resources establishing standards of wildlife management for the parcel as that concept is understood by competent wildlife biologists.

(b) A parcel of land described in subsection (a) must be surveyed and platted under section 3 of this chapter.

SECTION 27. IC 14-8-2-16.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. "Automated point of sale

licensing system", for purposes of IC 14-22, has the meaning set forth in IC 14-22-12-7.5(a).

SECTION 28. IC 14-8-2-65 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 65. "Dealer" has the following meaning:

(1) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-2.

~~(2) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-2.~~

~~(3)~~ **(2)** For purposes of IC 14-24, **the term** means a person who grows or buys nursery stock for the purpose of reselling or reshipping the stock in Indiana.

SECTION 29. IC 14-8-2-87.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 87.7. "Farmland", for purposes of IC 14-22-11-1, has the meaning set forth in IC 14-22-11-1.**

SECTION 30. IC 14-8-2-107, AS AMENDED BY HEA1336-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

(5) For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

(6) For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

(7) For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

(8) For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

(9) For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

(10) For purposes of ~~IC 14-19-4~~, **IC 14-16-1**, the meaning set

forth in ~~IC 14-19-4-1~~. **IC 14-16-1-30.**

(11) For purposes of ~~IC 14-19-5~~, **IC 14-19-8**, the meaning set forth in ~~IC 14-19-5-1~~. **IC 14-19-8-1.**

(12) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

(13) For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.

(14) For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.

(15) For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.

(16) For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

(17) For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.

(18) For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.

(19) For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.

(20) For purposes of IC 14-23-8, the meaning set forth in IC 14-23-8-1.

(21) For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.

(22) For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.

(23) For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.

(24) For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.

(25) For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.

(26) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.

(27) For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.

(28) For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.

(29) For purposes of IC 14-33-21, the meaning set forth in

IC 14-33-21-1.

(30) For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.

(31) For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.

(32) For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 31. IC 14-8-2-188 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 188. "Operate" has the following meaning:

(1) For purposes of IC 14-15, the act of navigating, driving, steering, sailing, rowing, paddling, or otherwise moving or exercising physical control over the movement of a watercraft.

(2) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-4.

~~(3) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-3.~~

SECTION 32. IC 14-8-2-190 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 190. "Operator" has the following meaning:

(1) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-5.

~~(2) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-4.~~

~~(3)~~ **(2)** For purposes of IC 14-34, except IC 14-34-4-8 and IC 14-34-8-4, a person, partnership, limited liability company, or corporation engaged in coal mining who removes or intends to remove more than two hundred fifty (250) tons of coal from the earth by coal mining within twelve (12) consecutive months in one (1) location.

~~(4)~~ **(3)** For purposes of IC 14-34-4-8, the meaning set forth in IC 14-34-4-8.

~~(5)~~ **(4)** For purposes of IC 14-34-8-4, the meaning set forth in IC 14-34-8-4.

~~(6)~~ **(5)** For purposes of IC 14-36-1, the meaning set forth in IC 14-36-1-9.

~~(7)~~ **(6)** For purposes of IC 14-37, a person who:

(A) is issued a permit under IC 14-37; or

(B) is engaging in an activity for which a permit is required under IC 14-37.

SECTION 33. IC 14-8-2-195, AS AMENDED BY P.L.148-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 195. "Owner" has the following meaning:

(1) For purposes of IC 14-11-4, the meaning set forth in IC 14-11-4-2.

(2) For purposes of IC 14-15, a person who has the legal title to a watercraft.

(3) For purposes of IC 14-16-1, the meaning set forth in IC 14-16-1-6.

~~(4) For purposes of IC 14-16-2, the meaning set forth in IC 14-16-2-5.~~

~~(5)~~ (4) For purposes of IC 14-25-4, the meaning set forth in IC 14-25-4-4.

~~(6)~~ (5) For purposes of IC 14-27-7, the meaning set forth in IC 14-27-7-1.

~~(7)~~ (6) For purposes of IC 14-27-7.5, the meaning set forth in IC 14-27-7.5-4.

~~(8)~~ (7) For purposes of IC 14-36, the term includes the following:

(A) Owners in fee.

(B) Life tenants.

(C) Tenants for years.

(D) Holders of remainder of reversionary interests.

(E) Holders of leaseholds or easements.

(F) Holders of mineral rights.

~~(9)~~ (8) For purposes of IC 14-37, a person who has the right to drill into and produce from a pool and to appropriate the oil and gas produced from the pool for:

(A) the person or others; or

(B) the person and others.

~~(10)~~ (9) For the purposes of IC 14-22-10-2, the meaning set forth in IC 14-22-10-2(c).

SECTION 34. IC 14-10-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

(1) IC 14-9.

- (2) This article.
- (3) IC 14-11.
- (4) IC 14-12-2.
- (5) IC 14-14.
- (6) IC 14-17-3.
- (7) IC 14-18, except IC 14-18-6 and IC 14-18-8.
- (8) IC 14-19-1 ~~IC 14-19-4~~, and ~~IC 14-19-5~~. **IC 14-19-8.**
- (9) IC 14-20-1.
- (10) IC 14-21.
- (11) IC 14-22-3, IC 14-22-4, and IC 14-22-5.
- (12) IC 14-23-1.
- (13) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and IC 14-25-13.
- (14) IC 14-26.
- (15) IC 14-27.
- (16) IC 14-28.
- (17) IC 14-29.
- (18) IC 14-35-1, IC 14-35-2, and IC 14-35-3.

(b) A rule adopted under subsection (a) expires not later than one (1) year after the rule is accepted for filing by the secretary of state.

SECTION 35. IC 14-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. It is the general intent and purpose of the general assembly in enacting this chapter to promote:

- (1) safety for persons and property;
- (2) responsible enjoyment in and connected with the use and operation of off-road vehicles **and snowmobiles**; and
- (3) understanding consistent with the rights of all the citizens of Indiana.

SECTION 36. IC 14-16-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "dealer" means a person engaged in the commercial sale of off-road vehicles **or snowmobiles**.

SECTION 37. IC 14-16-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) As used in this chapter, "off-road vehicle" means a motor driven vehicle capable of cross country travel:

- (1) without benefit of a road; ~~or trail~~; and

- (2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.
- (b) The term includes the following:
- (1) A multi-wheel drive or low pressure tire vehicle.
 - (2) An amphibious machine.
 - (3) A ground effect air cushion vehicle.
 - (4) Other means of transportation deriving motive power from a source other than muscle or wind.
- (c) The term does not include the following:
- (1) A farm vehicle being used for farming.
 - (2) A vehicle used for military or law enforcement purposes.
 - (3) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function.
 - (4) A snowmobile.
 - (5) A registered aircraft.
 - (6) Any other vehicle properly registered by the bureau of motor vehicles.
 - (7) Any watercraft that is registered under Indiana statutes.
 - (8) A golf cart vehicle.

SECTION 38. IC 14-16-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. As used in this chapter, "operator" means an individual who:

- (1) operates; or
- (2) is in actual physical control of;

an off-road vehicle **or a snowmobile.**

SECTION 39. IC 14-16-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. As used in this chapter, "owner" means a person, other than a lienholder, who:

- (1) has the property in or title to; and
- (2) is entitled to the use or possession of;

an off-road vehicle **or a snowmobile.**

SECTION 40. IC 14-16-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. As used in this chapter, "vehicle" refers to an off-road vehicle **or a snowmobile.**

SECTION 41. IC 14-16-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as otherwise provided, ~~an off-road vehicle~~ **the following** may not be operated on public property unless registered:

(1) An off-road vehicle.

(2) A snowmobile.

(b) Except as provided under subsection (c), an off-road vehicle that is purchased after December 31, 2003, must be registered under this chapter.

(c) Registration is not required for the following vehicles:

(1) A vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(2) A vehicle being operated by a nonresident of Indiana as authorized under section 19 of this chapter.

(3) A vehicle being operated for purposes of testing or demonstration with temporary placement of numbers as set forth in section 16 of this chapter.

(4) A vehicle the operator of which has in the operator's possession a bill of sale from a dealer or private individual that includes the following:

(A) The purchaser's name and address.

(B) A date of purchase that is not more than thirty-one (31) days preceding the date that the operator is required to show the bill of sale.

(C) The make, model, and vehicle number of the vehicle provided by the manufacturer as required by section 13 of this chapter.

SECTION 42. IC 14-16-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The owner of each vehicle required to be registered under this chapter must do the following **every three (3) years:**

(1) File an application for registration with the department on forms provided by the department.

(2) Sign the application.

(3) If the off-road vehicle is purchased after December 31, 2003, include a copy of the bill of sale.

(4) Include a signed affidavit in which the applicant swears or affirms that the information set forth in the application by the applicant is correct.

(5) Pay a fee of six ~~thirty~~ dollars (~~\$6~~): (\$30**).**

(b) Upon receipt of an application in approved form, the department shall enter the application upon the department's records and issue to the applicant **the following:**

(1) A certificate of registration containing the following:

(+) (A) The number awarded to the vehicle.

(2) (B) The name and address of the owner.

(3) (C) Other information that the department considers necessary.

(2) Two (2) decals indicating the vehicle's registration number and the year in which the registration will expire that must be attached to the vehicle as provided in section 11.5 of this chapter.

(c) A certificate of registration must:

(1) be pocket size;

(2) accompany the vehicle; and

(3) be made available for inspection upon demand by a law enforcement officer.

SECTION 43. IC 14-16-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The revenues obtained under this chapter shall be ~~dedicated to the department for the following purposes:~~

(1) ~~Enforcement.~~

(2) Constructing and maintaining vehicle trails: deposited into the off-road vehicle and snowmobile fund under IC 14-16-1-30.

SECTION 44. IC 14-16-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. ~~(a) The owner of a vehicle who has been issued a certificate of registration for the vehicle shall paint on or attach in a permanent manner to each side of the forward half of the vehicle the identification number in block characters of good proportion; not less than three (3) inches in height; reading from left to right. The numbers must contrast with the background so as to be distinctly visible and legible.~~

~~(b) (a) The department may adopt rules for the size and placement of identification numbers registration decals upon vehicles. to which; because of structural design; the identification number cannot be attached as provided in this section.~~

~~(c) (b) Not earlier than ninety (90) days before the expiration date~~

of a certificate, a registration renewal decal or other device may be issued indicating that the certificate of registration is in full force and effect. The department shall adopt rules under IC 4-22-2 prescribing the display of the decal or other device.

~~(d)~~ (c) An initial certificate of registration and a renewal of a certificate awarded under this chapter expires three (3) years from the date of purchase of the certificate unless the certificate is canceled.

~~(e)~~ (d) The department may:

- (1) award a certificate of number directly; or
- (2) authorize a person to act as the department's agent for the awarding.

SECTION 45. IC 14-16-1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 11.5. (a) The owner of a vehicle shall attach the decals issued under section 9 of this chapter on the forward half of the vehicle. All decals shall be maintained in a legible condition and displayed only for the period for which the registration is valid.**

(b) If a registration decal is lost or destroyed, the owner may apply for a duplicate on forms provided by the department. An application submitted under this subsection must be accompanied by a fee established by the department for each decal. Upon receipt of a proper application and the required fee, the department shall issue a duplicate registration decal to the owner.

SECTION 46. IC 14-16-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The owner of a vehicle **required to be registered under this chapter** shall notify the department within fifteen (15) days if any of the following conditions exist:

- (1) The vehicle is destroyed or abandoned.
- (2) The vehicle is sold or an interest in the vehicle is transferred wholly or in part to another person.
- (3) The owner's address no longer conforms to the address appearing on the certificate of registration.

(b) The notice must consist of a surrender of the certificate of registration on which the proper information shall be noted on a place to be provided.

(c) If the surrender of the certificate is required because the vehicle

is destroyed or abandoned, the department shall cancel the certificate and enter that fact in the records. The number then may be reassigned.

(d) If the surrender is required because of a change of address on the part of the owner, the department shall record the new address. Upon payment of a fee of ~~one dollar (\$1)~~; **established by the department**, a certificate of registration bearing the new information shall be returned to the owner.

(e) The transferee of a vehicle registered under this chapter shall, within fifteen (15) days after acquiring the vehicle, make application to the department for transfer to the transferee of the certificate of registration issued to the vehicle. The transferee shall provide the transferee's name and address and the number of the vehicle and pay to the department a fee of ~~one dollar (\$1)~~; **established by the department**. Upon receipt of the application and fee, the department shall transfer the certificate of registration issued for the vehicle to the new owner. Unless the application is made and the fee paid within fifteen (15) days, the vehicle is considered to be without a certificate of registration and a person may not operate the vehicle until a certificate is issued.

SECTION 47. IC 14-16-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. If a certificate of registration is lost, mutilated, or illegible, the owner of the vehicle may obtain a duplicate of the certificate upon application and payment of a fee of ~~one dollar (\$1)~~; **established by the department**.

SECTION 48. IC 14-16-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A dealer or manufacturer may obtain certificates of registration for use in the testing or demonstrating of vehicles upon the following:

(1) Application to the department upon forms provided by the department.

(2) Payment of ~~ten dollars (\$10)~~ a fee **established by the department** for each of the first two (2) registration certificates. Additional certificates that the dealer requires may be issued at a cost of ~~five dollars (\$5) each~~; **for a fee established by the department**.

(b) An applicant may use a certificate issued under this section only in the testing or demonstrating of vehicles by temporary placement of the numbers on the vehicle being tested or demonstrated. A certificate

issued under this section may be used on only one (1) vehicle at any given time. The temporary placement of numbers must conform to the requirements of this chapter or rules adopted under this chapter.

(c) A certificate issued under this section is valid for three (3) years.

SECTION 49. IC 14-16-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. A county, city, or town may pass an ordinance regulating the operation of vehicles if the ordinance meets substantially the minimum requirements of this chapter. However, a county, city, or town may not adopt an ordinance that does any of the following:

- (1) Imposes a fee for a license.
- (2) Specifies accessory equipment to be carried on the vehicles.
- (3) Requires a vehicle operator to possess a driver's license issued under IC 9-24-11 while operating an off-road vehicle or snowmobile.**

SECTION 50. IC 14-16-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. **(a)** An individual shall not operate a vehicle under any of the following conditions:

- (1) At a rate of speed greater than is reasonable and proper having due regard for existing conditions **or in a manner that unnecessarily endangers the person or property of another.**
- (2) While:
 - (A) under the influence of intoxicating liquor; or
 - (B) unlawfully under the influence of a narcotic or other habit forming or dangerous depressant or stimulant drug.
- (3) During the hours from thirty (30) minutes after sunset to thirty (30) minutes before sunrise without displaying a lighted headlight and a lighted taillight.
- (4) In a forest nursery, a planting area, or public land posted or reasonably identified as an area of forest or plant reproduction and when growing stock may be damaged.
- (5) On the frozen surface of public waters within:
 - (A) one hundred (100) feet of an individual not in or upon a vehicle; or
 - (B) one hundred (100) feet of a fishing shanty or shelter; except at a speed of not more than five (5) miles per hour.
- (6) Unless the vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual

noise and annoying smoke.

(7) Within one hundred (100) feet of a dwelling between midnight and 6:00 a.m., except on the individual's own property or property under the individual's control or as an invited guest.

(8) On any property without the consent of the landowner or tenant.

(9) While transporting on or in the vehicle a firearm unless the firearm is:

(A) unloaded; and

(B) securely encased or equipped with and made inoperative by a manufactured keylocked trigger housing mechanism.

(10) On or across a cemetery or burial ground.

(11) Within one hundred (100) feet of a slide, ski, or skating area, except for the purpose of servicing the area.

(12) On a railroad track or railroad right-of-way, except railroad personnel in the performance of duties.

(13) In or upon a flowing river, stream, or creek, except for the purpose of crossing by the shortest possible route, unless the river, stream, or creek is of sufficient water depth to permit movement by flotation of the vehicle at all times.

(14) An individual shall not operate a vehicle while a bow is present in or on the vehicle if the nock of an arrow is in position on the string of the bow.

(b) Subsection (a)(9) does not apply to a person who is carrying a handgun if the person:

(1) has been issued an unlimited handgun license to carry a handgun under IC 35-47-2; or

(2) is not required to possess a license to carry a handgun under IC 35-47-2-2.

SECTION 51. IC 14-16-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) The operator of a vehicle involved in an accident resulting in ~~injuries~~ **serious bodily injury** to or death of an individual or property damage in an estimated amount of at least ~~one seven~~ **hundred fifty** dollars (~~\$100~~) (**\$750**) shall immediately, by the quickest means of communication, notify at least one (1) of the following:

(1) A state police officer or conservation officer.

(2) The sheriff's office of the county where the accident occurred.

- (3) The office of the police department of the municipality where the accident occurred.
- (b) The police agency receiving the notice shall do the following:
- (1) Complete a report of the accident on forms prescribed by the director.
 - (2) Forward the report to the director.

SECTION 52. IC 14-16-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) All law enforcement officers in Indiana ~~including every enforcement officer of the department~~, shall enforce this chapter.

(b) The attorney general and prosecuting attorneys have concurrent power to approve, file, and prosecute an affidavit charging a violation of this chapter.

SECTION 53. IC 14-16-1-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The department shall do the following:

- (1) Prescribe the form of accident reports and registration certificates and the form of application for the certificates.
- (2) Conduct a campaign of education with respect to safety in the operation of vehicles in connection with the use and enjoyment of the public and private land of Indiana and with respect to Indiana laws relating to vehicles.
- (3) Construct and maintain vehicle trails on public and private land consistent with the intent of this chapter.

(b) Notwithstanding any other law, the department may purchase land for off-road vehicle and snowmobile trails only from a willing seller of the land.

SECTION 54. IC 14-16-1-29, AS AMENDED BY P.L.158-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) **Except as provided in subsection (b)**, a person who violates ~~section 17, 23(2), or 24 of this chapter~~ commits a Class B misdemeanor:

~~(b) A person who violates section 8; 9; 11; 12; 13; 14; 18; 19; 20; 21; 23(1); 23(3); 23(4); 23(5); 23(6); 23(7); 23(8); 23(9); 23(10); 23(11); 23(12); 23(13); 23(14); or 27 of this chapter~~ commits a Class C infraction.

(b) A person who violates section 18, 23(1), 23(2), or 24 of this chapter commits a Class B misdemeanor.

SECTION 55. IC 14-16-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30. (a) As used in this section, "fund" refers to the off-road vehicle and snowmobile fund established by subsection (b).**

(b) The off-road vehicle and snowmobile fund is established. The fund shall be administered by the department.

(c) The fund consists of the revenues obtained under this chapter, appropriations, and donations. Money in the fund shall be used for the following purposes:

(1) Enforcement and administration of this chapter.

(2) Constructing and maintaining off-road vehicle trails.

(3) Constructing and maintaining snowmobile trails.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

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

SECTION 56. IC 14-19-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 8. State Parks and Reservoirs Special Revenue Fund

Sec. 1. As used in this chapter, "fund" refers to the state parks and reservoirs special revenue fund established by section 2 of this chapter.

Sec. 2. (a) The state parks and reservoirs special revenue fund is established.

(b) The fund shall be administered by the department.

Sec. 3. (a) The fund consists of the following:

(1) All revenues accruing to the department from the operation of the state parks.

(2) All revenues accruing to the department from the operation of reservoirs.

(3) Other sources as specified by law.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

Sec. 4. The money in the fund may be expended by the director exclusively for the operation of the state parks and reservoirs. The

director shall submit, in accordance with IC 4-12-1, a suggested budget for appropriations and expenditures from the fund. The director shall use money appropriated by the general assembly from the fund to the department in accordance with this chapter and the terms of the appropriation.

Sec. 5. Unencumbered parts of appropriations made for a state fiscal year from the fund revert to the fund at the end of that state fiscal year unless otherwise specified by statute. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 57. IC 14-22-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), the money in the fund shall be used for the following purposes:

- (1) Protecting and propagating game, fish, and birds in Indiana.
- (2) Paying the operational expenses of the following:
 - (A) The fish and wildlife division.
 - (B) The law enforcement division.

(3) Maintaining the automated point of sale licensing system implemented under IC 14-22-12-7.5. However, the amount that may be used under this subdivision during a fiscal year may not exceed the amount transferred on July 1 of that fiscal year under IC 14-22-4-6.

(b) Money in the fund that is attributable to money deposited under IC 33-19-7-5 shall be used to administer the following:

- (1) The turn in a poacher program established under IC 14-9-8-23.
- (2) The reward system established under the program.

SECTION 58. IC 14-22-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) On July 1 of each year:

- (1) all of the accumulated earnings in the fund; plus
- (2) two and one-half percent (2 1/2%) of the money in the fund, less the accumulated earnings;

shall be transferred to the fish and wildlife fund **to maintain the automated point of sale licensing system implemented under IC 14-22-12-7.5. Any unused part of the transfer under this subsection may be used for the other purposes specified in**

IC 14-22-3-5(a).

(b) The money in the fund may be used for no other purpose.

SECTION 59. IC 14-22-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A person may not:

- (1) fish, hunt, trap, or chase; ~~or~~
- (2) shoot with any kind of firearm **or archery equipment;**
- (3) search for or gather any plant life (defined as the members of the kingdoms Fungi and Plantae); or**
- (4) search for or gather any artifacts (as defined in IC 14-21-1-2);**

upon privately owned land without having the consent of the owner or tenant of the land.

SECTION 60. IC 14-22-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **As used in this section, "farmland" means agricultural land that is:**

- (1) devoted or best adaptable for the production of crops, fruits, timber, and the raising of livestock; or**
- (2) assessed as agricultural land for property tax purposes.**

(b) An individual may not take or chase, with or without dogs, a wild animal without having a license, except as follows:

(1) An individual who is a resident or nonresident of Indiana while participating in a field trial that has been sanctioned by the director is not required to possess a license while participating in the trial.

(2) Subject to subsection ~~(c)~~; **(d)**, an owner of farmland located in Indiana who is a resident or nonresident of Indiana and the spouse and children living with the owner may hunt, fish, and trap without a license on the land that the owner owns.

(3) A lessee of farmland who farms that land and is a resident of Indiana and the spouse and children living with the lessee may hunt, fish, and trap without a license on the leased land. This subdivision does not apply to land that is:

- (A) owned, leased, or controlled by; and
- (B) leased from;

the department.

(4) An individual who:

- (A) is less than thirteen (13) years of age;
- (B) does not possess a bow or firearm; and

(C) is accompanying an individual who:

- (i) is at least eighteen (18) years of age; and
- (ii) holds a valid license;

may chase a wild animal without having a license.

~~(b)~~ (c) The exceptions provided in this section do not apply to a commercial license issued under this article.

~~(c)~~ (d) The right of a nonresident who owns farmland in Indiana (and of the spouse and children who reside with the nonresident) to hunt, fish, and trap on the farmland without a license under subsection ~~(a)(2)~~ (b)(2) is subject to the following conditions:

(1) The nonresident may hunt, fish, and trap on the farmland without a license only if the state in which the nonresident resides allows residents of Indiana who own land in that state to hunt, fish, and trap on their land without a license.

(2) While hunting, fishing, or trapping on the farmland, the nonresident must keep proof that the nonresident owns the farmland (for example, a tax receipt identifying the nonresident as owner) in a place where the proof is readily accessible by the nonresident.

SECTION 61. IC 14-22-12-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7.5. (a) As used in this section, "automated point of sale licensing system" means a system designed to dispense hunting, fishing, and trapping licenses.**

(b) Before July 1, 2005, the department shall develop and implement an automated point of sale licensing system for use in Indiana for the sale of hunting, fishing, and trapping licenses to residents and nonresidents of Indiana.

(c) The department shall adopt rules under IC 4-22-2 to implement this section.

SECTION 62. IC 14-22-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8. (a) Except as provided in subsection (b),** Each license agent who is authorized to sell licenses under this article shall retain a seventy-five cent (\$0.75) service fee for each license sold.

(b) The subagents of the clerk of the circuit court are entitled to a fifty cent (\$0.50) service fee for each license sold. The remaining twenty-five cents (\$0.25) of the service fee shall be retained by the

clerk of the circuit court or the distributing agent who distributes licenses to the subagents:

SECTION 63. IC 14-22-12-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Each clerk of the circuit court or agent selling licenses under this article shall report to the director within five (5) days after the close of each quarter the following:

(1) The number of each respective kind of licenses sold during the preceding quarter.

(2) The serial numbers of the licenses.

(3) The number of unsold licenses of each kind remaining in the possession of the clerk or agent.

(b) At the time of making the report, the clerk or agent shall remit all money collected for the licenses.

(c) The clerk of the circuit court in each county shall retain as the property of the county the service fees provided by section 8 of this chapter from the sale of licenses sold by the clerk. The clerk shall pay the fees promptly into the county general fund as other fees are paid. ~~subject to section 12 of this chapter.~~

SECTION 64. IC 14-22-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Agents designated by the director and serving directly under the director's supervision must be bonded in the same manner and to the same effect as subagents. **execute a bond meeting the following requirements:**

(1) The bond is payable to the state in an amount:

(A) not less than five thousand dollars (\$5,000); but

(B) sufficient to cover the value of licenses distributed to the agent.

(2) The surety is approved by the director.

(3) The bond is conditioned on the proper selling of the licenses and proper accounting for all money due to the state.

(b) An agent's obligations under this section expire on the earlier of:

(1) the date on which the agent begins offering hunting, fishing, and trapping licenses for sale under an automated point of sale licensing system implemented under section 7.5 of this chapter; or

(2) July 1, 2005.

SECTION 65. IC 14-22-39-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A conservation officer may issue a summons for a violation committed within the view of the conservation officer. ~~if the defendant promises to appear by signing the summons~~

(b) A defendant who fails to appear as commanded by the summons ~~(1)~~ is in contempt of court. ~~and~~

~~(2) may be fined not more than twenty dollars (\$20):~~

(c) Upon a failure to appear, the court shall issue a warrant for the arrest of the defendant.

(d) This subsection applies to a warrant issued under subsection (c) for the arrest of a defendant who is an Indiana resident. If the warrant is not executed within thirty (30) days after issue, the court shall promptly forward the court copy of the summons to the bureau of motor vehicles indicating that the defendant failed to appear in court as ordered. The court shall then mark the case as failure to appear on the court's records.

(e) This subsection applies to a warrant issued under subsection (c) for the arrest of a defendant who is not an Indiana resident. If the warrant is not executed within thirty (30) days after issue, the court shall promptly forward the court copy of the summons to the bureau of motor vehicles. The bureau of motor vehicles shall notify the bureau of motor vehicles commission of the state of the nonresident defendant of the defendant's failure to appear and also of any action taken by the bureau of motor vehicles relative to the Indiana driving privileges of the defendant. The court shall then mark the case as failure to appear on the court's records.

(f) If the bureau of motor vehicles receives a copy of the summons or a summons for failure to appear in court, the bureau of motor vehicles shall suspend the driving privileges of the defendant until the defendant appears in court and the case has been disposed of. The order of suspension may be served upon the defendant by mailing the order by certified mail, return receipt requested, to the defendant at the last address shown for the defendant in the records of the bureau of motor vehicles. The order takes effect on the date the order is mailed.

(g) For nonresidents of Indiana, the order of suspension shall be mailed to the defendant at the address given to the arresting conservation officer by the defendant as shown by the signed

summons. The order takes effect on the date of mailing. A copy of the order shall also be sent to the bureau of motor vehicles of the state of the nonresident defendant. If:

(1) the defendant's failure to appear in court has been certified to the bureau of motor vehicles under this chapter; and

(2) the defendant subsequently appears in court to answer the charges against the defendant;

the court shall proceed to hear and determine the case in the same manner as other cases pending in the court. Upon final determination of the case, the court shall notify the bureau of motor vehicles of the determination upon forms prescribed by the bureau of motor vehicles. The notification shall be made by the court within ten (10) days after the final determination of the case, and the original copy of the summons must accompany the notification.

SECTION 66. IC 14-24-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The department shall collect the following fees:

(1) For each license issued to a dealer, ~~thirty fifty~~ dollars (~~\$30~~)-**(\$50)**. However, a certified nurseryman who has paid an inspection fee may obtain a dealer's license for ~~ten twenty~~ dollars (~~\$10~~)-**(\$20)**.

(2) For the inspection of a nursery, ~~twenty fifty~~ dollars (~~\$20~~)-**(\$50)** plus an additional fee of ~~one dollar and fifty cents~~ (~~\$1.50~~)-**three dollars (\$3)** for each acre of land containing nursery stock.

(~~3~~) ~~For the sale of a directory of persons licensed by the division to a person who is not licensed,~~ ~~three dollars~~ (~~\$3~~)-**three dollars (\$3)**.

(b) The fees collected under this section shall be deposited in the ~~state general entomology and plant pathology fund established by section 3 of this chapter.~~

SECTION 67. IC 14-24-10-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. The department shall publish on the Internet a directory of persons who have obtained nursery certificates and nursery dealer licenses from the division under IC 14-24-5 and IC 14-24-7.**

SECTION 68. IC 14-25-2-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) As used in this section, "fund" refers to the water resources development fund created by this section.

(b) The water resources development fund is created. Money paid to the state under a contract entered into under this chapter shall be deposited in the fund.

(c) The proceeds of the fund do not revert to the state general fund but constitute a revolving fund to be used exclusively for the purposes of this chapter.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from the investments shall be deposited in the fund.

(e) ~~The budget agency shall make fund allotments from the fund to the commission~~ **Money in the fund may be used** for any of the following purposes:

- (1) The development of new reservoirs.
- (2) The investigation, development, and improvement of existing reservoirs.
- (3) The acquisition of easements or purchase in fee simple of land and property to be used as reservoir sites.
- (4) The financing, construction, operation, and maintenance of reservoir impoundments or parts of impoundments for water supply storage and uses, either independently or in cooperation with any person.
- (5) The investigation of water resource availability, quality, and water supply needs.
- (6) Watershed protection.
- (7) River enhancement.
- (8) The preparation of a compilation and mapping of all community public water supplies under IC 14-25-7-13(d).

(9) The operation of the division of water.

(f) ~~The commission~~ **department** shall administer the fund.

SECTION 69. IC 14-26-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) Upon written application by the owner of land abutting a public freshwater lake and payment of a nonrefundable fee of ~~twenty-five~~ **one hundred** dollars (~~\$25~~); **(\$100)**, the department may issue a permit to:

- (1) change the shoreline; or
- (2) alter the bed;

of a public freshwater lake after investigating the merits of the application.

(b) As a condition precedent to granting a permit, an applicant must, in writing, do the following:

- (1) Acknowledge that all additional water area created is a part of the lake.
- (2) Dedicate the additional area to the general public use.

SECTION 70. IC 14-26-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) This section applies to impoundments of the Tippecanoe River that are formed by a dam or control structure owned and operated by a public utility for the generation of hydroelectric power. **However, this section does not restrict the department's ability to regulate the safety or maintenance of a dam or other control structure under IC 14-27-7.5.**

(b) As used in this section, "alterations to the shoreline" does not include the making of canals or inlets.

(c) As used in this section, "construction" includes the building of a pier.

(d) Notwithstanding any other law, the department may not regulate or interfere with alterations to the shoreline of or construction on the impoundments.

SECTION 71. IC 14-26-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) As used in this section, "water supply reservoir" means a body of water formed by a dam wholly owned and operated by a municipality or a public utility (as defined in IC 8-1-2-1) for the purpose of providing water utility service to the public. The term does not include the following:

- (1) Tributary streams that drain into the body of water.
- (2) Wetlands associated with those streams.

(b) Notwithstanding any other law, the department may not regulate the following activities conducted within the one hundred (100) year flood level of a water supply reservoir:

- (1) Sediment removal, dredging for the purpose of providing water supply storage, seawall construction, or the maintenance of water intake structures.

(2) Restoration or stabilization of the shoreline.

(c) This section does not restrict the department's ability to regulate the safety or maintenance of a dam or other control structure under ~~IC 14-27-7~~. **IC 14-27-7.5.**

SECTION 72. IC 14-27-7.5-9, AS AMENDED BY P.L.1-2003, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The owner of a high hazard structure shall:

(1) have a professional engineer licensed under IC 25-31 make ~~a technical~~ **an engineering** inspection of the high hazard structure ~~and prepare or revise the emergency action plan for the structure~~ at least one (1) time every two (2) years;

(2) submit a report of the inspection in a form approved by the department to the department. The report must include at least the following information:

(A) An evaluation of the structure's condition, spillway capacity, operational adequacy, and structural integrity.

(B) A determination of whether deficiencies exist that could lead to the failure of the structure, and recommendations for maintenance, repairs, and alterations to the structure to eliminate deficiencies, including a recommended schedule for necessary upgrades to the structure.

(b) If after an inspection under subsection (a) the licensed professional engineer who conducted the inspection determines that maintenance, repairs, or alterations to a high hazard structure are necessary to remedy deficiencies in the structure, the owner shall perform the recommended maintenance, repairs, or alterations.

(c) The department shall issue a notice of violation under section 11 of this chapter to the owner of a high hazard structure who fails to:

(1) have the structure inspected under subsection (a);

(2) perform recommended maintenance, repairs, or alterations to the structure under subsection (b); or

(3) biennially submit the inspection report prepared under subsection (a).

(d) The department may make ~~a technical~~ **an engineering** inspection of a high hazard structure to ensure compliance with this chapter.

SECTION 73. IC 14-27-7.5-10, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 10. (a) The department shall make a ~~technical~~ **an engineering** inspection of:

- (1) a significant hazard structure at least one (1) time every three (3) years; and
- (2) a low hazard structure at least one (1) time every five (5) years;

or at more frequent intervals if the exigencies of the case require.

(b) The department shall place in the files of the department a report of each inspection conducted under subsection (a).

(c) The department shall charge the following for engineering inspections:

- (1) For a significant hazard structure under subsection (a)(1), a fee of two hundred dollars (\$200).**
- (2) For a low hazard structure under subsection (a)(2), a fee of one hundred dollars (\$100).**

SECTION 74. IC 14-27-7.5-14, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The department and the department's agents, engineers, geologists, and other employees may, for purposes of determining the department's jurisdiction and performing the ~~technical~~ **engineering** inspections provided in sections 9 and 10 of this chapter, enter upon any land or water in Indiana without liability for trespass. The owner of a structure shall do the following:

- (1) Cooperate with the department and the department's agents, engineers, geologists, and other employees in the conduct of the inspections.
- (2) Facilitate access to the structure.
- (3) Furnish upon request the plans, specifications, operating and maintenance data, or other information that is pertinent to the structure.

SECTION 75. IC 14-28-1-22, AS AMENDED BY P.L.154-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) As used in subsection (b)(1) with respect to a stream, "total length" means the length of the stream, expressed in miles, from the confluence of the stream with the receiving stream to the upstream or headward extremity of the stream, as indicated by the solid or dashed, blue or purple line depicting the stream on the most current edition of the seven and one-half (7 1/2) minute topographic

quadrangle map published by the United States Geological Survey, measured along the meanders of the stream as depicted on the map.

(b) This section does not apply to the following:

- (1) A reconstruction or maintenance project (as defined in IC 36-9-27) on a stream or an open regulated drain if the total length of the stream or open drain is not more than ten (10) miles.
- (2) A construction or reconstruction project on a state or county highway bridge in a rural area that crosses a stream having an upstream drainage area of not more than fifty (50) square miles and the relocation of utility lines associated with the construction or reconstruction project if confined to an area not more than one hundred (100) feet from the limits of the highway construction right-of-way.
- (3) The performance of an activity described in subsection (c)(1) or (c)(2) by a surface coal mining operation that is operated under a permit issued under IC 14-34.
- (4) Any other activity that is determined by the commission, according to rules adopted under IC 4-22-2, to pose not more than a minimal threat to floodway areas.
- (5) An activity in a boundary river floodway to which section 26.5 of this chapter applies.

(c) A person who desires to:

- (1) erect, make, use, or maintain a structure, an obstruction, a deposit, or an excavation; or
- (2) suffer or permit a structure, an obstruction, a deposit, or an excavation to be erected, made, used, or maintained;

in or on a floodway must file with the director a verified written application for a permit accompanied by a nonrefundable fee of ~~fifty~~ **two hundred** dollars (~~\$50~~; **\$200**).

(d) The application for a permit must set forth the material facts together with plans and specifications for the structure, obstruction, deposit, or excavation.

(e) An applicant must receive a permit from the director for the work before beginning construction. The director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the structure, obstruction, deposit, or excavation will not do any of the following:

- (1) Adversely affect the efficiency of or unduly restrict the

capacity of the floodway.

(2) Constitute an unreasonable hazard to the safety of life or property.

(3) Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

(f) In deciding whether to issue a permit under this section, the director shall consider the cumulative effects of the structure, obstruction, deposit, or excavation. The director may incorporate in and make a part of an order of authorization conditions and restrictions that the director considers necessary for the purposes of this chapter.

(g) A permit issued under this section:

(1) is void if construction is not commenced within two (2) years after the issuance of the permit; and

(2) to:

(A) the Indiana department of transportation or a county highway department if there is any federal funding for the project; or

(B) an electric utility for the construction of a power generating facility;

is valid for five (5) years from the date of issuance and remains valid indefinitely if construction is commenced within five (5) years after the permit is issued.

(h) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);

that is affected.

(i) The permit holder shall post and maintain a permit issued under this section at the authorized site.

(j) For the purposes of this chapter, the lowest floor of a building, including a residence or abode, that is to be constructed or reconstructed in the one hundred (100) year floodplain of an area protected by a levee that is:

(1) inspected; and

(2) found to be in good or excellent condition;

by the United States Army Corps of Engineers shall not be lower than the one hundred (100) year frequency flood elevation plus one (1) foot.

SECTION 76. IC 14-31-3-8 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) To obtain a ginseng dealer's license, a person must do the following:

- (1) Apply to the department for the license in the manner prescribed by the department.
- (2) Pay a license fee of ~~twenty-five~~ **one hundred** dollars (~~\$25~~) **(\$100)** before August 15 of each year.

(b) A ginseng dealer's license expires annually on August 31.

SECTION 77. IC 14-37-4-6, AS AMENDED BY P.L.48-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A person must submit the following with an application for a permit:

- (1) A bond under IC 14-37-6.
- (2) A permit fee of ~~one two~~ **two hundred fifty** dollars (~~\$100~~) **(\$250)** payable to the department. **However, a person may apply for an expedited review of the application for a permit, except for a Class II or noncommercial well, by submitting a permit fee of seven hundred fifty dollars (\$750).**

(b) Permit fees collected under this section must be deposited in the oil and gas fund established by IC 6-8-1-27.

SECTION 78. IC 14-37-4-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14. To transfer the ownership of a permit for a well for oil or gas purposes, a person must submit the following:**

- (1) **A transfer fee of fifteen dollars (\$15) payable to the department for each well. However, if an applicant submits more than fifty (50) applications simultaneously, the transfer fee for each application in excess of fifty (50) is ten dollars (\$10).**
- (2) **The name and mailing address of the seller and buyer on a form prescribed by the commission.**

SECTION 79. IC 25-36.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The application fee or renewal fee for a registration certificate to operate as a timber buyer, is ~~eighty one hundred five~~ **dollars (\$80): (\$105)**. The fee for a certificate stating that a registration certificate has been issued and security filed is twenty dollars (\$20). All fees collected by the department accrue to the use of the department for its administrative

purposes.

SECTION 80. IC 25-36.5-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) An individual who acts as the agent of a timber buyer must have an agent's license and carry the agent's card that verifies the license.

(b) An agent's license may be granted only:

(1) to qualified individuals;

(2) at the written application of the timber buyer who the agent is to represent; and

(3) under that timber buyer's registration certificate.

(c) The application for an agent's license must contain the agent's full name, address, and other information as required by the department on forms supplied by the department. Each timber buyer is responsible for all of the agent's activities performed while acting under the timber buyer's registration certificate as they pertain to this chapter.

(d) An application fee of ~~five~~ **ten** dollars (~~\$5~~) (**\$10**) for each agent shall be charged for the license and agent's card. However, each timber buyer shall designate a qualified individual to be licensed as its principal agent at no additional charge.

(e) An agent's license may be revoked by the department under IC 4-21.5 if the agent does not comply with this section.

(f) An agent may have a license to represent only one (1) timber buyer; however, upon surrendering the agent's card and license under one (1) timber buyer, an individual may be licensed as an agent of another timber buyer.

(g) A timber buyer may not be licensed as an agent except as the principal agent of that timber buyer.

(h) A timber buyer may not effect or attempt to effect a purchase except through an agent.

(i) A timber buyer may terminate an agency relationship by notifying in writing the agent and the department. Termination of an agency relationship revokes the agent's license.

(j) A person who acts as an agent without a license commits a Class B misdemeanor.

SECTION 81. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 6-1.1-6-8; IC 6-1.1-6.2-4; IC 6-1.1-6.2-6; IC 6-1.1-6.2-7; IC 6-1.1-6.2-8; IC 14-16-2; IC 14-19-4; IC 14-19-5.

SECTION 82. THE FOLLOWING ARE REPEALED [EFFECTIVE

JULY 1, 2005]: IC 14-22-12-10; IC 14-22-12-12; IC 14-22-12-13.

SECTION 83. P.L.148-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: (a) As used in this SECTION, "department" refers to the department of natural resources.

(b) Notwithstanding IC 14-27-7.5-8, as added by this act, and IC 14-27-7, as amended by this act, the department may continue to issue permits for dams under ~~IC 14-27-7~~ **IC 14-28-1** until the rules concerning permitting under IC 14-27-7.5 become effective.

(c) Notwithstanding IC 14-27-7.5, as added by this act, a permit for a dam issued under ~~IC 14-27-7~~ **IC 14-28-1** remains valid until the expiration of the permit.

(d) This SECTION expires June 30, 2007.

SECTION 84. P.L.155-2002, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 13. (a) Notwithstanding IC 14-34-13-1 and IC 14-34-13-2, the following reclamation fee schedule applies with respect to coal mining operations for the period beginning April 1, 2002, and ending June 30, ~~2003~~: **2005**:

(1) All operators of surface coal mining operations subject to IC 14-34 shall pay to the department of natural resources for deposit in the natural resources reclamation division fund established by IC 14-34-14-2 a reclamation fee of five and five-tenths cents (\$0.055) per ton of coal produced.

(2) All operators of underground coal mining operations subject to IC 14-34 shall pay to the department of natural resources for deposit in the natural resources reclamation division fund established by IC 14-34-14-2 a reclamation fee of three cents (\$0.03) per ton of coal produced.

(b) After June 30, ~~2003~~: **2005**, the reclamation fees paid by coal mining operators are the amounts per ton specified in IC 14-34-13-1 and IC 14-34-13-2, as amended by this act.

(c) This SECTION expires January 1, ~~2004~~: **2006**.

SECTION 85. [EFFECTIVE JUNE 30, 2003] (a) **On July 1, 2003:**

(1) any money in the state parks special revenue fund under IC 14-19-4 before its repeal by this act; and

(2) any money in the reservoirs special revenue fund under IC 14-19-5 before its repeal by this act;

shall be transferred by the department of natural resources to the state parks and reservoirs special revenue fund established by IC 14-19-8-2, as added by this act.

(b) This SECTION expires July 2, 2003.

SECTION 86. [EFFECTIVE JULY 1, 2003] (a) A certificate of registration purchased under IC 14-16-2, before its repeal by this act, is valid for three (3) years after the date of purchase. A valid certificate of registration purchased under IC 16-14-2, before its repeal by this act, satisfies the requirements of IC 14-16-1, as amended by this act.

(b) This SECTION expires July 1, 2006.

SECTION 87. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 14-22-4-6, as amended by this act, on July 1, 2003, an amount not to exceed twenty-five percent (25%) of the money in the lifetime hunting, fishing, and trapping license trust fund established by IC 14-22-4-2 shall be transferred to the fish and wildlife fund established by IC 14-22-3-2 to develop and implement the automated point of sale licensing system under IC 14-22-12-7.5, as added by this act.

(b) This SECTION expires June 30, 2006.

SECTION 88. An emergency is declared for this act.

P.L.187-2003

[H.1553. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-1-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commissioner of labor is authorized and directed to do the following:

(1) To investigate and adopt rules under IC 4-22-2 prescribing what safety devices, safeguards, or other means of protection shall

be adopted for the prevention of accidents in every employment or place of employment, to determine what suitable devices, safeguards, or other means of protection for the prevention of industrial accidents or occupational diseases shall be adopted or followed in any or all employments or places of employment, and to adopt rules under IC 4-22-2 applicable to either employers or employees, or both, for the prevention of accidents and the prevention of industrial or occupational diseases.

(2) Whenever, in the judgment of the commissioner of labor, any place of employment is not being maintained in a sanitary manner or is being maintained in a manner detrimental to the health of the employees therein, to obtain any necessary technical or expert advice and assistance from the state department of health. The state department of health, upon the request of the commissioner of labor, shall furnish technical or expert advice and assistance to the commissioner and take the steps authorized or required by the health laws of the state.

(3) Annually forward the report received from the mining board under IC 22-10-1.5-5(a)(6) to the legislative council and request from the general assembly funding for necessary additional mine inspectors.

(4) Administer the mine safety fund established under IC 22-10-12-16.

SECTION 2. IC 22-10-1.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The board shall:

(1) execute and administer the laws of this state concerning coal mines;

(2) collect and diffuse information concerning the nature, causes, and prevention of mine accidents and the improvements of methods, conditions, and equipment of mines with special reference to health and safety and the conservation of mineral resources and the economic conditions respecting mining and the mining industry;

(3) promote the technical efficiency of all persons working in and about the mines of this state and to assist them to overcome the increasing difficulties of mining; ~~and~~

(4) submit any bills embodying legislation that the board may agree upon to the general assembly;

(5) assess and collect from underground coal mine operators the amount necessary to purchase and maintain underground mine rescue equipment for the bureau of mines and mine safety created under IC 22-1-1-4 and deposit the assessment in the mine safety fund established under IC 22-10-12-16; and (6) annually report to the commissioner of the department of labor concerning any need for additional mine inspectors.

(b) The board shall mail written notice to underground coal mine operators of a meeting of the board at which assessments described in subsection (a)(5) are discussed.

SECTION 3. IC 22-10-12-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16. (a) The mine safety fund is established to provide funding for the purchase and maintenance of underground mine rescue equipment.**

(b) The department of labor shall administer the fund.

(c) The fund consists of:

- (1) assessments collected by the mining board under IC 22-10-1.5-5(a)(5) and deposited into the fund; and**
- (2) interest from investments as accrued and deposited under subsection (d).**

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accumulates from these investments shall be deposited into the fund.

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

P.L.188-2003

[H.1556. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning gaming.

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

SECTION 1. IC 4-21.5-2-4, AS AMENDED BY HEA 1814-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **Except as provided in subsection (c)**, this article does not apply to any of the following agencies:

- (1) The governor.
- (2) The state board of accounts.
- (3) The state educational institutions (as defined by IC 20-12-0.5-1).
- (4) The department of workforce development.
- (5) The unemployment insurance review board of the department of workforce development.
- (6) The worker's compensation board of Indiana.
- (7) The military officers or boards.
- (8) The Indiana utility regulatory commission.
- (9) The department of state revenue (excluding an agency action related to the licensure of private employment agencies).
- (10) The department of local government finance.

(b) This article does not apply to action related to railroad rate and tariff regulation by the Indiana department of transportation.

(c) This article applies to a protest or hearing related to the regulation of charity gaming under IC 4-32 by the department of state revenue.

SECTION 2. IC 4-32-6-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.5. "Marketing sheet" means additional information published about a wagering game that describes winnings.**

SECTION 3. IC 4-32-8-5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 5. IC 4-21.5 applies to protests and hearings under this article.**

SECTION 4. IC 4-32-9-35 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 35. If an employee or officer of a manufacturer or distributor is a member of a bona fide civic or bona fide religious organization that holds a charity gaming license, the employee's or officer's membership in the organization may not be construed as an affiliation with the organization's charity gaming operations.**

SECTION 5. IC 4-32-9-36 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 36. An advertisement for an allowable event in radio broadcast media must announce, within the advertisement, the name of the qualified organization conducting the allowable event and that the qualified organization's license number is on file.**

SECTION 6. IC 4-32-13-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 6. A marketing sheet published in connection with a wagering game must be maintained for the lesser of:**

- (1) six (6) years after the year in which the marketing sheet was published; or**
- (2) the end of an audit in which the marketing sheet and similar records are audited.**

SECTION 7. IC 4-32-13-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 7. (a) This section applies only to products sold in Indiana.**

(b) If a licensed manufacturer or distributor destroys, discontinues, or otherwise renders unusable:

- (1) bingo supplies;**
- (2) punchboards; or**
- (3) tip boards;**

the manufacturer or distributor must provide the department with a written list of the items destroyed, discontinued, or rendered otherwise unusable.

(c) The list required under subsection (b) must contain the following information concerning the items destroyed, discontinued, or rendered otherwise unusable:

(1) The quantity.

(2) A description.

(3) The serial numbers.

(4) The date the items were destroyed, discontinued, or rendered otherwise unusable.

(d) Notwithstanding subsection (b), this section does not apply to a product considered defective by the manufacturer or distributor.

SECTION 8. IC 4-32-13-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 8. Records of a manufacturer or distributor must be produced upon request by the department or its representative within seventy-two (72) hours or by another mutually agreed upon time if production of the requested documents within seventy-two (72) hours is impractical or burdensome.**

SECTION 9. IC 4-32-13-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 9. A manufacturer or distributor of supplies, devices, or equipment described in IC 4-32-7-4(a) to be used in charity gaming in Indiana must file a quarterly report listing the manufacturer's or distributor's sales of the supplies, devices, and equipment.**

SECTION 10. IC 4-32-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. An excise tax is imposed on the distribution of pull tabs, punchboards, and tip boards in the amount of ten percent (10%) of the wholesale price for paid by the qualified organization that purchases the pull tabs, punchboards, and tip boards.**

SECTION 11. IC 4-32-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. A licensed entity supplying distributing pull tabs, punchboards, or tip boards under this article is liable for the tax. The tax is imposed at the time the licensed entity:**

(1) brings or causes the pull tabs, punchboards, or tip boards to be brought into Indiana for distribution;

(2) manufactures distributes pull tabs, punchboards, or tip boards in Indiana; for distribution; or

(3) transports pull tabs, punchboards, or tip boards to qualified

organizations in Indiana for resale by those qualified organizations.

SECTION 12. IC 4-33-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:
 Sec. 22. (a) The commission shall file a written annual report with the governor before ~~March~~ **September** 1 of each year. The commission shall file any additional reports that the governor requests.

(b) The annual report filed under this section must include a statement describing the following:

- (1) The receipts and disbursements of the commission.
- (2) Actions taken by the commission.
- (3) Any additional information and recommendations that:
 - (A) the commission considers useful; or
 - (B) the governor requests.

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 4-21.5-2-4, this SECTION applies instead of IC 4-21.5-2-4. Except as provided in subsection (c), this article does not apply to any of the following agencies:**

- (1) The governor.**
- (2) The state board of accounts.**
- (3) The state educational institutions (as defined by IC 20-12-0.5-1).**
- (4) The department of workforce development.**
- (5) The unemployment insurance review board of the department of workforce development.**
- (6) The worker's compensation board.**
- (7) The military officers or boards.**
- (8) The Indiana utility regulatory commission.**
- (9) The department of state revenue (excluding an agency action related to the licensure of private employment agencies).**

(b) This article does not apply to action related to railroad rate and tariff regulation by the Indiana department of transportation.

(c) This article applies to a protest or hearing related to the regulation of charity gaming under IC 4-32 by the department of state revenue.

(d) This SECTION expires July 1, 2003.

SECTION 14. **An emergency is declared for this act.**

P.L.189-2003
[H.1558. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-4-11-1, AS AMENDED BY P.L.290-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) For the purpose of charging employers' experience or reimbursable accounts with regular benefits paid subsequent to July 3, 1971, to any eligible individual but except as provided in IC 22-4-22 and subsection (f), such benefits paid shall be charged proportionately against the experience or reimbursable accounts of ~~his~~ **the individual's** employers in ~~his~~ **the individual's** base period (on the basis of total wage credits established in such base period) against whose accounts the maximum charges specified in this section shall not have been previously made. Such charges shall be made in the inverse chronological order in which the wage credits of such individuals were established. However, when an individual's claim has been computed for the purpose of determining ~~his~~ **the individual's** regular benefit rights, maximum regular benefit amount, and the proportion of such maximum amount to be charged to the experience or reimbursable accounts of respective chargeable employers in the base period, the experience or reimbursable account of any employer charged with regular benefits paid shall not be credited or recredited with any portion of such maximum amount because of any portion of such individual's wage credits remaining uncharged at the expiration of ~~his~~ **the individual's** benefit period. The maximum so charged against the account of any employer shall not exceed twenty-eight percent (28%) of the total wage credits of such individual with each such employer with which wage credits were established during such individual's base period. Benefits paid under

provisions of IC 22-4-22-3 in excess of the amount that the claimant would have been monetarily eligible for under other provisions of this article shall be paid from the fund and not charged to the experience account of any employer. ~~however,~~ This exception shall not apply to those employers electing to make payments in lieu of contributions who shall be charged for all benefit payments which are attributable to service in their employ. Irrespective of the twenty-eight percent (28%) maximum limitation provided for in this section, any extended benefits paid to an eligible individual based on service with a governmental entity of this state or its political subdivisions shall be charged to the experience or reimbursable accounts of the employers, and fifty percent (50%) of any extended benefits paid to an eligible individual shall be charged to the experience or reimbursable accounts of ~~his~~ **the individual's** employers in ~~his~~ **the individual's** base period, other than governmental entities of this state or its political subdivisions, in the same proportion and sequence as are provided in this section for regular benefits paid. Additional benefits paid under IC 22-4-12-4(c) **and benefits paid under IC 22-4-15-1(c)(8)** shall:

- (1) be paid from the fund; and
- (2) not be charged to the experience account or the reimbursable account of any employer.

(b) If the aggregate of wages paid to an individual by two (2) or more employers during the same calendar quarter exceeds the maximum wage credits (as defined in IC 22-4-4-3) then the experience or reimbursable account of each such employer shall be charged in the ratio which the amount of wage credits from such employer bears to the total amount of wage credits during the base period.

(c) When wage records show that an individual has been employed by two (2) or more employers during the same calendar quarter of the base period but do not indicate both that such employment was consecutive and the order of sequence thereof, then and in such cases it shall be deemed that the employer with whom the individual established a plurality of wage credits in such calendar quarter is the most recent employer in such quarter and its experience or reimbursable account shall be first charged with benefits paid to such individual. The experience or reimbursable account of the employer with whom the next highest amount of wage credits were established shall be charged secondly and the experience or reimbursable accounts

of other employers during such quarters, if any, shall likewise be charged in order according to plurality of wage credits established by such individual.

(d) Except as provided in subsection (f), if an individual:

(1) voluntarily leaves an employer without good cause in connection with the work; or

(2) is discharged from an employer for just cause;

wage credits earned with the employer from whom the employee has separated under these conditions shall be used to compute the claimant's eligibility for benefits, but charges based on such wage credits shall be paid from the fund and not charged to the experience account of any employer. However, this exception shall not apply to those employers who elect to make payments in lieu of contributions, who shall be charged for all benefit payments which are attributable to service in their employ.

(e) Any nonprofit organization which elects to make payments in lieu of contributions into the unemployment compensation fund as provided in this article is not liable to make the payments with respect to the benefits paid to any individual whose base period wages include wages for previously uncovered services as defined in IC 22-4-4-4, nor is the experience account of any other employer liable for charges for benefits paid the individual to the extent that the unemployment compensation fund is reimbursed for these benefits pursuant to Section 121 of P.L.94-566. Payments which otherwise would have been chargeable to the reimbursable or contributing employers shall be charged to the fund.

(f) If an individual:

(1) earns wages during ~~his~~ **the individual's** base period through employment with two (2) or more employers concurrently;

(2) is separated from work by one (1) of the employers for reasons that would not result in disqualification under IC 22-4-15-1; and

(3) continues to work for one (1) or more of the other employers after the end of the base period and continues to work during the applicable benefit year on substantially the same basis as during the base period;

wage credits earned with the base period employers shall be used to compute the claimant's eligibility for benefits, but charges based on the wage credits from the employer who continues to employ the individual

shall be charged to the experience or reimbursable account of the separating employer.

(g) Subsection (f) does not affect the eligibility of a claimant who otherwise qualifies for benefits nor the computation of his benefits.

(h) Unemployment benefits paid shall not be charged to the experience account of a base period employer when the claimant's unemployment from the employer was a direct result of the condemnation of property by a municipal corporation (as defined in IC 36-1-2-10), the state, or the federal government, a fire, a flood, or an act of nature, when at least fifty percent (50%) of the employer's employees, including the claimant, became unemployed as a result. This exception does not apply when the unemployment was an intentional result of the employer or a person acting on behalf of the employer.

SECTION 2. IC 22-4-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This section does not apply to an individual who is receiving benefits as determined under IC 22-4-15-1(c)(8).**

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

- (1) is physically and mentally able to work;
- (2) is available for work;
- (3) is found by the department to be making an effort to secure full-time work; and
- (4) participates in reemployment services, such as job search assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the commissioner, unless the commissioner determines that:
 - (A) the individual has completed the reemployment services; or
 - (B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the board through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. However, if an

otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

~~(b)~~ (c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment; or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and ~~holds himself is~~ available for suitable full-time work with the individual's last employer, or ~~holds himself is~~ available for any other full-time employment deemed suitable.

~~(e)~~ (d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions

of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The board shall by rule prescribe the conditions under which approval of such training will be granted.

SECTION 3. IC 22-4-15-1, AS AMENDED BY P.L.290-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work

but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade

Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

- (A) the employment was outside the individual's labor market;
- (B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and
- (C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article under IC 5-26.5.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer;
- (3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

- (1) A report of a law enforcement agency (as defined in IC 5-2-5-1).**
- (2) A protection order issued under IC 34-26-5.**
- (3) A foreign protection order (as defined in IC 34-6-2-48.5).**
- (4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.**

SECTION 4. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;
- (2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

- (1) the degree of risk involved to such individual's health, safety, and morals;
- (2) the individual's physical fitness and prior training and experience;
- (3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and
- (4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work

unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. **For an individual who is not disqualified under section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of domestic or family violence.**

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.
- (2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.
- (3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.
- (4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:
 - (A) the individual's average weekly benefit amount for the

individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 5. IC 22-4-17-2, AS AMENDED BY P.L.290-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of ~~his~~ **the individual's** status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished ~~him~~ **the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within twenty (20) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits

shall be paid or denied in accordance therewith.

(b) **Except as provided in subsection (i)**, the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within twenty (20) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within twenty (20) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such

determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within twenty (20) days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within twenty-five (25) days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) No person may participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(i) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer that a claim for benefits has been made.

SECTION 6. IC 22-4-18-1, AS AMENDED BY P.L.290-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce development.

(b) The department of workforce development may:

(1) Administer the unemployment insurance program, the Wagner-Peyser program, the Workforce Investment Act, the Job Training Partnership Act program, including a free public labor exchange, and related federal and state employment and training programs as directed by the governor.

(2) Formulate and implement an employment and training plan as required by the Workforce Investment Act (29 U.S.C. 2801 et seq.), the Job Training Partnership Act (29 U.S.C. 1501 et seq.), and the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(3) Coordinate activities with all state agencies and departments that either provide employment and training related services or operate appropriate resources or facilities, to maximize Indiana's efforts to provide employment opportunities for economically disadvantaged individuals, dislocated workers, and others with substantial barriers to employment.

(4) Apply for, receive, disburse, allocate, and account for all funds, grants, gifts, and contributions of money, property, labor, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government.

(5) Enter into agreements with the United States government that may be required as a condition of obtaining federal funds related to activities of the department.

(6) Enter into contracts or agreements and cooperate with local

governmental units or corporations, including profit or nonprofit corporations, or combinations of units and corporations to carry out the duties of this agency imposed by this chapter, including contracts for the establishment and administration of employment and training offices and the delegation of its administrative, monitoring, and program responsibilities and duties set forth in this article. Before executing contracts described by this subdivision, the department shall give preferential consideration to using departmental personnel for the provision of services through local public employment and training offices. Contracting of Wagner-Peyser services is prohibited where state employees are laid off due to the diversion of Wagner-Peyser funds.

(7) Perform other services and activities that are specified in contracts for payments or reimbursement of the costs made with the Secretary of Labor or with any federal, state, or local public agency or administrative entity under the Workforce Investment Act (29 U.S.C. 2801 et seq.), the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or private nonprofit organization.

(8) Enter into contracts or agreements and cooperate with entities that provide vocational education to carry out the duties imposed by this chapter.

(c) The department of workforce development may not enter into contracts for the delivery of services to claimants or employers under the unemployment insurance program. The payment of unemployment compensation must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall distribute federal funds made available for employment training in accordance with:

(1) 29 U.S.C. 2801 et seq., 29 U.S.C. 1501 et seq., and other applicable federal laws; and

(2) the plan prepared by the department under subsection (g)(1).

However, the Indiana commission on vocational and technical

education within the department of workforce development shall distribute federal funds received under 29 U.S.C. 1533.

(g) In addition to the duties prescribed in subsections (a) through (f), the department of workforce development shall do the following:

(1) Implement to the best of its ability its employment training programs (as defined in IC 20-1-18.3-3), the comprehensive vocational education program in Indiana developed under the long range plan under IC 20-1-18.3-10, and the skills 2016 training program established under IC 22-4-10.5.

(2) Upon request of the budget director, prepare a legislative budget request for state and federal funds for employment training. The budget director shall determine the period to be covered by the budget request.

(3) Evaluate its programs according to criteria established by the Indiana commission on vocational and technical education within the department of workforce development under IC 20-1-18.3-13.

(4) Make or cause to be made studies of the needs for various types of programs that are related to employment training and authorized under the Workforce Investment Act and the Job Training Partnership Act.

(5) Distribute state funds made available for employment training that have been appropriated by the general assembly in accordance with:

(A) the general assembly appropriation; and

(B) the plan prepared by the department under subdivision (1).

(6) Establish, implement, and maintain a training program in the nature and dynamics of domestic and family violence for training of all employees of the department who interact with a claimant for benefits to determine whether the claim of the individual for unemployment benefits is valid and to determine that employment separations stemming from domestic or family violence are reliably screened, identified, and adjudicated and that victims of domestic or family violence are able to take advantage of the full range of job services provided by the department. The training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including using the staff of shelters for battered women in the

presentation of the training. The initial training shall consist of instruction of not less than six (6) hours. Refresher training shall be required annually and shall consist of instruction of not less than three (3) hours.

SECTION 7. IC 22-4-18-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) Before March 1 of each year, the department shall determine the number of claims filed, the number of individuals entitled to receive unemployment benefits under this article, and the amount of benefits charged to the fund for those individuals who qualified for benefits due to:**

- (1) discharge; or**
- (2) leaving employment;**

for circumstances resulting from domestic or family violence.

(b) The department shall submit its determination from the prior calendar year to the legislative council before June 30 of each year.

SECTION 8. IC 22-4-19-6, AS AMENDED BY P.L.290-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:**

- (1) open to inspection; and**
- (2) subject to being copied;**

by an authorized representative of the department at any reasonable time and as often as may be necessary. The commissioner, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in ~~subsection~~ subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax, the skills 2016 assessment under IC 22-4-10.5-3, or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The commissioner may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The commissioner may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the department of commerce only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the department of commerce in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the department of commerce and not inconsistent with those of the department.

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency only for aiding the employees of the budget agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The commissioner may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify

information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence is confidential. This information shall not be disclosed to the employer or any other person. Disclosure is subject to the following restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), ~~or~~ (e), **or (f)**; or

(2) of any governmental entity listed in subsection (d)(4) of this chapter who recklessly violates subsection (d)(4) of this chapter;

commits a Class B misdemeanor.

~~(g)~~ **(h) An employee of the department of commerce or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.**

SECTION 9. IC 31-9-2-42, AS AMENDED BY P.L.133-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 42. "Domestic or family violence" means, except for an act of self defense, the occurrence of one (1) or more of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member without legal justification.

(2) Placing a family or household member in fear of physical harm without legal justification.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress. For purposes of **IC 22-4-15-1 and IC 34-26-5**, domestic and family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4.

P.L.190-2003

[H.1573. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-3-7.5, AS AMENDED BY P.L.118-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

- (1) the member dies after March 31, 1990;
- (2) the member has:
 - (A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;
 - (B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or
 - (C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:
 - (i) was at least sixty-five (65) years of age; and
 - (ii) died in service in a position covered by the teachers' retirement fund; and
- (3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly

benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty (50) years of age; or
- (2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty (50) years of age; or
- (2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent is permanently and totally disabled (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent is no longer disabled (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse

or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, **unless the surviving spouse or dependent is also a designated beneficiary.**

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in

determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

- (1) the member's surviving designated beneficiary; or
- (2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

- (1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and
- (2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 2. IC 5-10.2-4-7, AS AMENDED BY P.L.246-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated

beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3. (C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

~~(D)~~ If:

(i) the designated beneficiary dies while the member is receiving benefits; or

(ii) the member is receiving benefits; the member marries; either for the first time or following the death of the member's spouse; after the member's first benefit payment is made; and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under this subsection and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. If the member's new election is the joint and survivor option; the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity

purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary receives a refund payment equal to:

- (A) the total amount used in computing the annuity at the retirement date; minus
- (B) the total annuity payments paid and due to the member before the member's death.

(c) A selection under subsection (b) may be made or revoked by the member on or before:

- (1) the retirement date selected under section 1 of this chapter; or
- (2) the date on which a retirement date is selected under section 1 of this chapter;

whichever is later.

(c) If:

- (1) the designated beneficiary dies while the member is receiving benefits; or
- (2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds (2/3) or one-half (1/2) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c), a member who files for regular or disability retirement may not change:

- (1) the member's retirement option under subsection (b);
- (2) the selection of a lump sum payment under section 2 of this

chapter; or

(3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(d) (e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 21-6.1-5-17.

SECTION 3. IC 5-10.2-5-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 33. (a) The pension portion (plus postretirement increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2003, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who retired or was disabled before January 1, 2003, shall be increased by two percent (2%).**

(b) The monthly amount of the increase described in subsection (a) payable to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) may not be less than five dollars (\$5).

(c) The increases specified in this section:

- (1) are based upon the date of the member's latest retirement or disability;**
- (2) do not apply to benefits payable in a lump sum; and**
- (3) are in addition to any other increase provided by law.**

SECTION 4. IC 5-10.2-5-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 34. (a) This section does not apply to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) whose creditable service was earned only as an elected official.**

(b) In addition to any other cost of living increase provided under this chapter, the pension portion (plus postretirement

increases to the pension portion) provided by employer contributions of the monthly benefit payable after December 31, 2003, to a member of the public employees' retirement fund (or to a survivor or beneficiary of a member of the public employees' retirement fund) who was a retired member of the fund with at least ten (10) years of creditable service and was entitled to receive a monthly benefit on December 1, 2003, may not be less than one hundred eighty dollars (\$180).

(c) The increases specified in this section:

(1) are based upon the date of the member's latest retirement or disability;

(2) do not apply to benefits payable in a lump sum; and

(3) are in addition to any other increase provided by law.

SECTION 5. IC 21-6.1-5-9, AS AMENDED BY P.L.195-1999, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The first pension benefit payment after retirement shall be made not more than ninety (90) days after the completion and filing of the member's application for retirement benefits.

(b) After the first pension benefit payment, each person entitled to benefits shall receive the retirement benefits in installments payable by the tenth day of each month.

(c) ~~The last retirement benefit payment must be prorated to terminate at the member's death.~~

SECTION 6. [EFFECTIVE JULY 1, 2003] **IC 21-6.1-5-9, as amended by this act, applies to retirement benefits payable by the Indiana state teachers' retirement fund after June 30, 2003.**

P.L.191-2003

[H.1622. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 5-11-4-3, AS AMENDED BY P.L.291-2001, SECTION 168, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The expense of examination and investigation of accounts shall be paid by each municipality or entity as provided in this chapter.

(b) The state examiner shall not certify more often than monthly to the auditor of each county the amount chargeable to each taxing unit within the county for the expense of its examinations as provided in this chapter. Immediately upon receipt of the certified statement, the county auditor shall issue a warrant on the county treasurer payable to the treasurer of state out of the general fund of the county for the amount stated in the certificate. The county auditor shall reimburse the county general fund, except for the expense of examination and investigation of county offices, out of the money due the taxing units at the next semiannual settlement of the collection of taxes.

(c) If the county to which a claim is made is not in possession or has not collected the funds due or to be due to any examined municipality, then the certificate must be filed with and the warrant shall be drawn by the officer of the municipality having authority to draw warrants upon its funds. The municipality shall pay the warrant immediately. The money, when received by the treasurer of state, shall be deposited in the state general fund.

(d) Except as otherwise provided in this chapter, each:

(1) taxing unit; and

(2) soil and water conservation district;

shall be charged at the rate of forty-five dollars (\$45) per day for each field examiner, private examiner, expert, or employee of the state board of accounts who is engaged in making examinations or investigations.

Except as provided in subsection (h), all **other** entities shall be charged the actual cost of performing the examination or investigation.

(e) The state examiner shall certify, not more often than monthly, to the proper disbursing officer the total amount of expense incurred for the examination of:

- (1) any unit of state government or entity that is required by law to bear the costs of its own examination and operating expense; or
- (2) any utility owned or operated by any municipality or any department of the municipality, if the utility is operated from revenues or receipts other than taxation.

Upon receipt of the state examiner's certificate the unit of state government, entity, or utility shall immediately pay to the treasurer of state the amount charged. The money, when received by the treasurer of state, shall be deposited in the state general fund.

(f) In addition to other charges provided in this chapter, the state examiner may charge a reasonable fee for typing and processing reports of examination in the same manner as other charges are made under this chapter.

(g) There is created a trust and agency fund in the hands of the state examiner to be used by him for the payment of the expense of typing reports of examination. Fees charged for typing reports of examination shall be deposited into the trust and agency fund.

(h) A municipality that contracts for services with a volunteer fire department may pay the cost of an examination or investigation of the volunteer fire department under this chapter.

(i) An audit of a county shall include, but not be limited to, an audit of that county's soil and water conservation district established under IC 14-32.

SECTION 2. IC 5-11-10-1.6, AS AMENDED BY P.L.68-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

- (1) A municipality (as defined in IC 36-1-2-11).
- (2) A school corporation (as defined in IC 36-1-2-17), including a school extracurricular account.
- (3) A county.
- (4) A regional water or sewer district organized under IC 13-26

or under IC 13-3-2 (before its repeal).

(5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.

(6) A board of an airport authority under IC 8-22-3.

(7) A board of aviation commissioners under IC 8-22-2.

(8) A conservancy district.

(9) A public transportation corporation under IC 36-9-4.

(10) A commuter transportation district under IC 8-5-15.

(11) The state.

(12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(13) A levee authority established under IC 14-27-6.

(14) A county building authority under IC 36-9-13.

(15) A soil and water conservation district established under IC 14-32.

(b) As used in this section, "claim" means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

(1) there is a fully itemized invoice or bill for the claim;

(2) the invoice or bill is approved by the officer or person receiving the goods and services;

(3) the invoice or bill is filed with the governmental entity's fiscal officer;

(4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and

(5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-10.1-25-3.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

P.L.192-2003

[H.1653. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning financial institutions.

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

SECTION 1. IC 26-1-9.1-102.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 102.5. As used in this chapter, "take free", "takes free", "takes the money free", and "takes the funds free", when used in conjunction with a security interest in collateral which is transferred, means that following the transfer the collateral is no longer encumbered by the security interest and the security interest is terminated with respect to the transferred collateral.**

SECTION 2. IC 28-1-11-2.5, AS AMENDED BY P.L.130-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) A bank or trust company may act as an agent for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in ~~Indiana under IC 27-1.~~ **any state in which the agent operates.**

(b) A bank or trust company that acts as an agent for the sale of a life insurance policy or an annuity contract **in Indiana:**

(1) is subject to all requirements of IC 27; and

(2) must comply with the disclosure requirements under IC 27-1-38.

(c) A bank or trust company may not condition:

(1) an extension of credit;

- (2) a lease or sale of real or personal property;
- (3) the performance of services; or
- (4) the amount charged for:
 - (A) extending credit;
 - (B) leasing or selling real or personal property; or
 - (C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the bank or trust company or an affiliate (as defined in IC 28-2-13-3) of the bank or trust company.

(d) This section does not prohibit a bank or trust company from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the bank or trust company.

SECTION 3. IC 28-1-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Except as otherwise provided in this article, the business of dealing in investment securities by any bank or trust company is limited to purchasing and selling securities without recourse, solely upon the order and for the account of customers and in no event for its own account. A bank or trust company may not underwrite or guarantee all or any part of any issue of securities other than obligations issued or guaranteed by or on behalf of the state or any political subdivision of the state or any agency or instrumentality of either. A bank or trust company may purchase for its own account and sell investment securities under such limitations and restrictions as the department prescribes by rule, but in no event may the total amount of the investment securities of any one (1) obligor or maker, purchased or held by a bank or trust company for its own account, exceed at any time ten percent (10%) of the amount of the total equity capital of the bank or trust company. The limitations imposed by this section do not apply to the direct or indirect obligations of the United States or the direct obligations of a United States territory or insular possession or of the state of Indiana or any municipal corporation or taxing district in Indiana. A bank or trust company may purchase for its own account and sell shares of stock in federal or state chartered small business investment companies that have received a permit or license to operate under the federal Small Business Investment Act (15 U.S.C. 681). However, a bank or trust company may not acquire shares in any small business investment company if,

upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed five percent (5%) of its total equity capital.

(b) A bank or trust company may purchase for its own account and sell:

- (1) shares of open-end investment companies the portfolios of which consist solely of securities that are eligible for purchase and sale by national banking associations; and
- (2) **collateralized** obligations ~~commonly known as collateralized mortgage obligations~~, that are eligible for purchase and sale by national banking associations. However, a bank or trust company may purchase for its own account and sell the obligations only to the extent that a national banking association can purchase and sell those obligations.

(c) A bank or trust company may deposit its funds in:

- (1) a federally chartered savings association; or
- (2) a savings association or other entity organized and operated according to federal law or the laws of any state or the District of Columbia;

the accounts of which are insured by the Saving Association Insurance Fund of the Federal Deposit Insurance Corporation.

(d) A bank or trust company may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this subsection, a security is speculative or has speculative characteristics if at the time of purchase the security:

- (1) is rated below the first four (4) rating classes by a generally recognized security rating service; or
- (2) is in default.

(e) A bank or trust company may purchase for its own account a security that is not rated by a generally recognized security rating service if the bank or trust company at the time of purchase obtains financial information that is adequate to document the investment quality of the security.

(f) Except as otherwise authorized by this title, a bank or trust company may not purchase any share of stock of a corporation that is not a subsidiary of that bank or trust company unless the purchase is

considered expedient to prevent loss from a debt previously contracted in good faith. Any shares of stock thus acquired by a bank or trust company that would not have been eligible for purchase shall be sold and disposed of within six (6) months from the date of acquisition unless the director grants an extension of time for the sale and disposition.

(g) Notwithstanding any other provision of this article, a bank or trust company may purchase for its own account shares of stock of a banker's bank insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation or a holding company that owns or controls a banker's bank insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation. For the purposes of this subsection, a "banker's bank" is a bank (as defined in IC 28-2-14-2):

- (1) the stock of which is owned exclusively by other banks (as defined in IC 28-2-14-2), or by a bank holding company the stock of which is owned exclusively by other banks (as defined in IC 28-2-14-2); and
- (2) that is engaged exclusively in providing services to other banks (as defined in IC 28-2-14-2), and to their officers, directors, and employees.

A bank's or trust company's holdings of the stock of an insured banker's bank or of a holding company that owns or controls an insured banker's bank may not exceed ten percent (10%) of the capital and surplus of the bank or trust company. A bank or trust company may not purchase the stock of an insured banker's bank or of a holding company that owns or controls an insured banker's bank if, after the purchase, the bank or trust company would own more than five percent (5%) of any class of voting securities of the banker's bank or holding company.

(h) Notwithstanding any other provision of this article, a bank or trust company may invest in a casualty insurance company organized solely for the purpose of insuring banks, trust companies, and bank holding companies and their officers and directors from and against liabilities, including those covered by bankers' blanket bonds and director and officer liability insurance and other public liability insurance. The investment must take the form of:

- (1) the purchase for the bank's or trust company's own account of shares of stock of the casualty insurance company or shares of stock of an association of banks organized for the purpose of

funding the casualty insurance company; or

(2) loans to such an association of banks.

The total investment of any bank or trust company under this subsection may not exceed five percent (5%) of the capital and surplus of the bank or trust company.

(i) Any bank or trust company may establish or acquire a subsidiary that engages in:

(1) the sale, distribution, or underwriting of securities issued by investment companies (as defined in Section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3); or

(2) the underwriting or distribution of securities backed by or representing an interest in mortgages.

(j) As used in this section, "total equity capital" means unimpaired capital stock, unimpaired surplus, unimpaired undivided profits, subordinated debt that has been approved by the state or federal regulatory agencies, and one hundred percent (100%) of loan reserves.

(k) The department may define an investment security by department policy or by rule.

(l) A bank or trust company may establish a trading account for the purchase and resale of securities that are otherwise eligible for purchase or resale by the bank or trust company. The trading account must comply with the requirements established by policy or rule of the department.

(m) A bank or trust company that purchases a security for its own account shall maintain sufficient records of the security to allow the security to be properly identified by the department for examination purposes.

SECTION 4. IC 28-1-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. ~~(a)~~ The department may require every bank and trust company to prepare, submit and publish as many statements of condition as may be deemed necessary, in any year, but not less than as many as are called for from and required to be published by the national banks by the comptroller of the currency of the United States; unless the comptroller of the currency shall call for more than two (2) such **four (4)** statements during any year. Such statements of condition shall be verified and shall be prepared and submitted according to the forms and pursuant to such notice and on such dates as the department may designate. ~~In addition~~

to such other information as the department, under its general rules and regulations; shall require banks and trust companies to submit in their statements of condition; the following items shall be exhibited in detail and under appropriate heads; and as of a day certain; specified by the department in its notice:

(1) The resources and liabilities of such bank or trust company; and; except as provided in item (2) of this subsection; excluding therefrom all other property held in trust:

(2) The uninvested funds held in any fiduciary capacity: Such uninvested funds shall be denominated "first lien trust funds."

(3) All shares of affiliated companies which are carried as assets:

(4) All loans to affiliated companies which are carried as assets:

(b) The items enumerated in subsections (2); (3) and (4) of this section shall be segregated from the statement of resources and liabilities of such bank or trust company under such appropriate title as will clearly designate their character and amount to the public:

SECTION 5. IC 28-6.1-6-22.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 22.5. (a) Except for interest at the legal rate on a loan or advancement, a savings bank may not, directly or indirectly, receive a profit or commission from the sale to or purchase from an estate, a guardianship, or a trust of which the savings bank is the fiduciary unless the profit or commission is authorized by agreement with the creator of the trust or a court with jurisdiction over the estate, guardianship, or trust.**

(b) A savings bank that receives a profit or commission in violation of subsection (a) shall be surcharged an amount equal to the profit or commission. In addition, a court with jurisdiction over the estate, guardianship, or trust may remove the savings bank as the fiduciary.

SECTION 6. IC 28-10-1-1, AS AMENDED BY P.L.82-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect January 1, ~~2002~~: **2003.**

SECTION 7. IC 28-13-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **Except as provided in subsection (c), every director must, during the director's**

whole term of service, be a citizen of the United States. A director must be at least eighteen (18) years of age. At least three-fifths (3/5) of the directors must reside in Indiana or within a distance of not to exceed fifty (50) miles of any office of the corporation of which the director is a director.

(b) The articles of incorporation or bylaws may prescribe other qualifications for directors. A director need not be a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

(c) The director of the department may waive the United States citizenship requirement set forth in subsection (a) for a particular corporation if the waiver would affect only a minority of the total number of directors of the corporation.

SECTION 8. IC 28-15-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. (a) Except for interest at the legal rate on a loan or advancement, a savings association may not, directly or indirectly, receive a profit or commission from the sale to or purchase from an estate, a guardianship, or a trust of which the savings association is the fiduciary unless the profit or commission is authorized by agreement with the creator of the trust or a court with jurisdiction over the estate, guardianship, or trust.**

(b) A savings association that receives a profit or commission in violation of subsection (a) shall be surcharged an amount equal to the profit or commission. In addition, a court with jurisdiction over the estate, guardianship, or trust may remove the savings association as the fiduciary.

SECTION 9. An emergency is declared for this act.

P.L.193-2003

[H.1749. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. Beginning May 1, 1997, the health policy advisory committee is established. At the request of the chairman, the health policy advisory committee shall provide information and otherwise assist the commission to perform the duties of the commission under this chapter. The health policy advisory committee members are ex officio and may not vote. The health policy advisory committee members shall be appointed from the general public and must include one (1) individual who represents each of the following:

- (1) The interests of public hospitals.
- (2) The interests of community mental health centers.
- (3) The interests of community health centers.
- (4) The interests of the long term care industry.
- (5) The interests of health care professionals licensed under IC 25, but not licensed under IC 25-22.5.
- (6) The interests of rural hospitals. An individual appointed under this subdivision must be licensed under IC 25-22.5.
- (7) The interests of health maintenance organizations (as defined in IC 27-13-1-19).
- (8) The interests of for-profit health care facilities (as defined in ~~IC 27-8-10-1(1)~~: **IC 27-8-10-1**).
- (9) A statewide consumer organization.
- (10) A statewide senior citizen organization.
- (11) A statewide organization representing people with disabilities.
- (12) Organized labor.
- (13) The interests of businesses that purchase health insurance policies.

(14) The interests of businesses that provide employee welfare benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.

(15) A minority community.

(16) The uninsured. An individual appointed under this subdivision must be and must have been chronically uninsured.

(17) An individual who is not associated with any organization, business, or profession represented in this subsection other than as a consumer.

SECTION 2. IC 12-15-35-28, AS AMENDED BY P.L.107-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year.

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies,

including the following:

- (A) The Indiana board of pharmacy.
 - (B) The medical licensing board of Indiana.
 - (C) The SURS staff.
- (7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.
- (8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:
- (A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.
 - (B) Potential or actual severe or adverse reactions to drugs.
 - (C) Therapeutic appropriateness.
 - (D) Overutilization or underutilization.
 - (E) Appropriate use of generic drugs.
 - (F) Therapeutic duplication.
 - (G) Drug-disease contraindications.
 - (H) Drug-drug interactions.
 - (I) Incorrect drug dosage and duration of drug treatment.
 - (J) Drug allergy interactions.
 - (K) Clinical abuse and misuse.
- (9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.
- (10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.
- (11) The research, development, and approval of a preferred drug list for:
- (A) Medicaid's fee for service program;
 - (B) Medicaid's primary care case management program; and
 - (C) the primary care case management component of the

children's health insurance program under IC 12-17.6; in consultation with the therapeutics committee.

(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.

(13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(14) The collection of data reflecting prescribing patterns related to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.

(15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:

(1) Use literature abstracting technology.

(2) Use commonly accepted guidance principles of disease management.

(3) Develop therapeutic classifications for the preferred drug list.

(4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.

(5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an

additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration and that is:

- (1) in a therapeutic classification:
 - (A) that has not been reviewed by the board; and
 - (B) for which prior authorization is not required; or
 - (2) the sole drug in a new therapeutic classification that has not been reviewed by the board.
- (f) The board may not exclude a drug from the preferred drug list based solely on price.

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):

- (1) The office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:
 - (A) To override a prospective drug utilization review alert.
 - (B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.
 - (C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.
 - (D) To permit implementation of a disease management program.
 - (E) To implement other initiatives permitted by state or federal law.
 - (2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.
 - (3) The office may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.
 - (4) The board may add a new single source drug that has been approved by the federal Food and Drug Administration to the preferred drug list.
- (h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:

- (1) The cost of administering the preferred drug list.
- (2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.
- (3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.
- (4) The number of times prior authorization was requested, and the number of times prior authorization was:
 - (A) approved; and
 - (B) disapproved.

(i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

SECTION 3. IC 27-8-10-1, AS AMENDED BY P.L.1-2001, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Association" means the Indiana comprehensive health insurance association established under section 2.1 of this chapter.

(c) "Association policy" means a policy issued by the association that provides coverage specified in section 3 of this chapter. The term does not include a Medicare supplement policy that is issued under section 9 of this chapter.

(d) "Carrier" means an insurer providing medical, hospital, or surgical expense incurred health insurance policies.

(e) "Church plan" means a plan defined in the federal Employee Retirement Income Security Act of 1974 under 26 U.S.C. 414(e).

(f) "Commissioner" refers to the insurance commissioner.

(g) "Creditable coverage" has the meaning set forth in the federal Health Insurance Portability and Accountability Act of 1996 (26 U.S.C. 9801(c)(1)).

(h) "Eligible expenses" means those charges for health care services and articles provided for in section 3 of this chapter.

(i) **"Federal income poverty level" has the meaning set forth in IC 12-15-2-1.**

(j) "Federally eligible individual" means an individual:

- (1) for whom, as of the date on which the individual seeks coverage under this chapter, the aggregate period of creditable

coverage is at least eighteen (18) months and whose most recent prior creditable coverage was under a:

- (A) group health plan;
- (B) governmental plan; or
- (C) church plan;

or health insurance coverage in connection with any of these plans;

(2) who is not eligible for coverage under:

- (A) a group health plan;
- (B) Part A or Part B of Title XVIII of the federal Social Security Act; or
- (C) a state plan under Title XIX of the federal Social Security Act (or any successor program);

and does not have other health insurance coverage;

(3) with respect to whom the individual's most recent coverage was not terminated for factors relating to nonpayment of premiums or fraud;

(4) who, if after being offered the option of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) (29 U.S.C. 1191b(d)(1)), or under a similar state program, elected such coverage; and

(5) who, if after electing continuation coverage described in subdivision (4), has exhausted continuation coverage under the provision or program.

~~(j)~~ **(k)** "Governmental plan" means a plan as defined under the federal Employee Retirement Income Security Act of 1974 (26 U.S.C. 414(d)) and any plan established or maintained for its employees by the United States government or by any agency or instrumentality of the United States government.

~~(k)~~ **(l)** "Group health plan" means an employee welfare benefit plan (as defined in 29 U.S.C. 1167(1)) to the extent that the plan provides medical care payments to, or on behalf of, employees or their dependents, as defined under the terms of the plan, directly or through insurance, reimbursement, or otherwise.

~~(h)~~ **(m)** "Health care facility" means any institution providing health care services that is licensed in this state, including institutions engaged principally in providing services for health maintenance organizations or for the diagnosis or treatment of human disease, pain,

injury, deformity, or physical condition, including a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, outpatient clinic, home health care agency, bioanalytical laboratory, or central services facility servicing one (1) or more such institutions.

~~(m)~~ **(n)** "Health care institutions" means skilled nursing facilities, home health agencies, and hospitals.

~~(n)~~ **(o)** "Health care provider" means any physician, hospital, pharmacist, or other person who is licensed in Indiana to furnish health care services.

~~(o)~~ **(p)** "Health care services" means any services or products included in the furnishing to any individual of medical care, dental care, or hospitalization, or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any other services or products for the purpose of preventing, alleviating, curing, or healing human illness or injury.

~~(p)~~ **(q)** "Health insurance" means hospital, surgical, and medical expense incurred policies, nonprofit service plan contracts, health maintenance organizations, limited service health maintenance organizations, and self-insured plans. However, the term "health insurance" does not include short term travel accident policies, accident only policies, fixed indemnity policies, automobile medical payment, or incidental coverage issued with or as a supplement to liability insurance.

~~(q)~~ **(r)** "Insured" means all individuals who are provided qualified comprehensive health insurance coverage under an individual policy, including all dependents and other insured persons, if any.

~~(r)~~ **(s)** "Medicaid" means medical assistance provided by the state under the Medicaid program under IC 12-15.

~~(s)~~ **(t)** "Medical care payment" means amounts paid for:

- (1) the diagnosis, care, mitigation, treatment, or prevention of disease or amounts paid for the purpose of affecting any structure or function of the body;
- (2) transportation primarily for and essential to Medicare services referred to in subdivision (1); and
- (3) insurance covering medical care referred to in subdivisions (1)

and (2).

(~~t~~) (**u**) "Medically necessary" means health care services that the association has determined:

- (1) are recommended by a legally qualified physician;
- (2) are commonly and customarily recognized throughout the physician's profession as appropriate in the treatment of the patient's diagnosed illness; and
- (3) are not primarily for the scholastic education or vocational training of the provider or patient.

(~~u~~) (**v**) "Medicare" means Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

(~~v~~) (**w**) "Policy" means a contract, policy, or plan of health insurance.

(~~w~~) (**x**) "Policy year" means a twelve (12) month period during which a policy provides coverage or obligates the carrier to provide health care services.

(~~x~~) (**y**) "Health maintenance organization" has the meaning set out in IC 27-13-1-19.

(~~y~~) (**z**) "**Resident**" means an individual who is:

- (1) **legally domiciled in Indiana for at least twelve (12) months before applying for an association policy; or**
- (2) **a federally eligible individual and legally domiciled in Indiana.**

(**aa**) "Self-insurer" means an employer who provides services, payment for, or reimbursement of any part of the cost of health care services other than payment of insurance premiums or subscriber charges to a carrier. However, the term "self-insurer" does not include an employer who is exempt from state insurance regulation by federal law, or an employer who is a political subdivision of the state of Indiana.

(~~z~~) (**bb**) "Services of a skilled nursing facility" means services that must commence within fourteen (14) days following a confinement of at least three (3) consecutive days in a hospital for the same condition.

(**aa**) (**cc**) "Skilled nursing facility", "home health agency", "hospital", and "home health services" have the meanings assigned to them in 42 U.S.C. 1395x.

(~~bb~~) (**dd**) "Medicare supplement policy" means an individual policy of accident and sickness insurance that is designed primarily as a

supplement to reimbursements under Medicare for the hospital, medical, and surgical expenses of individuals who are eligible for Medicare benefits.

~~(cc)~~ **(ee)** "Limited service health maintenance organization" has the meaning set forth in IC 27-13-34-4.

SECTION 4. IC 27-8-10-2.1, AS AMENDED BY P.L.192-2002(ss), SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of ~~seven (7)~~ **nine (9)** members whose principal residence is in Indiana selected as follows:

(1) ~~Three (3)~~ **Four (4)** members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

(4) One (1) member to be appointed by the commissioner must be a representative of health care providers.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with

the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

- (1) establish procedures for the handling and accounting of assets and money of the association;
- (2) establish the amount and method of reimbursing members of the board;
- (3) establish regular times and places for meetings of the board of directors;
- (4) establish procedures for records to be kept of all financial transactions, and for the annual fiscal reporting to the commissioner;
- (5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;
- (6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and
- (7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health insurance described in section 1 of this chapter and also has the specific authority to do the following:

- (1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.
- (2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.
- (3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.
- (4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.
- (5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.
- (6) Pool risks among members.
- (7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.
- (8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.
- (9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the

fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association. ~~and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.~~

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(f) The board shall obtain an actuarial recommendation for development of an equitable methodology for determination of member assessments.

(g) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may ~~not~~ be:

(1) not more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year for an insured whose family income is less than three hundred fifty-one percent (351%) of the federal income poverty level for the same size family; and

(2) an amount equal to:

(A) not less than one hundred fifty-one percent (151%); and

(B) not more than two hundred percent (200%);

of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year, for an insured whose family income is more than three hundred fifty percent (350%) of the federal income poverty level for the same size family.

In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits identical to those issued by the association. All rates adopted by the association must be submitted to the commissioner for approval.

~~(g)~~ **(h)** Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation. ~~For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided.~~ In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. **Except as provided in sections 12 and 13 of this chapter,** net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

~~(h)~~ (i) The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

~~(i)~~ (j) The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

~~(j)~~ (k) All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

~~(k)~~ (l) The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

~~(l)~~ The association shall pay an agent's referral fee of twenty-five dollars (\$25) to each insurance agent who refers an applicant to the association if that applicant is accepted.

(m) The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

(n) Members who after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

(o) The association shall provide for the option of monthly collection of premiums.

SECTION 5. IC 27-8-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) The association shall:**

(1) approve and implement chronic disease management and pharmaceutical management programs based on:

(A) an analysis of the highest cost health care services covered under association policies;

(B) a review of chronic disease management and pharmaceutical management programs used in populations similar to insureds; and

(C) a determination of the chronic disease management and pharmaceutical management programs expected to best improve health outcomes in a cost effective manner;

(2) consider recommendations of the drug utilization review board established by IC 12-15-35-19 concerning chronic disease management and pharmaceutical management programs;

(3) when practicable, coordinate programs adopted under this section with comparable programs implemented by the state; and

(4) implement a copayment structure for prescription drugs covered under an association policy.

(b) A program approved and implemented under this section may not require prior authorization for a prescription drug that is prescribed for the treatment of:

(1) human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) and is included on the AIDS drug assistance program formulary adopted by the state department of health under the federal Ryan White CARE Act (42 U.S.C. 300ff et seq.); or

(2) hemophilia according to recommendations of the:

(A) Advisory Committee on Blood Safety and Availability of the United States Department of Health and Human Services; or

(B) Medical and Scientific Advisory Council of the National Hemophilia Foundation.

(c) The copayment structure implemented under subsection (a)

must be based on an annual actuarial analysis.

(d) A disease management program for which federal funding is available is considered to be approved by the association under this section.

(e) An insured who has a chronic disease for which at least one (1) chronic disease management program is approved under this section shall participate in an approved chronic disease management program for the chronic disease as a condition of coverage of treatment for the chronic disease under an association policy.

SECTION 6. IC 27-8-10-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.6. (a) The association shall approve a mail order or Internet based pharmacy (as defined in IC 25-26-18-1) through which an insured may obtain prescription drugs covered under an association policy.**

(b) A prescription drug that is covered under an association policy is covered if the prescription drug is obtained from:

(1) a pharmacy approved under subsection (a); or

(2) a pharmacy that:

(A) is not approved under subsection (a); and

(B) agrees to sell the prescription drug at the same price as a pharmacy approved under subsection (a).

(c) A prescription drug that is:

(1) covered under an association policy; and

(2) obtained from a pharmacy not described in subsection (b);

is covered for an amount equal to the price at which a pharmacy described in subsection (b) will sell the prescription drug, with the remainder of the charge for the prescription drug to be paid by the insured.

SECTION 7. IC 27-8-10-5.1, AS AMENDED BY P.L.233-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.**

(b) Except as provided in subsections (b); and subsection (c), a

person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

~~(b)~~ (c) Except as provided in IC 27-13-16-4 **and subsection (a)**, a person is eligible for an association policy upon a showing that:

- (1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;
- (2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or
- (3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(c) The board of directors may establish procedures that would permit:

- (1) an association policy to be issued to persons who are covered by a group insurance arrangement when that person or a dependent's health condition is such that the group's coverage is in jeopardy of termination or material rate increases because of that person's or dependent's medical claims experience; and
- (2) an association policy to be issued without any limitation on preexisting conditions to a person who is covered by a health insurance arrangement when that person's coverage is scheduled to terminate for any reason beyond the person's control.

(d) Coverage under an association policy terminates as follows:

- (1) On the first date on which an insured is no longer a resident of Indiana.**
- (2) On the date on which an insured requests cancellation of the association policy.**
- (3) On the date of the death of an insured.**
- (4) At the end of the policy period for which the premium has been paid.**

(5) On the first date on which the insured no longer meets the eligibility requirements under this section.

~~(d)~~ **(e)** An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

- (1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and
- (2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

~~(e)~~ **(f)** An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

~~(f)~~ **(g)** Except as provided in subsection ~~(g)~~; **(h)**, an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting

condition provisions in an insurance policy that are more favorable to the insured.

~~(g)~~ **(h)** If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection ~~(b)~~; **(c)**, then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

~~(h)~~ **(i)** For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 8. IC 27-8-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An association policy offered under this chapter must contain provisions under which the association is obligated to renew the contract until:

(1) the date on which coverage terminates under section 5.1 of this chapter; or

(2) the day on which the individual in whose name the contract is issued first becomes eligible for Medicare coverage, except that in a family policy covering both husband and wife, the age of the younger spouse must be used as the basis for meeting the durational requirement of this ~~subsection~~ **subdivision.**

(b) The association may not change the rates for association policies or Medicare supplement policies except on a class basis with a clear disclosure in the policy of the association's right to do so.

(c) An association policy offered under this chapter must provide that upon the death of the individual in whose name the contract is issued, every other individual then covered under the contract may elect, within a period specified in the contract, to continue coverage under the same or a different contract until such time as he would have ceased to be entitled to coverage had the individual in whose name the contract was issued lived.

SECTION 9. IC 27-8-10-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) As used in this section, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) As used in this section, "provider" means an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office.

(c) The association and the office shall jointly consider the use of all or a part of:

(1) assessments made under this chapter; or

(2) funds, if any, realized by the state due to a reduction in tax credits taken under this chapter;

as the nonfederal share of payments under a payment program described in subsection (d).

(d) In conjunction with the joint efforts described in subsection (c), the association and the office shall consider and, if feasible, develop Medicaid payment programs that, using funding described in subsection (c):

(1) provide Medicaid add-on payments to providers or affiliated entities of providers on the basis of the provider's provision of care to individuals covered under an association policy; or

(2) to the extent not prohibited by applicable federal Medicaid law, condition a provider's Medicaid payment on the provider's remittance of funds to the association or another nongovernmental entity established to fund care to individuals covered under an association policy.

(e) If mutually agreed, the association and the office may implement a payment program developed under subsection (d) following approval of a Medicaid state plan amendment by the federal Centers for Medicare and Medicaid Services.

(f) If:

(1) federal financial participation is disallowed by the federal Centers for Medicare and Medicaid Services for the funds used as the non-federal share of a Medicaid payment made under a program developed under this section; and

(2) the office is required to pay to the federal Centers for Medicare and Medicaid Services a refund of the federal

financial participation described in subdivision (1); the provider receiving the Medicaid payment described in subdivision (1) shall refund to the office the federal financial participation described in subdivision (2) not less than five (5) business days before the date that the office's payment described in subdivision (2) is required to be made to the federal Centers for Medicare and Medicaid services. The elections under IC 12-15-13-3(b) do not apply to a notice directing a provider to pay a refund required of the provider under this subsection.

(g) Notwithstanding section 3 of this chapter, subject to applicable federal Medicaid requirements, the rate of provider reimbursement for a health care service following implementation of a payment program under this section must be an amount determined by the association, according to standards and criteria relied upon by the association, to be equal to the greater of the:

- (1) Medicare reimbursement rate for the health care service plus ten percent (10%); or
- (2) lowest prevailing rate of reimbursement for the health care service in Indiana under a commercial health insurance policy.

(h) Notwithstanding section 2.1(h) of this chapter, if a payment program is implemented under this section, the board shall determine member assessments in an amount sufficient to ensure a net gain and distributions provided for under section 13 of this chapter.

(i) Assessments made under this chapter may be adjusted by the board to ensure that the assessments are not impermissible health care related taxes under 42 U.S.C. 1396b(w), as amended.

SECTION 10. IC 27-8-10-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) This section applies beginning in the calendar year immediately following the calendar year during which a program described in section 12 of this chapter is implemented.

(b) As used in this section, "net gain" means any funds retained by the association and a nongovernmental entity described in section 12(d)(2) of this chapter after all expenses are paid.

(c) If the association experiences a net gain in any calendar year, a member that:

(1) is a nonprofit entity not subject to taxation described in section 2.1(n) of this chapter; and

(2) paid an assessment under this chapter during the calendar year in which the net gain occurred;

is eligible to receive a distribution from the association during the immediately succeeding calendar year.

(d) The amount of a distribution to an eligible member under subsection (c) is equal to the eligible member's proportionate share of the net gain not to exceed fifty percent (50%) of the amount of the assessment the member paid during the calendar year in which the net gain occurred.

(e) An eligible member may submit a claim for a distribution under this section in the manner and form specified by the association.

(f) After distributions are made to eligible members under subsection (c), any remaining net gain shall be distributed as follows:

(1) Forty percent (40%) must be distributed to the office of Medicaid policy and planning established by IC 12-8-6-1.

(2) Forty percent (40%) must be distributed to members according to each member's proportionate share of the total assessment amount paid by the members that has not been offset by:

(A) credits against taxes or refunds from the association under section 2.1(n) of this chapter; or

(B) distributions under subsection (c).

(3) Ten percent (10%) must be held in reserve by the association to assist in funding payments to providers.

(4) Ten percent (10%) must be allocated by the association to reduce premiums.

(f) The association shall make distributions under this section according to written guidelines established by the association.

SECTION 11. IC 27-8-10-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14. (a) Notwithstanding section 2.1 of this chapter, for the period beginning July 1, 2003, and ending March 15, 2004:**

(1) fifty percent (50%) of any net loss determined under section 2.1(g) of this chapter shall be assessed by the

association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and

(2) fifty percent (50%) of any net loss determined under section 2.1(g) of this chapter shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.

(b) This section expires March 15, 2004.

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "association" refers to the comprehensive health insurance association established under IC 27-8-10-2.1.

(b) The office of Medicaid policy and planning established by IC 12-8-6-1 and the association shall cooperatively investigate methods of decreasing association costs related to coverage of individuals diagnosed with hemophilia, including the potential for a demonstration waiver under Section 1115 of the federal Social Security Act.

(c) The office and the association shall, not later than December 31, 2003, compile the results of the investigation required under subsection (b) and report to the legislative council.

(d) This SECTION expires June 30, 2004.

SECTION 13. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 27-8-10-3, the amount of reimbursement for a health care service covered under an Indiana comprehensive health insurance association policy is the amount of reimbursement for the same health care service under Medicare plus ten percent (10%) until the earlier of:

(1) the date that a payment program is implemented under IC 27-8-10-12, as added by this act; or

(2) March 15, 2004.

(b) If the amount of reimbursement for health care services covered under an Indiana comprehensive health insurance

association policy is specified under a contract with a health care provider, this SECTION applies to a contract specifying the amount of reimbursement for health care services that is entered into, delivered, amended, or renewed after June 30, 2003.

(c) This SECTION expires June 30, 2004.

SECTION 14. [EFFECTIVE JULY 1, 2003] IC 27-8-10-3.5 and IC 27-8-10-3.6, both as added by this act, and IC 27-8-10-2.1, IC 27-8-10-5.1, and IC 27-8-10-6, all as amended by this act, apply to an association policy that is issued, delivered, amended, or renewed after June 30, 2003.

SECTION 15. An emergency is declared for this act.

P.L.194-2003

[H.1769. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 10-5-3-1, AS AMENDED BY P.L.16-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Whenever any person, male or female, who has heretofore served, or who may hereafter serve, as a member of the armed forces of the United States as a soldier, sailor, or marine in the army, air force, or navy of the United States, or as a member of the women's components thereof, resident of any county of this state, and who, while a member of the armed forces and before discharge therefrom, or, who after receiving an honorable discharge therefrom, or the wife or widow, the husband or widower of any such member of the armed forces of the United States, resident of any county of this state, has died or shall hereafter die, upon a claim **for burial expenses** being filed by an interested person with the board of commissioners of the county of the residence of such deceased person, stating the fact of such service, death, and discharge, if discharged from such service

prior to death, and that the body has been buried in a decent and respectable manner, in a cemetery or burial ground, such board of commissioners shall hear and determine such claim, like other claims, filed for allowance by them, and if the facts averred are found to be true, as a tribute of respect due such member of the armed forces, shall make allowance of such claim in a sum **set by ordinance, but the amount of the allowance may not exceeding one hundred dollars (\$100) for service rendered and material furnished in care of such body and where necessary an amount not to exceed twenty-five dollars (\$25) for a place of burial of such body: exceed one thousand dollars (\$1,000).**

(b) Only one (1) claim **for burial expenses** shall be allowed for any decedent who qualifies under this chapter, and the total sum of the claim filed and for which allowances shall be made ~~whether it be for service rendered and material furnished or service rendered; material furnished; and place for burial furnished~~ **shall be set by ordinance, but the amount of the allowance shall not exceed one hundred dollars (\$100).** However, should the federal government provide a marker for the grave of any such person, the board of commissioners shall make a further allowance of not more than one hundred dollars (\$100) for the setting of such marker: **one thousand dollars (\$1,000).** Any sum of money expended by any county under the provisions of this chapter shall be considered as a gift, and no persons for and on behalf of the state of Indiana or any of its political subdivisions shall be authorized to file a claim for a lump sum death benefit, with the federal social security administration claiming reimbursement for any sum of money so expended.

(c) Before a person who will set a grave marker provided by the federal government ~~as described in subsection (b) for the grave of a person described in subsection (a)~~ enters into a contract to set the grave marker with a person who receives the grave marker from the federal government, or the person's representative, the person who will set the grave marker must disclose the following information to the person who receives the grave marker, or the person's representative:

- (1) The price of the least expensive installation procedure that the person who will set the grave marker will charge for setting the grave marker and a description of the goods and services included in the procedure.

(2) The prices of any other installation procedures or options that may be performed or provided by the person who will set the grave marker and a description of the goods and services included in the procedures or options.

SECTION 2. [EFFECTIVE JULY 1, 2003] IC 10-5-3-1, as amended by this act, applies to claims for burial expenses filed after June 30, 2003.



P.L.195-2003

[H.1849. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 3-7-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a)** A person described in section 4 of this chapter who is otherwise qualified to register under this article is eligible to register when the person is no longer:

- (1) imprisoned; or
- (2) otherwise subject to lawful detention.

(b) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to vote under this section and except as provided in subsections (c), (d), and (g), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm upon the person's release from imprisonment or lawful detention.

(c) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

- (1) Whether the person has been subject to:**

- (A) a protective order;**
- (B) a no contact order;**
- (C) a workplace violence restraining order; or**
- (D) any other court order that prohibits the person from possessing a firearm.**

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (d) or whether the person has committed a subsequent offense.

(d) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(e) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(f) A person has not been convicted of a crime of domestic violence for purposes of subsection (c) if the conviction has been expunged or if the person has been pardoned.

(g) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 2. IC 33-4-5-7, AS AMENDED BY SEA 257-2003, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person shall be excused from acting as a juror if the person:

(1) is over sixty-five (65) years of age;

(2) is a member in active service of the armed forces of the United States;

(3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:

- (A) the United States;
- (B) Indiana; or
- (C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under IC 10-16-2-5;

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-16-8;

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

- (A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or
- (B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then

subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (c), (d), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from

possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (d) or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 3. IC 35-35-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The court shall not accept a plea of guilty or guilty but mentally ill at the time of the crime without first determining that the defendant:

(1) understands the nature of the charge against him;

(2) has been informed that by his plea he waives his rights to:

(A) a public and speedy trial by jury;

(B) confront and cross-examine the witnesses against him;

(C) have compulsory process for obtaining witnesses in his favor; and

(D) require the state to prove his guilt beyond a reasonable

doubt at a trial at which the defendant may not be compelled to testify against himself;

(3) has been informed of the maximum possible sentence and minimum sentence for the crime charged and any possible increased sentence by reason of the fact of a prior conviction or convictions, and any possibility of the imposition of consecutive sentences; ~~and~~

(4) has been informed that the person will lose the right to possess a firearm if the person is convicted of a crime of domestic violence (IC 35-41-1-6.3); and

(5) has been informed that if:

(A) there is a plea agreement as defined by IC 35-35-3-1; and

(B) the court accepts the plea;

the court is bound by the terms of the plea agreement.

(b) A defendant in a misdemeanor case may waive the rights under subsection (a) by signing a written waiver.

(c) Any variance from the requirements of this section that does not violate a constitutional right of the defendant is not a basis for setting aside a plea of guilty.

SECTION 4. IC 35-38-1-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 7.7. (a) At the time of sentencing, a court shall determine whether a person has committed a crime of domestic violence (as defined in IC 35-41-1-6.3).**

(b) A determination under subsection (a) must be based upon:

(1) evidence introduced at trial; or

(2) a factual basis provided as part of a guilty plea.

(c) Upon determining that a defendant has committed a crime of domestic violence, a court shall advise the defendant of the consequences of this finding.

(d) A judge shall record a determination that a defendant has committed a crime of domestic violence on a form prepared by the division of state court administration.

SECTION 5. IC 35-41-1-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 6.3. "Crime of domestic violence," for purposes of IC 3-7-13-5 and IC 33-4-5-7, means an offense or the attempt to commit an offense that:**

- (1) has as an element the:**
 - (A) use of physical force; or**
 - (B) threatened use of a deadly weapon; and**
- (2) is committed against a:**
 - (A) current or former spouse, parent, or guardian of the defendant;**
 - (B) person with whom the defendant shared a child in common;**
 - (C) person who was cohabiting with or had cohabited with the defendant as a spouse, parent, or guardian; or**
 - (D) person who was or had been similarly situated to a spouse, parent, or guardian of the defendant.**

SECTION 6. IC 35-47-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** Except as provided in **subsection (b) and** section 2 of this chapter, a person shall not carry a handgun in any vehicle or on or about ~~his person~~ **the person's body**, except in ~~his the person's~~ **the person's** dwelling, on ~~his the person's~~ **the person's** property or fixed place of business, without a license issued under this chapter being in ~~his the person's~~ **the person's** possession.

(b) Unless the person's right to possess a firearm has been restored under IC 3-7-13-5 or IC 33-4-5-7, a person who has been convicted of domestic battery under IC 35-42-2-1.3 may not possess or carry a handgun in any vehicle or on or about the person's body in the person's dwelling or on the person's property or fixed place of business.

SECTION 7. IC 35-47-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a)** A person who has been convicted of domestic battery under IC 35-42-2-1.3 and who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a domestic batterer, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that the person's right to possess a firearm has been restored under IC 3-7-13-5 or IC 33-4-5-7.

SECTION 8. [EFFECTIVE JULY 1, 2003] **IC 35-47-4-6, as added by this act, applies only to crimes committed after June 30, 2003.**

P.L.196-2003

[H.1850. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-30-1-1, AS AMENDED BY P.L.217-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A juvenile court has exclusive original jurisdiction, except as provided in sections 9, 10, 12, and 13 of this chapter, in the following:

- (1) Proceedings in which a child, including a child of divorced parents, is alleged to be a delinquent child under IC 31-37.
- (2) Proceedings in which a child, including a child of divorced parents, is alleged to be a child in need of services under IC 31-34.
- (3) Proceedings concerning the paternity of a child under IC 31-14.
- (4) Proceedings under the interstate compact on juveniles under IC 31-37-23.
- (5) Proceedings governing the participation of a parent, guardian, or custodian in a program of care, treatment, or rehabilitation for a child under IC 31-34-16 or IC 31-37-15.
- (6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.
- (7) Proceedings to issue a protective order under IC 31-32-13.
- (8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.
- (9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.
- (10) Guardianship of the person proceedings for a child:

- (A) who has been adjudicated as a child in need of services;
- (B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and
- (C) who is the subject of a pending child in need of services proceeding under IC 31-34.

(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.

(12) Other proceedings specified by law.

SECTION 2. IC 31-32-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 16. Involuntary Drug and Alcohol Treatment

Sec. 1. A proceeding under this chapter is separate from and does not affect:

- (1) a proceeding for involuntary treatment under IC 12-26; or**
- (2) an order from a juvenile court under IC 31-37 that requires drug or alcohol treatment.**

Sec. 2. (a) A parent, guardian, or custodian of a child may file a verified petition with the juvenile court in the county in which the child resides for involuntary drug and alcohol treatment if the child:

- (1) is incapable of consenting; or**
- (2) refuses to consent;**

to voluntary treatment.

(b) The verified petition must include an affidavit from a person described in section 4(a) of this chapter who has examined or treated the child not more than thirty (30) days before the filing of the verified petition. The affidavit must state that reasonable grounds exist to believe the child named in the petition is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1).

(c) Involuntary drug and alcohol treatment under this chapter may include appropriate placement in an inpatient or outpatient program or facility. A person ordered to complete inpatient drug and alcohol treatment under this chapter may not be placed in a facility that is owned or operated by the state.

(d) The judge of the juvenile court in which the verified petition is filed shall inform each parent, guardian, or custodian of the child

that the parent, guardian, or custodian may be ordered to participate in any aspect of the child's treatment.

Sec. 3. A verified petition filed under section 2 of this chapter must include the name and age of the child and a summary of facts that support the petitioner's request for involuntary drug and alcohol treatment.

Sec. 4. (a) The juvenile court, after making an ex parte determination that there is probable cause to believe the child is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1), shall order the child named in the petition to undergo a drug and alcohol assessment. The assessment shall be performed by:

- (1) a psychiatrist (as defined in IC 11-10-3-1);
- (2) a physician (as defined in IC 12-15-35-12); or
- (3) a psychologist with training in drug and alcohol assessment and treatment.

The person who performs the assessment under this section must be different from the person who submitted the affidavit under section 2 of this chapter. If it is determined that involuntary treatment is necessary, the assessment must include a recommended level of care and length of treatment.

(b) After completion of the assessment, the juvenile court shall conduct a hearing. Each person who performed an assessment must be present and available to testify at the hearing.

Sec. 5. Following a hearing, the juvenile court may order involuntary drug and alcohol treatment for not more than forty-five (45) consecutive days if the court finds by clear and convincing evidence that the child:

- (1) is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1);
- (2) is incapable of consenting to or refuses to consent to voluntary treatment services; and
- (3) will benefit from a period of involuntary drug and alcohol treatment.

Sec. 6. (a) Before the expiration of a period of involuntary treatment, the juvenile court shall conduct a review hearing to determine whether further treatment is necessary.

(b) The juvenile court may order an additional term of treatment if it finds at the initial review hearing by clear and convincing evidence that the conditions enumerated in section 5 of this chapter are present and further treatment is necessary. An

additional term of involuntary treatment may not exceed forty-five (45) consecutive days, and the juvenile court must conduct a review hearing before the expiration of the additional term. The court may order subsequent terms of involuntary treatment if at each review hearing the court makes findings required by this section.

(c) Each order for an additional term of treatment under subsection (b) must be supported by written findings of fact. The juvenile court shall issue written findings of fact not more than ten (10) days after the review hearing that orders an additional term of involuntary treatment.

Sec. 7. The juvenile court may order each parent, guardian, or custodian of the child to participate in any aspect of the child's treatment under section 5 or 6 of this chapter.

Sec. 8. The juvenile court may modify the original terms of involuntary drug and alcohol treatment if it finds by clear and convincing evidence that a substantial change in the circumstances that supported the original terms and conditions of treatment has occurred.

Sec. 9. A parent, guardian, or custodian is required to pay court costs, court fees, and the costs of assessment and treatment. Neither the court nor the county is liable for any part of the costs of assessment or treatment under this chapter.

Sec. 10. Notwithstanding IC 34-46-3 and IC 25-33-1-17, the judge may order a physician or a psychologist to submit a drug and alcohol assessment to the juvenile court in a proceeding under this chapter.

Sec. 11. The judge of the juvenile court may appoint a guardian ad litem for the child at any time.

P.L.197-2003
[S.57. Approved May 7, 2003.]

AN ACT concerning human services.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "committee" refers to a committee appointed by the chairman of the legislative council under IC 2-5-21-10(a).

(b) As used in this SECTION, "subcommittee" refers to the legislative evaluation and oversight policy subcommittee established by IC 2-5-21-6.

(c) Notwithstanding IC 2-5-21-10(c), beginning in 2003, the subcommittee shall direct the staff in performing an audit of the organizational structure of the office of the secretary of family and social services established by IC 12-8-1-1 (referred to in this SECTION as "the office") and the office's relationship with other agencies that provide health and human services programs. The subcommittee may not direct the staff to perform an audit of another agency during the time the staff is performing the audit required under this SECTION.

(d) The office shall cooperate with the subcommittee and the subcommittee's staff, including providing the subcommittee with information pertaining to the structure of the office. The office shall provide the subcommittee with the following information:

(1) The organizational structure of the office, including the office's line of command and the number of employees.

(2) A description of the interaction of programs within the office.

(3) A description of the interaction of programs that are operated by the office in conjunction with another state agency.

(4) Concerning contracted services between the office and another entity after June 30, 2000:

(A) a list of contractors;

(B) a copy of the contract, if any; and

(C) contract expenditures.

(5) A description of the communication channel used within the office.

(6) Any information described in IC 2-5-21-13.

(7) Any other information the subcommittee determines is relevant for the study under this SECTION.

(e) Beginning in 2004, the chairman of the legislative council shall appoint a committee under IC 2-5-21-10(a) to perform the duties described in IC 2-5-21-14.

(f) This SECTION expires December 31, 2005.

P.L.198-2003

[S.62. Approved May 7, 2003.]

AN ACT concerning human services.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "commission" refers to the commission on abused and neglected children and their families established by subsection (b).**

(b) The commission on abused and neglected children and their families is established to develop and present an implementation plan for a continuum of services for children at risk of abuse or neglect and children who have been abused or neglected and their families.

(c) The commission consists of the following members appointed not later than August 15, 2003:

(1) One (1) prosecuting attorney or a deputy prosecuting attorney.

(2) One (1) attorney who specializes in juvenile law.

(3) One (1) representative from law enforcement.

(4) Two (2) children's advocates.

(5) One (1) guardian ad litem or court appointed special

advocate.

(6) One (1) juvenile court judge.

(7) One (1) public agency children's services caseworker.

(8) One (1) private agency children's services caseworker.

(9) The director of the division of family and children or the director's designee.

(10) One (1) counselor or social worker from Indiana's "at risk" school program.

(11) One (1) pediatrician.

(12) One (1) medical social worker.

(13) Two (2) faculty members, including:

(A) one (1) faculty member from an Indiana accredited graduate school of social work, who shall serve as the chair of the commission; and

(B) one (1) faculty member from an Indiana accredited undergraduate school of social work.

(14) One (1) county director to be appointed from the Indiana State Association of County Welfare Administrators.

(15) One (1) foster parent who is a member of a foster advocacy organization.

(16) One (1) adoptive parent who is a member of an adoptive parent advocacy organization.

(17) One (1) nonprofit family services agency provider.

(18) One (1) representative of child caring institution providers.

(19) One (1) psychologist who works with abused and neglected children.

(20) One (1) individual who has experience and training in juvenile fire setting identification and intervention.

(21) Two (2) members of the house of representatives appointed by the speaker of the house of representatives. The members appointed under this subdivision may not be members of the same political party.

(22) Two (2) members of the senate appointed by the president pro tempore of the senate. The members appointed under this subdivision may not be members of the same political party.

The speaker of the house of representatives shall appoint the members under subdivisions (2), (5), (8), (10), (15), and (17) and

one (1) member under subdivision (4). The president pro tempore of the senate shall appoint the members under subdivisions (3), (11), (12), (16), (18), and (19) and one (1) member under subdivision (4). The governor shall appoint the members under subdivisions (1), (6), (7), (14), and (20) and both members under subdivision (13). Vacancies shall be filled by the appointing authority for the remainder of the unexpired term.

(d) Each member of the commission shall have an interest or experience in improving the quality of services provided to children at risk of abuse or neglect and abused or neglected children and their families in Indiana.

(e) A majority of the voting members of the commission constitutes a quorum.

(f) The Indiana accredited graduate school of social work represented by the chair of the commission shall staff the commission.

(g) The commission shall meet at the call of the chair and shall meet as often as necessary to carry out the purpose of this SECTION.

(h) The expenses of administering the commission shall be paid from the resources of the Indiana accredited graduate school of social work represented by the chair of the commission. Expenses under this subsection include the following:

(1) Photocopying and printing costs.

(2) Costs of supplies.

(i) Members of the commission are not entitled to a salary per diem or reimbursement of expenses for service on the commission.

(j) The commission's responsibilities include the following:

(1) Reviewing Indiana's public and private family services delivery system for children at risk of abuse or neglect and for children who have been reported as suspected victims of child abuse or neglect.

(2) Reviewing federal, state, and local funds appropriated to meet the service needs of children and their families.

(3) Reviewing current best practices standards for the provision of child and family services.

(4) Examining the qualifications and training of service providers, including foster parents, adoptive parents, child caring institution staff, child placing agency staff, case

managers, supervisors, and administrators, and making recommendations for a training curriculum and other necessary changes.

(5) Recommending methods to improve use of available public and private funds to address the service needs described in subdivision (2).

(6) Providing information concerning identified unmet needs of children and families and providing recommendations concerning the development of resources to meet the identified needs.

(7) Suggesting policy, program, and legislative changes related to the family services described in subdivision (1) to accomplish the following:

(A) Enhancement of the quality of the services.

(B) Identification of potential resources to promote change to enhance the services.

(8) Preparing a report consisting of the commission's findings and recommendations, and the presentation of the implementation plan for a continuum of services for children at risk of abuse or neglect and for abused or neglected children and their families specified under subsection (b).

(k) In carrying out the commission's responsibilities, the commission shall consider pertinent studies on children at risk of abuse or neglect and on abused or neglected children and their families.

(l) The affirmative votes of a majority of the commission's members are required for the commission to take action on any measure, including recommendations included in the report required under subsection (j)(8).

(m) The commission shall submit the report required under subsection (j)(8) to the governor, the legislative council, and the board for the coordination of child care regulation established by IC 12-17.2-3.1-1 not later than August 15, 2004. The report must be available to the public upon request not later than December 31, 2004.

(n) This SECTION expires January 1, 2005.

P.L.199-2003
[S.120. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 20-8.1-4-20.5, AS ADDED BY P.L.122-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.5. (a) ~~Except as provided in subsection (b),~~ This section applies to occupations for which a child less than eighteen (18) years of age may be employed or allowed to work under this chapter, but does not apply to children subject to:

- (1) section 2 of this chapter; or
- (2) section 20(m)(2) or 20(m)(3) of this chapter.

~~(b) This section does not apply to a child less than eighteen (18) years of age employed by a camp or other facility that:~~

- ~~(1) provides an opportunity, either gratuitously or for compensation, for outdoor group living for all or any part of a day;~~
- ~~(2) provides recreational, health, educational, or sectarian related activities; and~~
- ~~(3) is operated by a nonprofit entity.~~

~~(c) (b) A person, firm, limited liability company, or corporation that employs a child less than eighteen (18) years of age shall provide a the child one (1) or two (2) rest break of breaks totaling at least thirty (30) minutes to a if the child who is scheduled to work at least six (6) consecutive hours.~~

~~(d) The rest break must be available to the child during the time beginning three (3) hours after and ending five (5) hours after the child begins the child's period of duty.~~

SECTION 2. IC 20-8.1-4-25.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25.5. (a) This section does not provide an exception to the limit on the number of hours a child is**

permitted to work under section 20 of this chapter.

(b) It is unlawful for a person, firm, limited liability company, or corporation to permit a child who is:

(1) less than eighteen (18) years of age; and

(2) employed by the person, firm, limited liability company, or corporation;

to work after 10 p.m. and before 6 a.m. in an establishment that is open to the public, unless another employee at least eighteen (18) years of age also works in the establishment during the same hours as the child.

(c) A violation of subsection (b) is a hazardous occupation violation subject to section 31(a)(6) of this chapter.

SECTION 3. IC 20-8.1-4-31, AS AMENDED BY P.L.122-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) A person, firm, limited liability company, or corporation that violates this chapter may be assessed the following civil penalties by the department of labor:

(1) For an employment certificate violation under section 1 or 13 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) Fifty dollars (\$50) per instance for a second violation identified in a subsequent inspection.

(C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.

(D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(2) For a posting violation under section 23 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) Fifty dollars (\$50) per instance for each violation identified in a subsequent inspection.

(C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.

- (D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:
 - (i) is identified in an inspection subsequent to the inspection under clause (C); and
 - (ii) occurs not more than two (2) years after a prior violation.
- (3) For a termination notice violation under section 11 of this chapter, the following:
 - (A) A warning letter for any violations identified during an initial inspection.
 - (B) Fifty dollars (\$50) per instance for each violation identified in a subsequent inspection.
 - (C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.
 - (D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:
 - (i) is identified in an inspection subsequent to the inspection under clause (C); and
 - (ii) occurs not more than two (2) years after a prior violation.
- (4) For an hour violation of not more than thirty (30) minutes under section 20 of this chapter, the following:
 - (A) A warning letter for any violations identified during an initial inspection.
 - (B) Fifty dollars (\$50) per instance for each violation identified in a subsequent inspection.
 - (C) Seventy-five dollars (\$75) per instance for a third violation that is identified in a subsequent inspection.
 - (D) One hundred dollars (\$100) per instance for a fourth or subsequent violation that:
 - (i) is identified in an inspection subsequent to the inspection under clause (C); and
 - (ii) occurs not more than two (2) years after a prior violation.
- (5) For an hour violation of more than thirty (30) minutes under section 20 of this chapter, the following:
 - (A) A warning letter for any violations identified during an initial inspection.
 - (B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.
 - (C) Two hundred dollars (\$200) per instance for a third

violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(6) For a hazardous occupation violation under section 25 or 25.5 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(7) For an age violation under section 21 or 21.5 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(8) For each minor employed in violation of section 21(b) of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(9) For each violation of section 20.5 of this chapter, the following:

(A) A warning letter for any violations identified during an initial inspection.

(B) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(C) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(D) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that:

(i) is identified in an inspection subsequent to the inspection under clause (C); and

(ii) occurs not more than two (2) years after a prior violation.

(b) A civil penalty assessed under subsection (a):

(1) is subject to IC 4-21.5-3-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review not later than thirty (30) days after notice of the assessment is given.

(c) For purposes of determining whether a second violation has occurred when assessing a civil penalty under subsection (a), a first violation expires one (1) year after the date of issuance of a warning letter by the department of labor under subsection (a).

(d) For purposes of determining recurring violations of this section, each location of an employer shall be considered separate and distinct from another location of the same employer.

(e) There is established an employment of youth fund for the purpose of educating affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter. One-half (1/2) of the fund each year shall be used for the purpose of the education provision of this subsection. This portion of the fund may be used to award grants to provide educational programs. The remaining

one-half (1/2) of the fund shall be used each year for the expenses of hiring and salaries of additional inspectors to enforce this chapter under section 29 of this chapter. All inspectors hired to enforce this chapter shall also be available to educate affected parties on the purposes and contents of this chapter and the responsibilities of all parties under this chapter. The fund shall be administered by the department of labor. The expenses of administering the fund shall be paid from money in the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of a state fiscal year does not revert to the state general fund. Revenue received from civil penalties under this section shall be deposited in the employment of youth fund.

SECTION 4. An emergency is declared for this act.



P.L.200-2003

[S.169. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-14-1.5-5, AS AMENDED BY P.L.90-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency by:

(1) posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and

(2) ~~depositing in the United States mail with postage prepaid or by delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency.~~ **The governing body shall give notice by one (1) of the following methods:**

(A) Depositing the notice in the United States mail with postage prepaid.

(B) Transmitting the notice by electronic mail.

(C) Transmitting the notice by facsimile (fax).

If a governing body comes into existence after January 1, it shall comply with this subdivision upon receipt of a written request for notice.

In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the intelenet commission under IC 5-21-2.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

(1) news media which have requested notice of meetings must be given the same notice as is given to the members of the governing body; and

(2) the public must be notified by posting a copy of the notice according to this section.

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to:

(1) the department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation; or

(2) the executive of a county or the legislative body of a town if the meetings are held solely to receive information or recommendations in order to carry out administrative functions, to carry out administrative functions, or confer with staff members on matters relating to the internal management of the unit. "Administrative functions" do not include the awarding of contracts, the entering into contracts, or any other action creating an obligation or otherwise binding a county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

SECTION 2. IC 5-14-1.5-6.1, AS AMENDED BY P.L.37-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:
 - (A) Collective bargaining.
 - (B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
 - (C) The implementation of security systems.
 - (D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include

competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews with industrial or commercial prospects or agents of industrial or commercial prospects by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from

further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 3. IC 5-14-3-4, AS AMENDED BY SEA 242-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) ~~information concerning the factual basis for a disciplinary actions~~ **action** in which final action has been

taken and that resulted in the employee being ~~disciplined~~ **suspended, demoted**, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:
(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or
(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public

inspection without the prior approval of the public agency. The submitting public agency:

- (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
- (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 5-14-3-4(b)(8), subsection (b) applies instead of IC 5-14-3-4(b)(8).

(b) Except as otherwise provided by IC 5-14-3-4(a), the following public records shall be excepted from IC 5-14-3-3 at the discretion of a public agency:

(1) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(c) This SECTION expires July 1, 2003.

SECTION 5. An emergency is declared for this act.

P.L.201-2003

[S.178. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-2-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 21. Use of Credit Information

Sec. 1. As used in this chapter, "adverse action" means:

- (1) a denial or cancellation of;**
- (2) an increase in a charge for; or**
- (3) a reduction or other adverse or unfavorable change in the terms of coverage or amount of;**

insurance in connection with the underwriting of a personal insurance policy.

Sec. 2. As used in this chapter, "affiliate" means a company that controls, is controlled by, or is under common control with another company.

Sec. 3. As used in this chapter, "applicant" means an individual who has applied with an insurer for coverage under a personal insurance policy.

Sec. 4. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 5. As used in this chapter, "consumer" means an:

- (1) insured whose:**
 - (A) credit information is used; or**
 - (B) insurance score is calculated;**

in the underwriting or rating of a personal insurance policy;
or

- (2) applicant for a personal insurance policy.**

Sec. 6. As used in this chapter, "consumer reporting agency" means a person that, for a monetary fee or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information concerning consumers for the purpose of furnishing consumer reports to third parties.

Sec. 7. As used in this chapter, "credit information" means credit related information:

- (1) derived from a credit report;**
- (2) found on a credit report; or**
- (3) provided on an application for a personal insurance policy.**

The term does not include information that is not credit related, regardless of whether the information is contained in a credit report or in an application or is used to calculate an insurance score.

Sec. 8. As used in this chapter, "credit report" means a written, an oral, or another communication of information by a consumer

reporting agency concerning a consumer's creditworthiness, credit standing, or credit capacity that is used or expected to be used or collected as a factor to determine personal insurance policy premiums, eligibility for coverage, or tier placement.

Sec. 9. As used in this chapter, "department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 10. As used in this chapter, "insurance producer" has the meaning set forth in IC 27-1-15.6-2(7).

Sec. 11. As used in this chapter, "insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based on credit information for the purpose of predicting the future insurance loss exposure of an individual consumer.

Sec. 12. As used in this chapter, "insured" means an individual entitled to coverage under a personal insurance policy.

Sec. 13. As used in this chapter, "insurer" refers to an insurer (as defined in IC 27-1-2-3) that issues a personal insurance policy.

Sec. 14. As used in this chapter, "personal insurance policy" means a policy that:

- (1) provides one (1) or more of the kinds of insurance described in Class 2 or Class 3 of IC 27-1-5-1; and
- (2) is underwritten on an individual basis for personal, family, or household use.

Sec. 15. This chapter does not apply to commercial insurance.

Sec. 16. An insurer that uses credit information to underwrite or rate risks shall not do the following:

- (1) Use an insurance score that is calculated using income, gender, address, ZIP code, ethnic group, religion, marital status, or nationality of the consumer as a factor.
- (2) Deny, cancel, or decline to renew a personal insurance policy solely on the basis of credit information.
- (3) Base an insured's renewal rate for a personal insurance policy solely on credit information.
- (4) Take an adverse action against a consumer solely because the consumer does not have a credit card account.
- (5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a personal insurance policy, unless the insurer does one (1) of the following:

- (A) Presents to the commissioner information that the absence or inability relates to the risk for the insurer and treats the consumer as approved by the commissioner.
 - (B) Treats the consumer as if the consumer had neutral credit information, as defined by the insurer.
- (6) Take an adverse action against a consumer based on credit information unless the insurer obtains and uses:
- (A) a credit report issued; or
 - (B) an insurance score calculated;
- not more than ninety (90) days before the date the personal insurance policy is first written or the renewal is issued.
- (7) Use credit information unless the insurer recalculates the insurance score or obtains an updated credit report at least every thirty-six (36) months. However, the following apply:
- (A) At annual renewal, upon the request of an insured or the insured's agent, the insurer shall re-underwrite and re-rate the personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:
 - (i) The insurer's treatment of the consumer is otherwise approved by the commissioner.
 - (ii) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.
 - (iii) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.
 - (iv) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.
- This clause does not require an insurer to recalculate an insurance score or obtain an updated credit report of a consumer more frequently than one (1) time in a twelve (12) month period.
- (B) An insurer may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently than every thirty-six (36) months if consistent with the insurer's underwriting guidelines.
- (8) Use the following as a negative factor in an insurance

scoring methodology or in reviewing credit information for the purpose of underwriting or rating a personal insurance policy:

(A) A credit inquiry:

(i) not initiated by the consumer; or

(ii) requested by the consumer for the consumer's own credit information.

(B) A credit inquiry relating to insurance coverage.

(C) A collection account with a medical industry code on the consumer's credit report.

(D) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry; and

(ii) made within thirty (30) days of one another.

(E) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry; and

(ii) made within thirty (30) days of one another.

Sec. 17. (a) If:

(1) a determination is made through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 U.S.C. 1681i(a)(5), that the credit information of a current insured was incorrect or incomplete; and

(2) the insurer receives notice of the determination from the consumer reporting agency or the insured;

the insurer shall re-underwrite and re-rate the insured not more than thirty (30) days after receiving the notice.

(b) After an insurer re-underwrites or re-rates an insured as described in subsection (a), the insurer shall:

(1) make necessary adjustments, consistent with the insurer's underwriting and rating guidelines; and

(2) if the insurer determines that the insured has overpaid a premium, refund to the insured the amount of overpayment calculated back to the shorter of the:

(A) immediately preceding twelve (12) month period of coverage; or

(B) actual policy period.

Sec. 18. (a) If an insurer uses credit information in underwriting or rating a consumer, the insurer or the insurer's agent shall disclose, either on the insurance application or at the time the insurance application is taken, that the insurer may obtain credit information in connection with the application. The disclosure must be:

- (1) written; or**
- (2) provided to the consumer in the same medium as the application for insurance.**

The insurer is not required to provide the disclosure statement required under this section to an insured on a renewal policy if the insured has previously been provided a disclosure statement.

(b) Use of the following sample disclosure statement constitutes compliance with this section: "In connection with this application for insurance, we may review your credit report or obtain or use a credit based insurance score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance score."

Sec. 19. (a) If an insurer takes an adverse action based on credit information, the insurer shall:

- (1) provide notice to the consumer that an adverse action has been taken, in accordance with the requirements of the federal Fair Credit Reporting Act, 15 U.S.C. 1681m(a); and**
- (2) provide notice to the consumer explaining the reason for the adverse action.**

(b) The reason provided under subsection (a)(2) must be provided in sufficiently clear and specific language so that an individual can identify the basis for the insurer's decision to take an adverse action. The notice must include a description of all factors up to four (4) primary factors that were the primary influences of the adverse action. The use of generalized terms such as "poor credit history", "poor credit rating", or "poor insurance score" does not meet requirements of this subsection. A standardized credit explanation provided by a consumer reporting agency or other third party vendor meets the requirements of this section.

Sec. 20. (a) An insurer that uses an insurance score to underwrite and rate risks shall file the insurer's scoring models or other scoring processes with the department.

(b) A third party may file a scoring model or scoring process on behalf of an insurer.

(c) A filing that includes insurance scoring may include loss experience justifying the use of credit information.

(d) A filing related to credit information is confidential.

Sec. 21. (a) An insurer shall indemnify and defend an insurance producer and hold an insurance producer harmless from and against liability, fees, and costs arising out of or related to the actions, errors, or omissions of the insurance producer relating to a use of credit information if the insurance producer:

(1) obtains or uses credit information or insurance scores for the insurer;

(2) follows the instructions of or procedures established by the insurer; and

(3) complies with applicable laws and regulations.

(b) This section does not provide a consumer with a cause of action that does not exist in the absence of this section.

Sec. 22. (a) A consumer reporting agency may not provide or sell data or lists that include information submitted in conjunction with:

(1) an insurance inquiry about a consumer's credit information; or

(2) a request for a credit report or insurance score;

including the expiration dates of an insurance policy or other information that may identify periods during which a consumer's insurance expires and the terms and conditions of the consumer's insurance coverage.

(b) The restrictions under subsection (a) do not apply to data or lists a consumer reporting agency supplies to an:

(1) insurance producer from whom the information was received;

(2) insurer on behalf of which the insurance producer described in subdivision (1) acted; or

(3) affiliate or holding company of the insurer described in subdivision (2).

(c) This section does not prohibit an insurer from obtaining a claim history report or a motor vehicle report.

Sec. 23. A violation of this chapter by an insurer is an unfair and deceptive act and practice in the business of insurance under

IC 27-4-1-4.

SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.130-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender ~~his~~ **the policyholder's** insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of ~~his~~ **the person's** insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is

false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same

class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

- (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
- (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
- (iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay,

allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow

credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ **the lender's** right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as

an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the

refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-2-21 concerning use of credit information.

SECTION 3. [EFFECTIVE JULY 1, 2003] Notwithstanding IC 27-2-21, as added by this act, IC 27-2-21, as added by this act, applies to a personal insurance:

(1) policy application that is submitted; or

(2) policy that is issued, delivered, amended, or renewed;

after December 31, 2003.

P.L.202-2003

[S.186. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-8.1-5.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) This section applies to the following:

(1) A student who:

(A) is expelled from a school corporation **or charter school** under this chapter; or

(B) withdraws from a school corporation **or charter school** to avoid expulsion.

(2) A student who:

(A) is required to separate for disciplinary reasons from a nonpublic school or a school in a state other than Indiana by the administrative authority of the school; or

(B) withdraws from a nonpublic school or a school in a state other than Indiana in order to avoid being required to separate from the school for disciplinary reasons by the administrative authority of the school.

(b) The student may enroll in another school corporation **or charter school** during the period of the actual or proposed expulsion or separation if:

(1) the student's parent informs the school corporation in which the student seeks to enroll and also:

(A) in the case of a student withdrawing from a charter school that is not a conversion charter school to avoid expulsion, the conversion charter school; or

(B) in the case of a student withdrawing from a conversion charter school to avoid expulsion, the:

(i) conversion charter school; and

(ii) the school corporation that sponsored the conversion charter school;

of the student's expulsion or separation or withdrawal to avoid expulsion or separation;

(2) the school corporation **(and, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school)** consents to the student's enrollment; and

(3) the student agrees to the terms and conditions of enrollment established by the school corporation **(or, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school or conversion charter school)**.

(c) If:

(1) a student's parent fails to inform the school corporation of the expulsion or separation or withdrawal to avoid expulsion or separation; or

(2) the student fails to follow the terms and conditions of enrollment under subsection (b)(3);

the school corporation **or charter school** may withdraw consent and prohibit the student's enrollment during the period of the actual or proposed expulsion or separation.

(d) Before a consent is withdrawn under subsection (c) the student must have an opportunity for an informal meeting before the principal of the student's proposed school. At the informal meeting, the student is entitled to:

(1) a written or an oral statement of the reasons for the withdrawal of the consent;

(2) a summary of the evidence against the student; and

(3) an opportunity to explain the student's conduct.

(e) This section does not apply to a student who is expelled under section 11 of this chapter.

P.L.203-2003

[S.207. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-11-2-19.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19.3. "Brownfield" means ~~an industrial or a commercial~~ a parcel of real estate:

(1) that:

(A) is abandoned or inactive; or

(B) may not be operated at its appropriate use; and

(2) on which expansion, ~~or~~ redevelopment, ~~or reuse~~ is complicated;

because of the ~~actual presence or perceived potential~~ presence of a hazardous substance, ~~or petroleum released into the surface or subsurface soil or groundwater~~ a **contaminant, petroleum, or a petroleum product** that poses a risk to human health and the environment.

P.L.204-2003

[S.210. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-8-5-26, AS AMENDED BY P.L.96-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) ~~This section applies to a policy of accident and sickness insurance issued after June 30, 1997.~~

(b) ~~This section applies to a mastectomy performed after June 30,~~

~~1997.~~

~~(c)~~ **(a)** As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.

~~(d)~~ **(b)** A policy of accident and sickness insurance that provides coverage for a mastectomy may not be issued, amended, delivered, or renewed in Indiana unless the policy provides coverage **as required under 29 U.S.C. 1185b, including coverage** for:

- (1) prosthetic devices; and
- (2) reconstructive surgery incident to a mastectomy including:
 - (A) all stages of reconstruction of the breast on which the mastectomy has been performed; and
 - (B) surgery and reconstruction of the other breast to produce symmetry;

in the manner determined by the attending physician and the patient to be appropriate.

~~(e)~~ **(c)** Coverage for prosthetic devices or reconstructive surgery **required** under this section is subject to:

- (1) the deductible and coinsurance provisions applicable to a mastectomy; and
- (2) all other terms and conditions applicable to other benefits.

~~(f)~~ Notwithstanding the provisions of this section, if a mastectomy is performed and there is no evidence of malignancy, coverage required under this section may be limited to the provision of prosthetic devices and reconstructive surgery for two (2) years following the surgery.

(d) An insurer that issues a policy of accident and sickness insurance shall provide to an insured, at the time the policy is issued and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the insurer that meets the requirements set forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

~~(g)~~ **(e)** The coverage required under this section applies to a policy of accident and sickness insurance that provides coverage for a mastectomy, regardless of whether an individual who:

- (1) underwent a mastectomy; and
- (2) is covered under the policy;

was covered under the policy at the time of the mastectomy.

(f) This section does not require an insurer to provide coverage

related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.

SECTION 2. IC 27-13-7-14, AS AMENDED BY P.L.96-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. ~~(a) This section applies to a contract with A health maintenance organization (as defined in IC 27-13-1-19) issued after June 30, 1997:~~

~~(b) This section applies to a mastectomy performed after June 30, 1997:~~

~~(c) (a) As used in this section, "mastectomy" means the removal of all or part of the breast for reasons that are determined by a licensed physician to be medically necessary.~~

~~(d) (b) A contract with a health maintenance organization that provides coverage for a mastectomy must provide coverage as required under 29 U.S.C. 1185b, including coverage for:~~

- ~~(1) prosthetic devices; and~~
- ~~(2) reconstructive surgery incident to a mastectomy including:

 - ~~(A) all stages of reconstruction of the breast on which the mastectomy has been performed; and~~
 - ~~(B) surgery and reconstruction of the other breast to produce symmetry;~~~~

~~in the manner determined by the attending physician and the patient to be appropriate.~~

~~(e) (c) Coverage for prosthetic devices and reconstructive surgery required under this section is subject to:~~

- ~~(1) the deductible and coinsurance provisions applicable to a mastectomy; and~~
- ~~(2) all other terms and conditions applicable to other services under the contract.~~

~~(f) Notwithstanding the provisions of this section, if a mastectomy is performed and there is no evidence of malignancy, coverage required under this section may be limited to the provision of prosthetic devices and reconstructive surgery for two (2) years following the surgery:~~

(d) A health maintenance organization shall provide to an enrollee, at the time that an individual contract or a group contract is entered into and annually thereafter, written notice of the coverage required under this section. Notice that is sent by the health maintenance organization that meets the requirements set

forth in 29 U.S.C. 1185b constitutes compliance with this subsection.

~~(g)~~ **(e)** The coverage required under this section applies to a contract with a health maintenance organization that provides coverage for a mastectomy, regardless of whether an individual who:

- (1) underwent a mastectomy; and
- (2) is covered under the contract;

was covered under the contract at the time of the mastectomy.

(f) This section does not require a health maintenance organization to provide coverage related to post mastectomy care that exceeds the coverage required for post mastectomy care under federal law.

SECTION 3. [EFFECTIVE JULY 1, 2003] **(a) IC 27-8-5-26, as amended by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2003.**

(b) IC 27-13-7-14, as amended by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2003.

P.L.205-2003

[S.216. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 5-2-10.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board is composed of the following members:

- (1) The executive director of the department of fire and building services **or the executive director's designee.**
- (2) The chairperson of the board of firefighting personnel standards and education.

(3) The director of the state emergency management agency **or the director's designee.**

(4) The commissioner of the department of environmental management **or the commissioner's designee.**

(5) The state fire marshal **or the state fire marshal's designee.**

(6) **The deputy director of the emergency medical services division of the state emergency management agency or the deputy director's designee.**

(7) Five (5) individuals appointed by the governor, not more than three (3) of whom may represent the same political party, as follows:

(A) A professional firefighter.

(B) A volunteer firefighter.

(C) A public safety employee who is not a firefighter.

(D) A municipal or county building inspector.

(E) A member of the medical profession.

SECTION 2. IC 9-19-14.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A privately owned vehicle belonging to a **certified paramedic, certified emergency medical technician-intermediate, certified emergency medical technician-basic advanced,** certified emergency medical technician, certified emergency medical service driver, or certified emergency medical service first responder while traveling in the line of duty in connection with emergency medical services activities may display green lights, subject to the following restrictions and conditions:

(1) The lights may not have a light source less than fifty (50) candlepower.

(2) All lights shall be placed on the top of the vehicle.

(3) Not more than two (2) green lights may be displayed on a vehicle and each light must be of the flashing or revolving type and visible at three hundred sixty (360) degrees.

(4) The lights must consist of a lamp with a green lens and not of an uncolored lens with a green bulb. However, the revolving lights may contain multiple bulbs.

(5) The green lights may not be a part of the regular head lamps displayed on the vehicle.

(6) For a person authorized under this chapter to display a green light on the person's vehicle, the person must first secure a written

permit from the director of the state emergency management agency to use the light. The permit must be carried by the person when the light is displayed.

SECTION 3. IC 9-30-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician, who:

- (1) obtains a blood, urine, or other bodily substance sample from a person, regardless of whether the sample is taken for diagnostic purposes or at the request of a law enforcement officer under this section; or
- (2) performs a chemical test on blood, urine, or other bodily substance obtained from a person;

shall deliver the sample or disclose the results of the test to a law enforcement officer who requests the sample or results as a part of a criminal investigation. Samples and test results shall be provided to a law enforcement officer even if the person has not consented to or otherwise authorized their release.

(b) A physician, a hospital, or an agent of a physician or hospital is not civilly or criminally liable for any of the following:

- (1) Disclosing test results in accordance with this section.
- (2) Delivering a blood, urine, or other bodily substance sample in accordance with this section.
- (3) Obtaining a blood, urine, or other bodily substance sample in accordance with this section.
- (4) Disclosing to the prosecuting attorney or the deputy prosecuting attorney for use at or testifying at the criminal trial of the person as to facts observed or opinions formed.
- (5) Failing to treat a person from whom a blood, urine, or other bodily substance sample is obtained at the request of a law enforcement officer if the person declines treatment.
- (6) Injury to a person arising from the performance of duties in good faith under this section.

(c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:

- (1) the privileges arising from a patient-physician relationship do not apply to the samples, test results, or testimony described in this section; and
- (2) samples, test results, and testimony may be admitted in a

proceeding in accordance with the applicable rules of evidence.

(d) The exceptions to the patient-physician relationship specified in subsection (c) do not affect those relationships in a proceeding not covered by this chapter, IC 9-30-5, or IC 9-30-9.

(e) The test results and samples obtained by a law enforcement officer under subsection (a) may be disclosed only to a prosecuting attorney or a deputy prosecuting attorney for use as evidence in a criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.

(f) This section does not require a physician or a person under the direction of a physician to perform a chemical test.

(g) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician shall obtain a blood, urine, or other bodily substance sample if the following exist:

(1) A law enforcement officer requests that the sample be obtained.

(2) The law enforcement officer has certified in writing the following:

(A) That the officer has probable cause to believe the person from whom the sample is to be obtained has violated IC 9-30-5.

(B) That the person from whom the sample is to be obtained has been transported to a hospital or other medical facility.

(C) That the person from whom the sample is to be obtained has been involved in a motor vehicle accident that resulted in the serious bodily injury or death of another.

(D) That the accident that caused the serious bodily injury or death of another occurred not more than three (3) hours before the time the sample is requested.

(3) Not more than the use of reasonable force is necessary to obtain the sample.

(h) If the person:

(1) from whom the bodily substance sample is to be obtained under this section does not consent; and

(2) resists the taking of a sample;

the law enforcement officer may use reasonable force to assist an individual, who must be authorized under this section to obtain a sample, in the taking of the sample.

(i) The person authorized under this section to obtain a bodily substance sample shall take the sample in a medically accepted manner.

(j) A law enforcement officer may transport the person to a place other than a hospital where the sample may be obtained by any of the following persons who are trained in obtaining bodily substance samples and who have been engaged to obtain samples under this section:

- (1) A physician holding an unlimited license to practice medicine or osteopathy.
- (2) A registered nurse.
- (3) A licensed practical nurse.
- (4) An ~~advanced~~ emergency medical ~~technician~~ **technician-basic advanced** (as defined in ~~IC 16-18-2-6~~ **IC 16-18-2-112.5**).
- (5) **An emergency medical technician-intermediate (as defined in IC 16-18-2-112.7).**
- (6) **A paramedic (as defined in IC 16-18-2-266).**

SECTION 4. IC 10-4-1-5, AS AMENDED BY P.L.123-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The department shall prepare and maintain a state emergency operations plan and keep it current, which plan may include:

- (1) prevention and minimization of injury and damage caused by disaster;
- (2) prompt and effective response to disaster;
- (3) emergency relief;
- (4) identification of areas particularly vulnerable to disaster;
- (5) recommendations for:
 - (A) zoning;
 - (B) building;
 - (C) other land use controls;
 - (D) safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and
 - (E) other preventive and preparedness measures designed to eliminate or reduce disaster or its impact;

shall be disseminated to both the fire prevention and building safety commission and local authorities;

- (6) assistance to local officials in designing local emergency

action plans;

(7) authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;

(8) preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;

(9) organization of manpower and chains of command;

(10) coordination of federal, state, and local disaster activities;

(11) coordination of the state disaster plan with the disaster plans of the federal government; and

(12) other necessary matters.

(b) The department shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under section 10 of this chapter. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies. These personnel shall consult with subdivisions and agencies on a regularly scheduled basis, shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply, and may suggest revisions.

(c) In preparing and revising the state disaster plan, the department shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the department shall encourage them to seek advice from these sources.

(d) The state disaster plan or any part of the plan may be incorporated in rules of the department or executive orders.

(e) The department shall:

(1) determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of an emergency;

(2) procure and pre-position supplies, medicines, materials, and equipment;

(3) promulgate standards and requirements for local and

interjurisdictional disaster plans;

(4) provide for mobile support units;

(5) assist political subdivisions, their disaster agencies, and interjurisdictional disaster agencies to establish and operate training programs and programs of public information;

(6) make surveys of industries, resources, and facilities within the state, both public and private, as are necessary to carry out the purposes of this chapter;

(7) plan and make arrangements for the availability and use of any private facilities, services, and property, and if necessary and if in fact they are used provide for payment for use under terms and conditions agreed upon;

(8) establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;

(9) establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;

(10) prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disaster;

(11) cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery; and

(12) do other things necessary, incidental, or appropriate for the implementation of this chapter.

(f) The department shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The department shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive intrastate or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system or its several parts, the department shall evaluate the possibility of multipurpose use thereof for general state and local governmental purposes. The department shall make recommendations to the governor as appropriate.

(g) The department shall develop a statewide mutual aid program ~~and a to implement the~~ statewide mutual aid agreement.

SECTION 5. IC 10-14-3-9, AS ADDED BY SEA 257-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The agency shall prepare and maintain a current state emergency operations plan. The plan may provide for the following:

- (1) Prevention and minimization of injury and damage caused by disaster.
- (2) Prompt and effective response to disaster.
- (3) Emergency relief.
- (4) Identification of areas particularly vulnerable to disaster.
- (5) Recommendations for:
 - (A) zoning;
 - (B) building;
 - (C) other land use controls;
 - (D) safety measures for securing mobile homes or other nonpermanent or semipermanent structures; and
 - (E) other preventive and preparedness measures designed to eliminate or reduce disaster or its impact;

that must be disseminated to both the fire prevention and building safety commission and local authorities.

- (6) Assistance to local officials in designing local emergency action plans.
- (7) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster.
- (8) Preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs.
- (9) Organization of manpower and chains of command.
- (10) Coordination of federal, state, and local disaster activities.
- (11) Coordination of the state disaster plan with the disaster plans of the federal government.
- (12) Other necessary matters.

(b) The agency shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under section 17 of this chapter. The agency shall employ or otherwise secure the services of professional and technical personnel capable of

providing expert assistance to political subdivisions, a political subdivision's disaster agencies, and interjurisdictional planning and disaster agencies. These personnel:

- (1) shall consult with subdivisions and government agencies on a regularly scheduled basis;
- (2) shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply; and
- (3) may suggest revisions.

(c) In preparing and revising the state disaster plan, the agency shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic and volunteer organizations, and community leaders. In advising local and interjurisdictional agencies, the agency shall encourage local and interjurisdictional agencies to seek advice from the sources specified in this subsection.

(d) The state disaster plan or any part of the plan may be incorporated in rules of the agency or by executive orders.

(e) The agency shall do the following:

- (1) Determine requirements of the state and political subdivisions for food, clothing, and other necessities in the event of an emergency.
- (2) Procure and pre-position supplies, medicines, materials, and equipment.
- (3) Adopt standards and requirements for local and interjurisdictional disaster plans.
- (4) Provide for mobile support units.
- (5) Assist political subdivisions, political subdivisions' disaster agencies, and interjurisdictional disaster agencies to establish and operate training programs and public information programs.
- (6) Make surveys of industries, resources, and facilities in Indiana, both public and private, necessary to carry out this chapter.
- (7) Plan and make arrangements for the availability and use of any private facilities, services, and property, and if necessary and if the private facilities, services, or property is used, provide for payment for the use under agreed upon terms and conditions.
- (8) Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and

recovery.

(9) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency.

(10) Prepare, for issuance by the governor, executive orders, proclamations, and regulations necessary or appropriate in coping with disaster.

(11) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery.

(12) Do other things necessary, incidental, or appropriate to implement this chapter.

(f) The agency shall ascertain the rapid and efficient communications that exist in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating these resources into a comprehensive intrastate or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system, the agency shall evaluate the possibility of multipurpose use of the system for general state and local governmental purposes. The agency shall make appropriate recommendations to the governor.

(g) The agency shall develop a statewide mutual aid program ~~and a~~ **to implement the** statewide mutual aid agreement.

SECTION 6. IC 10-14-3-10.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.6. (a) As used in this section, "participating unit" refers to a unit that does not opt out under subsection (c) from participating in the statewide mutual aid program.**

(b) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(c) A unit may choose not to participate in the statewide mutual aid program if the unit:

(1) adopts an ordinance or a resolution declaring that the unit will not participate in the statewide mutual aid program; and

(2) provides a copy of the ordinance or resolution to:

(A) the local emergency management organization that serves the unit; and

(B) the department.

(d) Each participating unit shall establish an incident management system and a unified command system to be used in a response to a disaster or an emergency.

(e) A participating unit may request the assistance of at least one (1) other participating unit to:

- (1) manage disaster response or recovery; or**
- (2) conduct disaster response or recovery related exercises, testing, or training.**

(f) A request for assistance to a participating unit under subsection (e) shall be made by and to the executive of the unit or the executive's authorized representative. A request may be oral or in writing. A written request shall be made on forms developed by the department. An oral request shall be confirmed in writing not later than twenty-four (24) hours after the oral request is made.

(g) A request must include the following information:

(1) A description of the disaster response and recovery functions for which assistance is needed, including the following:

- (A) Fire.**
- (B) Law enforcement.**
- (C) Emergency medical.**
- (D) Transportation.**
- (E) Communications.**
- (F) Public works and engineering.**
- (G) Building inspection.**
- (H) Planning and information assistance.**
- (I) Mass care.**
- (J) Resource support.**
- (K) Health and other medical services.**
- (L) Search and rescue.**

(2) The amount and type of services, equipment, supplies, materials, personnel, and other resources needed and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting participating unit's provision of assistance and a point of contact at that location.

(h) A participating unit that is requested to render assistance shall take the necessary action to provide and make available the

requested services, equipment, supplies, materials, personnel, and other resources.

(i) A participating unit's obligation to provide assistance is subject to the following restrictions:

(1) A participating unit's request to receive assistance is effective only:

(A) upon declaration of a local disaster emergency by the executive officer of the unit under section 23 of this chapter; or

(B) upon the commencement of the exercises, testing, or training.

(2) The assistance shall continue as long as:

(A) the state of emergency remains in effect and the loaned resources are required by the receiving participating unit or the loaned resources remain in the receiving participating unit; or

(B) the exercises, testing, or training is in progress.

(3) The participating unit rendering the assistance may withhold resources or recall loaned resources to the extent necessary to provide for the participating unit's own reasonable protection.

(4) Emergency forces providing assistance shall continue under the command and control of their regular leaders, but operationally those forces shall be under the control of the incident commander or unified commander designated by the requesting participating unit.

SECTION 7. IC 10-14-3-10.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.7. (a)** As used in this section, "participating unit" has the meaning set forth in section 10.6(a) of this chapter.

(b) Each participating unit shall provide for the payment of compensation and benefits to:

(1) an injured member; and

(2) a representative of a deceased member;

of the participating unit's emergency forces if the member is injured or killed while rendering assistance under section 10.6 of this chapter in the same manner and on the same terms as if the injury or death were sustained while the member was rendering

assistance for or within the member's own unit. Expenses incurred under this subsection are not reimbursable under subsection (c).

(c) A participating unit rendering assistance for disaster response or recovery to another participating unit under section 10.6 of this chapter shall be reimbursed by the participating unit receiving the assistance for the following:

- (1) A loss of, damage to, or expense incurred in the operation of any equipment in answering the request for assistance.
- (2) An expense incurred in the provision of a service in answering the request for assistance.
- (3) An expense incurred in answering the request for assistance.

(d) Except as provided by an agreement entered into under subsection (e), the following labor and equipment reimbursement rates apply to reimbursement under subsection (c):

- (1) The labor reimbursement rates are as follows:
 - (A) The straight time costs of the labor force of the participating unit rendering assistance shall be reimbursed at the normal pay rates for responding personnel.
 - (B) The overtime costs of the labor force of the participating unit rendering assistance shall be reimbursed at one hundred fifty percent (150%) of the normal pay rates for the responding personnel if it is the normal practice of the requesting unit to pay these personnel overtime.
- (2) The equipment reimbursement rates are the lesser of the following:
 - (A) The rates for equipment costs reimbursement established by the Federal Emergency Management Agency or its successor agency.
 - (B) The equipment costs established by the participating unit rendering assistance.

(e) At least two (2) participating units may enter into agreements establishing a different allocation of loss, damage, expense, or costs among themselves than that specified in subsections (c) and (d).

(f) Officers and employees of a participating unit rendering assistance to another participating unit under this section shall be considered agents of the requesting unit for the purpose of tort

liability and immunity.

(g) This section does not prevent any participating unit from entering into a mutual aid or other agreement with another unit or affect any other agreement to which a unit is a party, including an agreement entered into under this chapter or IC 36-1-7.

SECTION 8. IC 16-18-2-7, AS AMENDED BY SEA 257-2003, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) "Advanced life support", for purposes of IC 16-31, means care that is given:

- (1) at the scene of:
 - (A) an accident;
 - (B) an act of terrorism (as defined in IC 35-41-1-26.5), if the governor has declared a disaster emergency under IC 10-14-3-12 in response to the act of terrorism; or
 - (C) an illness;
- (2) during transport; or
- (3) at a hospital;

by a paramedic or an ~~advanced~~ emergency medical ~~technician~~ **technician-intermediate** and that is more advanced than the care usually provided by an emergency medical technician ~~or an emergency medical technician-basic~~ **advanced.**

(b) The term may include any of the following:

- (1) Defibrillation.
- (2) Endotracheal intubation.
- (3) Parenteral injections of appropriate medications. ~~including administration of epinephrine through an auto-injector.~~
- (4) Electrocardiogram interpretation.
- (5) Emergency management of trauma and illness.

SECTION 9. IC 16-18-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. **(a) "Agency", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-1.**

(b) "Agency", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-1.

SECTION 10. IC 16-18-2-33.5, AS AMENDED BY P.L.93-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33.5. (a) "Basic life support", for purposes of IC 16-31, means the following:

- (1) Assessment of emergency patients.
- (2) Administration of oxygen.
- (3) Use of mechanical breathing devices.
- (4) Application of anti-shock trousers.
- (5) Performance of cardiopulmonary resuscitation.
- (6) Application of dressings and bandage materials.
- (7) Application of splinting and immobilization devices.
- (8) Use of lifting and moving devices to ensure safe transport.
- (9) Use of an automatic or a semiautomatic defibrillator if the defibrillator is used in accordance with training procedures established by the Indiana emergency medical services commission.
- (10) Administration by an emergency medical technician **or emergency medical technician-basic advanced** of epinephrine through an auto-injector.
- (11) **For an emergency medical technician-basic advanced, the following:**

(A) Electrocardiogram interpretation.

(B) Manual external defibrillation.

(C) Intravenous fluid therapy.

(12) Other procedures authorized by the Indiana emergency medical services commission, including procedures contained in the revised national emergency medical technician basic training curriculum guide.

(b) Except as provided by:

(1) subsection (a)(10) and the training and certification standards established under IC 16-31-2-9(4);

(2) subsection (a)(11)(C); and

(3) the training standards established under IC 16-31-2-9(5);

in subsection (a)(10) and by the training and certification standards established under IC 16-31-2-9(5); the term does not include invasive medical care techniques or advanced life support. **except as provided by the training and certification standards established under IC 16-31-2-9(4).**

SECTION 11. IC 16-18-2-109.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS: **Sec. 109.1. "Emergency medical dispatch agency", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.**

SECTION 12. IC 16-18-2-109.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS: Sec. 109.3. "Emergency medical dispatcher", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.**

SECTION 13. IC 16-18-2-109.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS: Sec. 109.5. "Emergency medical dispatching", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.**

SECTION 14. IC 16-18-2-112.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 112.5. "Emergency medical technician-basic advanced", for purposes of IC 16-31, means an individual who is certified under IC 16-31 to provide basic life support at the scene of an accident or illness or during transport.**

SECTION 15. IC 16-18-2-112.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 112.7. "Emergency medical technician-intermediate", for purposes of IC 16-31, means an individual who can perform at least one (1) of but not all the procedures of a paramedic and who:**

- (1) has completed a prescribed course in advanced life support;**
- (2) has been certified by the Indiana emergency medical services commission;**
- (3) is associated with a single supervising hospital; and**
- (4) is affiliated with a provider organization.**

SECTION 16. IC 16-18-2-143, AS AMENDED BY P.L.81-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

(e) (d) "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

SECTION 17. IC 16-18-2-163, AS AMENDED BY P.L.148-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21 and IC 16-41, means any of the following:

(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, ~~or an advanced emergency technician, medical technician-basic advanced, an emergency medical technician-intermediate,~~ or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

- (1) a licensed physician;
- (2) a registered nurse;
- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a licensed nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an ~~advanced~~ emergency medical technician or technician-basic advanced;
- (9) an emergency medical technician-intermediate; or
- (10) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

SECTION 18. IC 16-18-2-223.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS: **Sec. 223.6. "Medical director", for purposes of IC 16-31-3.5, has the meaning set forth in IC 16-35-3.5-1.**

SECTION 19. IC 16-18-2-295, AS AMENDED BY P.L.256-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 295. (a) "Provider", for purposes of IC 16-38-5, IC 16-39 (except for IC 16-39-7) and IC 16-41-1 through IC 16-41-9 and IC 16-41-37, means any of the following:**

- (1) An individual (other than an individual who is an employee or a contractor of a hospital, a facility, or an agency described in subdivision (2) or (3)) who is licensed, registered, or certified as a health care professional, including the following:
 - (A) A physician.

- (B) A psychotherapist.
- (C) A dentist.
- (D) A registered nurse.
- (E) A licensed practical nurse.
- (F) An optometrist.
- (G) A podiatrist.
- (H) A chiropractor.
- (I) A physical therapist.
- (J) A psychologist.
- (K) An audiologist.
- (L) A speech-language pathologist.
- (M) A dietitian.
- (N) An occupational therapist.
- (O) A respiratory therapist.
- (P) A pharmacist.

(2) A hospital or facility licensed under IC 16-21-2 or IC 12-25 or described in IC 12-24-1 or IC 12-29.

(3) A health facility licensed under IC 16-28-2.

(4) A home health agency licensed under IC 16-27-1.

(5) An employer of a certified emergency medical technician, a certified ~~advanced~~ emergency medical ~~technician~~ **technician-basic advanced, a certified emergency medical technician-intermediate**, or a certified paramedic.

(6) The state department or a local health department or an employee, agent, designee, or contractor of the state department or local health department.

(b) "Provider", for purposes of IC 16-39-7-1, has the meaning set forth in IC 16-39-7-1(a).

SECTION 20. IC 16-18-2-337 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 337. "Sponsoring" or "supervising hospital", for purposes of IC 16-31, means a hospital:

(1) that is licensed under IC 16-21-2 or under the licensing law of another state; and

(2) that has been certified by the emergency medical services commission to sponsor or supervise paramedics, ~~advanced~~ emergency medical ~~technicians~~, **technicians-intermediate**, and provider organizations in providing advanced life support.

SECTION 21. IC 16-31-2-9, AS AMENDED BY P.L.93-2002,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. The commission shall establish the following:

- (1) Standards for persons who provide emergency medical services and who are not licensed or regulated under IC 16-31-3.
- (2) Training and certification standards for the use of automatic and semiautomatic defibrillators by first responders.
- (3) Training ~~and certification~~ standards for the administration of antidotes, vaccines, and antibiotics to prepare for or respond to a terrorist or military attack.

(4) Training and certification standards for the administration of epinephrine through an auto-injector by:

- (A) an emergency medical technician; or
- (B) an ~~advanced~~ emergency medical technician **technician-basic advanced**.

(5) Training ~~and certification~~ standards to permit the use of antidote kits **containing atropine and pralidoxime chloride** for the treatment of exposure to ~~chemical agent VX (nerve agent)~~ **nerve agents** by ~~advanced an emergency medical technicians technician-basic advanced, and emergency medical technicians who an emergency medical technician, or a first responder.~~ **work for emergency medical service providers located in:**

- (A) a county having a population of more than eight thousand (8,000) but less than nine thousand (9,000);
 - (B) a county having a population of more than sixteen thousand seven hundred (16,700) but less than seventeen thousand (17,000);
 - (C) a county having a population of more than seventeen thousand (17,000) but less than seventeen thousand five hundred (17,500);
 - (D) a county having a population of more than seventeen thousand five hundred (17,500) but less than eighteen thousand (18,000);
 - (E) a county having a population of more than thirty-six thousand (36,000) but less than thirty-six thousand seventy-five (36,075);
 - (F) a county having a population of more than thirty-seven thousand (37,000) but less than thirty-eight thousand (38,000);
- and

~~(G) a county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000):~~

SECTION 22. IC 16-31-2-11, AS AMENDED BY P.L.127-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The commission shall develop procedures for ongoing review of all emergency ambulance services.

(b) The commission may review any pre-hospital ambulance rescue or report record regarding an emergency patient that is utilized or compiled by an emergency ambulance service employing paramedics, **emergency medical technicians-intermediate**, emergency medical technicians, or ~~advanced~~ emergency medical ~~technicians-technicians-basic~~ **advanced**. However, except as provided in subsection (d), those records shall remain confidential and may be used solely for the purpose of compiling data and statistics. The use of such data or statistics is subject to IC 4-1-6.

(c) The commission may develop and oversee experimental study projects conducted by ambulance service providers in limited geographic areas of Indiana. These study projects must be developed and conducted in accordance with rules adopted by the commission under IC 4-22-2. These study projects must be designed to test the efficacy of new patient care techniques and new ambulance service systems.

(d) This subsection applies to emergency ambulance services that are provided by or under a contract with an entity that is a public agency for purposes of IC 5-14-3. The following information, if contained in a pre-hospital ambulance rescue or report record regarding an emergency patient, is public information and must be made available for inspection and copying under IC 5-14-3:

- (1) The date and time of the request for ambulance services.
- (2) The reason for the request for assistance.
- (3) The time and nature of the response to the request for ambulance services.
- (4) The time of arrival at the scene where the patient was located.
- (5) The time of departure from the scene where the patient was located.
- (6) The name of the facility, if any, to which the patient was delivered for further treatment and the time of arrival at that

facility.

SECTION 23. IC 16-31-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a)** The commission shall waive any rule for a person who provides emergency ambulance service, an emergency medical technician, **an emergency medical technician-basic advanced, an emergency medical technician-intermediate, a paramedic,** or an ambulance when operating from a location in an adjoining state by contract with an Indiana unit of government to provide emergency ambulance or medical services to patients who are picked up or treated in Indiana.

(b) The commission may waive any rule, including a rule establishing a fee, for a person who submits facts demonstrating that:

(1) compliance with the rule will impose an undue hardship on the person; and

(2) either:

(A) noncompliance with the rule; or

(B) compliance with an alternative requirement approved by the commission;

will not jeopardize the quality of patient care. However, the commission may not waive a rule that sets forth educational requirements for a person regulated under this article.

(c) A waiver granted under subsection (b)(2)(B) is conditioned upon compliance with the alternative requirement approved under subsection (b).

(d) The commission shall establish an expiration date for any waiver that is granted.

(e) The commission may renew a waiver if the person makes the same demonstration required for the original waiver.

SECTION 24. IC 16-31-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Except as provided in subsection (b), to renew a certificate issued under this chapter upon expiration of the certificate for any reason, a person must comply with any continuing education requirements that have been established by the commission. To renew a certificate issued under this chapter after a ~~suspension, revocation or termination~~ of the certificate, a person must comply with all the requirements of this chapter that apply to the original certification.

(b) A renewal of an emergency medical technician, **an emergency medical technician-basic advanced, an emergency medical technician-intermediate, or a paramedic** certificate shall be issued to an individual who meets the following conditions:

(1) While holding a valid **emergency medical technician** certificate, enters the armed forces of the United States, including:

- (A) the army;
- (B) the navy;
- (C) the air force;
- (D) the marines; or
- (E) the coast guard;

but excluding the guard and reserve components of those forces.

(2) Is discharged from the armed forces of the United States **within** forty-eight (48) months after the individual entered the armed forces.

(3) Successfully completes, not more than nine (9) months after the individual's discharge from the armed forces of the United States, a refresher course approved by the commission.

(4) Applies for the certificate renewal not more than one (1) year after the individual's discharge from the armed forces of the United States.

(5) Passes the written and practical skills examinations.

(c) **A renewal of an emergency medical technician, an emergency medical technician-basic advanced, an emergency medical technician-intermediate, or a paramedic certificate must be issued to an individual who meets the following conditions:**

(1) While holding a valid certificate, the individual is called to active military duty as a member of the Indiana national guard or a reserve component of the armed forces of the United States, including:

- (A) the army;**
- (B) the navy;**
- (C) the air force;**
- (D) the marines; or**
- (E) the coast guard.**

(2) The individual provides the emergency medical services commission with a copy of the document from the armed forces that called the individual to active duty.

(3) The individual applies for the certificate renewal not more than one hundred twenty (120) days after the individual leaves active duty.

SECTION 25. IC 16-31-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Except as provided in subsection (d); after notice and hearing the commission may suspend or revoke a certificate issued under this chapter for failure to comply and maintain compliance with or for violation of any applicable provisions, standards, or other requirements of this chapter or rules adopted under this chapter. **(a) A person holding a certificate issued under this article must comply with the applicable standards and rules established under this article. A certificate holder is subject to disciplinary sanctions under subsection (b) if the state emergency management agency determines that the certificate holder:**

- (1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate, including cheating on a certification examination;**
- (2) engaged in fraud or material deception in the course of professional services or activities;**
- (3) advertised services or goods in a false or misleading manner;**
- (4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under this article or rules adopted under this article;**
- (5) is convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder should be entrusted to provide emergency medical services;**
- (6) is convicted of violating IC 9-19-14.5;**
- (7) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of this article or rules adopted under this article;**
- (8) continues to practice if the certificate holder becomes unfit to practice due to:**
 - (A) professional incompetence that includes the undertaking of professional activities that the certificate holder is not qualified by training or experience to**

undertake;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's ability to practice safely;

(9) engages in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(10) allows the certificate holder's name or a certificate issued under this article to be used in connection with a person who renders services beyond the scope of that person's training, experience, or competence;

(11) is subjected to disciplinary action in another state or jurisdiction on grounds similar to those contained in this chapter. For purposes of this subdivision, a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction;

(12) assists another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(13) allows a certificate issued by the commission to be:

(A) used by another person; or

(B) displayed to the public when the certificate is expired, inactive, invalid, revoked, or suspended.

(b) On motion of the commission or on the verified written complaint of an interested person, the director of the state emergency management agency shall conduct an investigation.

(b) The state emergency management agency may issue an order under IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if the state emergency management agency determines that a certificate holder is subject to disciplinary sanctions under subsection (a):

(1) Revocation of a certificate holder's certificate for a period not to exceed seven (7) years.

(2) Suspension of a certificate holder's certificate for a period not to exceed seven (7) years.

(3) Censure of a certificate holder.

(4) Issuance of a letter of reprimand.

(5) Assessment of a civil penalty against the certificate holder in accordance with the following:

(A) The civil penalty may not exceed five hundred dollars (\$500) per day per violation.

(B) If the certificate holder fails to pay the civil penalty within the time specified by the state emergency management agency, the state emergency management agency may suspend the certificate holder's certificate without additional proceedings.

(6) Placement of a certificate holder on probation status and requirement of the certificate holder to:

(A) report regularly to the state emergency management agency upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the state emergency management agency;

(C) continue or renew professional education approved by the state emergency management agency until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the state emergency management agency considers appropriate to the public interest or to the rehabilitation or treatment of the certificate holder.

The state emergency management agency may withdraw or modify this probation if the state emergency management agency finds after a hearing that the deficiency that required disciplinary action is remedied or that changed circumstances warrant a modification of the order.

(e) Except as provided in subsection (d), the commission may initiate proceedings to suspend or revoke a certificate on the commission's own motion or on the verified written complaint of an interested person. All proceedings to suspend or revoke a certificate shall be conducted in accordance with IC 4-21.5-3.

(c) If an applicant or a certificate holder has engaged in or knowingly cooperated in fraud or material deception to obtain a certificate, including cheating on the certification examination, the state emergency management agency may rescind the certificate if it has been granted, void the examination or other fraudulent or

deceptive material, and prohibit the applicant from reapplying for the certificate for a length of time established by the state emergency management agency.

(d) The commission or the director may, on finding that the public health or safety is in imminent danger, temporarily suspend a certificate without hearing for not more than ninety (90) days on notice to the certificate holder:

(d) The state emergency management agency may deny certification to an applicant who would be subject to disciplinary sanctions under subsection (b) if that person were a certificate holder, has had disciplinary action taken against the applicant or the applicant's certificate to practice in another state or jurisdiction, or has practiced without a certificate in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) On suspension, revocation, or termination of a certificate, the provision of the service shall cease:

(e) The state emergency management agency may order a certificate holder to submit to a reasonable physical or mental examination if the certificate holder's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a state emergency management agency order to submit to a physical or mental examination makes a certificate holder liable to temporary suspension under subsection (i).

(f) A written complaint filed with the commission and information pertaining to the complaint are confidential until one (1) of following occurs:

(1) Notice is sent under IC 4-21.5-3 that certification suspension or revocation proceedings relating to the complaint or information have been initiated:

(2) Notice is sent under section 17 of this chapter that a hearing is to be held concerning the imposition of a fine for a violation relating to the complaint or information:

(3) The complaint or information is required to be disclosed by the order of a court:

(f) Except as provided under subsection (a) and section 14.5 of this chapter, a certificate may not be denied, revoked, or suspended

because the applicant or certificate holder has been convicted of an offense. The acts from which the applicant's or certificate holder's conviction resulted may be considered as to whether the applicant or certificate holder should be entrusted to serve the public in a specific capacity.

(g) The commission may suspend or revoke a certificate under this section for not more than seven (7) years from the date the suspension or revocation is effective. After the time set by the commission has expired, the certificate holder may apply for renewal of the certificate under this chapter.

(g) The state emergency management agency may deny, suspend, or revoke a certificate issued under this chapter if the individual who holds or is applying for the certificate is convicted of any of the following:

- (1) Possession of cocaine, a narcotic drug, or methamphetamine under IC 35-48-4-6.
 - (2) Possession of a controlled substance under IC 35-48-4-7(a).
 - (3) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
 - (4) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
 - (5) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
 - (6) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).
 - (7) Possession of marijuana, hash oil, or hashish as a Class D felony under IC 35-48-4-11.
 - (8) Maintaining a common nuisance under IC 35-48-4-13.
 - (9) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
 - (10) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (9).
 - (11) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10).
 - (12) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described by subdivisions (1) through (11).
- (h) A decision of the state emergency management agency under

subsections (b) through (g) may be appealed to the commission under IC 4-21.5-3-7.

(i) The state emergency management agency may temporarily suspend a certificate holder's certificate under IC 4-21.5-4 before a final adjudication or during the appeals process if the state emergency management agency finds that a certificate holder would represent a clear and immediate danger to the public's health, safety, or property if the certificate holder were allowed to continue to practice.

(j) On receipt of a complaint or information alleging that a person certified under this chapter or IC 16-31-3.5 has engaged in or is engaging in a practice that is subject to disciplinary sanctions under this chapter, the state emergency management agency must initiate an investigation against the person.

(k) The state emergency management agency shall conduct a factfinding investigation as the state emergency management agency considers proper in relation to the complaint.

(l) The state emergency management agency may reinstate a certificate that has been suspended under this section if the state emergency management agency is satisfied that the applicant is able to practice with reasonable skill, competency, and safety to the public. As a condition of reinstatement, the state emergency management agency may impose disciplinary or corrective measures authorized under this chapter.

(m) The state emergency management agency may not reinstate a certificate that has been revoked under this chapter.

(n) The state emergency management agency must be consistent in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the state emergency management agency's findings or orders.

(o) A certificate holder may not surrender the certificate holder's certificate without the written approval of the state emergency management agency, and the state emergency management agency may impose any conditions appropriate to the surrender or reinstatement of a surrendered certificate.

(p) For purposes of this section, "certificate holder" means a person who holds:

(1) an unlimited certificate;

(2) a limited or probationary certificate; or

(3) an inactive certificate.

SECTION 26. IC 16-31-3-14.5, AS AMENDED BY P.L.1-2002, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.5. The ~~commission~~ **state emergency management agency** may **issue an order under IC 4-21.5-3-6 to deny an applicant's request for certification or** permanently revoke a ~~license or~~ certificate under procedures provided by section 14 of this chapter if the individual who holds the ~~license or~~ certificate issued under this title is convicted of any of the following:

(1) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine under IC 35-48-4-1.

(2) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.

(3) Dealing in a schedule IV controlled substance under IC 35-48-4-3.

(4) Dealing in a schedule V controlled substance under IC 35-48-4-4.

(5) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.

(6) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.

(7) Dealing in a counterfeit substance under IC 35-48-4-5.

(8) Dealing in marijuana, hash oil, or hashish under IC 35-48-4-10(b).

(9) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (8).

(10) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (8).

(11) A crime of violence (as defined in IC 35-50-1-2(a)).

(12) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described under subdivisions (1) through (11).

SECTION 27. IC 16-31-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) The ~~director~~

state emergency management agency may issue an order to may penalize an ambulance service provider or a person certified under this chapter who has practiced without a certificate in violation of this article imposing a civil penalty of not more than five hundred dollars (\$500) per occurrence. for a violation of a patient care standard or rule that is established by the commission under rules adopted under IC 4-22-2.

(b) A civil penalty may be imposed only after a hearing on the imposition of the penalty has been held by the director or the director's designee. Notice of the hearing must be mailed to the provider at least ten (10) days before the date set for the hearing.

(c) An ambulance service provider or a person certified under this chapter who is penalized under this chapter may appeal the determination under IC 4-21.5. At the hearing, the provider or certified person is entitled to do the following:

- (1) Be represented by an attorney;
- (2) Present evidence in that person's behalf;
- (3) Cross-examine witnesses.

(b) A decision of the state emergency management agency under subsection (a) may be appealed to the commission under IC 4-21.5-3-7.

SECTION 28. IC 16-31-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. The commission shall appoint an advanced life support operations subcommittee to advise the commission on the development of:

- (1) standards for the certification of:
 - (A) provider organizations;
 - (B) paramedics;
 - (C) ~~advanced~~ emergency medical technicians; **technicians-intermediate**; and
 - (D) supervising hospitals; and
- (2) rules governing the operation of advanced life support services.

SECTION 29. IC 16-31-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. The commission shall adopt rules under IC 4-22-2 that promote the orderly development of advanced life support services in Indiana. The rules must include the following:

(1) Requirements and procedures for the certification of provider organizations, paramedics, ~~advanced~~ emergency medical ~~technicians;~~ **technicians-intermediate**, and supervising hospitals.

(2) Rules governing the operation of advanced life support services, including the medications and procedures that may be administered and performed by paramedics and ~~advanced~~ emergency medical ~~technicians;~~ **technicians-intermediate**.

SECTION 30. IC 16-31-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) Notwithstanding any other law, a certified paramedic or ~~an advanced~~ **a certified** emergency medical ~~technician~~ **technician-intermediate** may perform advanced life support in an emergency according to the rules of the commission.

(b) Notwithstanding any other law, a person may, during a course of instruction in advanced life support, perform advanced life support according to the rules of the commission.

SECTION 31. IC 16-31-3-23, AS ADDED BY P.L.17-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. An emergency medical technician or ~~advanced~~ emergency medical ~~technician~~ **technician-basic advanced** who is certified under this article may administer epinephrine through an auto-injector to an individual who is experiencing symptoms of an allergic reaction or anaphylaxis.

SECTION 32. IC 16-31-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 3.5. Emergency Medical Dispatch

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Medical director" means a licensed physician who provides emergency medical dispatch medical direction to the emergency medical dispatch agency and works with the local emergency medical services medical director, if not the same person.

(c) "Emergency medical dispatcher" means a person who is trained to provide emergency medical dispatch services and who is certified under this chapter.

(d) "Emergency medical dispatching" means the reception, evaluation, processing, and provision of dispatch life support,

management of requests for emergency medical assistance, and participation in ongoing evaluation and improvement of the emergency medical dispatch process. This process includes identifying the nature of the request, prioritizing the severity of the request, dispatching the necessary resources, providing medical aid and safety instructions to the callers, and coordinating the responding resources as needed, but does not include call routing itself.

(e) "Emergency medical dispatch agency" means any person that provides emergency medical dispatching for emergency medical assistance that is certified under this chapter.

Sec. 2. This chapter does not apply to a person who solely dispatches prescheduled emergency medical transports.

Sec. 3. (a) An individual may not furnish, operate, conduct, maintain, or advertise services as an emergency medical dispatcher or otherwise be engaged as an emergency medical dispatcher unless that individual is certified by the commission as an emergency medical dispatcher.

(b) A person may not furnish, operate, conduct, maintain, or advertise services as an emergency medical dispatcher or otherwise be engaged as an emergency medical dispatch agency unless certified by the commission as an emergency medical dispatch agency.

Sec. 4. (a) To be certified as an emergency medical dispatcher, an individual must:

- (1) meet the standards for education and training established by the commission;
- (2) successfully complete a written competency examination approved by the commission; and
- (3) pay the fee established by the commission.

(b) An emergency medical dispatcher certificate expires two (2) years after the date of its issuance. To renew a certificate, an emergency medical dispatcher must:

- (1) meet the education and training renewal standards established by the commission; and
- (2) pay the fee established by the commission.

(c) An emergency medical dispatcher must follow protocols, procedures, standards, and policies established by the commission.

(d) An emergency medical dispatcher shall keep the commission

informed of the entity or agency that employs or supervises the dispatcher's activities as an emergency medical dispatcher.

(e) An emergency medical dispatcher shall report to the commission whenever an action has taken place that may justify the revocation or suspension of a certificate issued by the commission.

Sec. 5. (a) To be certified as an emergency medical dispatch agency, a person must:

- (1) meet the standards established by the commission; and
- (2) pay the fee established by the commission.

(b) An emergency medical dispatch agency certificate expires two (2) years after the date of its issuance. To renew a certificate, an emergency medical dispatch agency must:

- (1) meet the renewal requirements established by the commission; and
- (2) pay the fee established by the commission.

(c) The emergency medical dispatch agency must be operated in a safe, efficient, and effective manner in accordance with commission approved standards that include the following requirements:

- (1) All personnel providing emergency medical dispatch services must be certified as emergency medical dispatchers by the commission before functioning alone in an online capacity.
- (2) The protocols, procedures, standards, and policies used by an emergency medical dispatch agency to dispatch emergency medical aid must comply with the requirements established by the commission.
- (3) The commission must require the emergency medical dispatch agency to appoint a dispatch medical director to provide supervision and oversight over the medical aspects of the operation of the emergency medical dispatch agency.

(d) The commission may require the submission of periodic reports from an emergency medical dispatch agency. The emergency medical dispatch agency must submit the reports in the manner and with the frequency required by the commission.

(e) An emergency medical dispatch agency shall report to the commission whenever an action occurs that may justify the revocation or suspension of a certificate issued by the commission.

Sec. 6. (a) The commission must require emergency medical dispatchers to participate in continuing emergency medical dispatch education and training.

(b) An emergency medical dispatcher education and training course must be approved by the commission and must be conducted by an instructor or instructors that meet qualifications established by the commission.

(c) A person may not offer or conduct a training course that is represented as a course for emergency medical dispatcher certification unless the course is approved by the commission and the instructor or instructors meet the qualifications established by the commission.

Sec. 7. The commission shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 33. IC 16-31-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) ~~An ambulance attendant or~~ **A certified emergency medical technician or a certified emergency medical technician-basic advanced** who provides emergency ~~ambulance~~ **medical** services to an emergency patient is not liable for an act or omission in providing those services unless the act or omission constitutes negligence or willful misconduct. If the ~~attendant or~~ **emergency medical technician or emergency medical technician-basic advanced** is not liable for an act or omission, no other person incurs liability by reason of an agency relationship with the ~~attendant or~~ **emergency medical technician or emergency medical technician-basic advanced**.

(b) This section does not affect the liability of a driver of an ambulance for negligent operation of the ambulance.

SECTION 34. IC 16-31-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. An act or omission of a paramedic or ~~advanced~~ **an emergency medical technician technician-intermediate** done or omitted in good faith while providing advanced life support to a patient or trauma victim does not impose liability upon the paramedic or ~~advanced~~ **emergency medical technician technician-intermediate**, the authorizing physician, the hospital, or the officers, members of the staff, nurses, or other employees of the hospital or the local governmental unit if the advanced life support is provided:

(1) in connection with an emergency;
 (2) in good faith; and
 (3) under the written or oral direction of a licensed physician;
 unless the act or omission was a result of negligence or willful misconduct.

SECTION 35. IC 16-31-6-4, AS ADDED BY P.L.156-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section does not apply to an act or omission that was a result of gross negligence or willful or intentional misconduct.

(b) An act or omission of a paramedic, an ~~advanced~~ emergency medical ~~technician technician-intermediate~~, an emergency medical ~~technician technician-basic advanced~~, **an emergency medical technician**, or a person with equivalent certification from another state that is performed or made while providing advanced life support or basic life support to a patient or trauma victim does not impose liability upon the paramedic, the ~~advanced~~ emergency medical ~~technician technician-intermediate~~, the emergency medical ~~technician technician-basic advanced~~, **an emergency medical technician**, the person with equivalent certification from another state, a hospital, a provider organization, a governmental entity, or an employee or other staff of a hospital, provider organization, or governmental entity if the advanced life support or basic life support is provided in good faith:

- (1) in connection with a disaster emergency declared by the governor under IC 10-4-1-7 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and
- (2) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.

SECTION 36. IC 16-31-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 8.5. Emergency Medical Services Fund

Sec. 1. As used in this chapter, "agency" refers to the state emergency management agency established by IC 10-8-2-1.

Sec. 2. As used in this chapter, "fund" refers to the emergency medical services fund established by section 3 of this chapter.

Sec. 3. The emergency medical services fund is established to defray the personal services expense, other operating expense, and capital outlay of the:

- (1) commission; and**
- (2) employees of the agency.**

Sec. 4. The agency shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

Sec. 5. The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

Sec. 6. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 37. IC 25-22.5-1-2, AS AMENDED BY P.L.255-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.

(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.

(3) A paramedic (as defined in IC 16-18-2-266), an ~~advanced~~ emergency medical ~~technician~~ **technician-basic advanced** (as defined in ~~IC 16-18-2-6~~ **IC 16-18-2-112.5**), an **emergency medical technician-intermediate** (as defined in **IC 16-18-2-112.7**), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):

(A) during a disaster emergency declared by the governor under IC 10-4-1-7 in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster

emergency declaration of the governor.

(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

- (A) a physician;
- (B) a psychiatric hospital;
- (C) a hospital;
- (D) a health maintenance organization or limited service health maintenance organization;
- (E) a health facility;
- (F) a dentist;

- (G) a registered or licensed practical nurse;
- (H) a midwife;
- (I) an optometrist;
- (J) a podiatrist;
- (K) a chiropractor;
- (L) a physical therapist; or
- (M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides care services as defined in IC 16-27-1-0.5.

(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

- (1) the person performs an act that an Indiana statute does not authorize the person to perform; and
- (2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 38. IC 34-6-2-37.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 37.2. "Emergency medical technician-basic advanced", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-12.1.**

SECTION 39. IC 34-6-2-37.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 37.4. "Emergency medical technician-intermediate", for purposes of IC 34-18, has the meaning set forth in IC 34-18-2-12.2.**

SECTION 40. IC 34-18-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. "Ambulance service" means a person who employs:

- (1) emergency medical technicians;
- (2) ~~advanced~~ emergency medical technicians; **technicians-basic advanced;**
- (3) **emergency medical technicians-intermediate;** or
- (~~3~~) (4) paramedics.

SECTION 41. IC 34-18-2-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.1. (a) "Emergency medical technician-basic advanced" has the meaning set forth in IC 16-18-2-112.5.**

(b) The term does not include a person while the person is operating an emergency vehicle.

SECTION 42. IC 34-18-2-12.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.2. (a) "Emergency medical technician-intermediate" has the meaning set forth in IC 16-18-2-112.7.**

(b) The term does not include a person while the person is operating an emergency vehicle.

SECTION 43. IC 34-18-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. "Health care provider" means any of the following:

- (1) An individual, a partnership, a limited liability company, a

corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a physician, psychiatric hospital, hospital, health facility, emergency ambulance service (IC 16-18-2-107), dentist, registered or licensed practical nurse, physician assistant, midwife, optometrist, podiatrist, chiropractor, physical therapist, respiratory care practitioner, occupational therapist, psychologist, paramedic, emergency medical ~~technician~~, **technician-intermediate, emergency medical technician-basic advanced**, or ~~advanced~~ emergency medical technician, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, faculty member, or employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, limited liability company, partnership, or professional corporation not otherwise qualified under this section that:

(A) as one (1) of its functions, provides health care;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under this article for its health care function.

Coverage for a health care provider qualified under this subdivision is limited to its health care functions and does not extend to other causes of action.

SECTION 44. THE FOLLOWING ARE REPEALED [EFFECTIVE

JULY 1, 2003]: IC 10-14-3-10; IC 16-18-2-6; IC 16-31-3-15; IC 16-31-6.5-1; IC 34-6-2-4; IC 34-18-2-3.

SECTION 45. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 16-31-3.5-3(a), as added by this act, the prohibition against an individual acting as an emergency medical dispatcher unless the individual is certified by the Indiana emergency medical services commission as an emergency medical dispatcher does not apply to an individual before July 1, 2005.

(b) Notwithstanding IC 16-31-3.5-3(b), as added by this act, the prohibition against a person acting as an emergency medical dispatch agency unless the person is certified by the Indiana emergency medical services commission as an emergency medical dispatch agency does not apply to a person before July 1, 2005.

(c) This SECTION expires July 2, 2005.

SECTION 46. IC 10-4-1-5.5 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 47. An emergency is declared for this act.

P.L.206-2003

[S.230. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-6.1-3-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) This section applies to an examination that is required for teacher licensure under this chapter.

(b) If an individual does not demonstrate the level of proficiency required to receive a license on all or a part of an examination, the examination's scorer must provide the individual with the individual's test scores, including subscores for each area tested.

SECTION 2. IC 20-6.1-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The Supplemental

Service Teacher's Contract: (a) As used in this section, "teacher" includes an individual who:

- (1) holds a substitute teacher's license; and
- (2) provides instruction in a joint summer school program under IC 20-10.1-7-12.5.

(b) The supplemental service teacher's contract shall be used when a teacher provides professional service in evening school or summer school employment, except when a teacher or other person is employed to supervise or conduct noncredit courses or activities.

(c) If a teacher serves more than one hundred twenty (120) days on a supplemental service teacher's contract in any school year, then sections 1, 3, 4, 9, 10, 11, 13, 14, and 15 of this chapter and IC 20-6.1-6-1 through IC 20-6.1-6-4 apply as they do to a teacher on a regular teacher's contract.

(d) The salary of a teacher on a supplemental service contract must equal the salary of a teacher on the regular salary schedule of the school corporation where the teacher will serve. Part-time service on the supplemental service contract is computed on the basis of six (6) hours as a full day of service.

SECTION 3. IC 20-10.1-7-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.5. (a) A school corporation may enter into an agreement with:**

- (1) another school corporation;
- (2) an accredited nonpublic school; or
- (3) entities described in both subdivisions (1) and (2);

to offer a joint summer school program for high school students under this section.

(b) An agreement under this section must:

- (1) designate one (1) participating school corporation as the local education agency for the joint educational program; and
- (2) specify how the costs of the joint summer school program, including compensation for teachers, will be allocated among the parties to the agreement.

(c) The parties to an agreement under subsection (a) may provide educational programs:

- (1) that are not regularly provided as part of the established curriculum during the school year; and

(2) for which a student who successfully completes a program may receive high school and college credit under an articulation agreement or dual credit provision under IC 20-10.1-4.4-9, IC 20-12-1-9, or IC 20-12-17.1.

(d) Except as provided in subsection (e), an instructor for an educational program described in subsection (c) must be:

(1) licensed under IC 20-6.1; or

(2) granted a substitute teacher's license by the professional standards board.

(e) If the school superintendent of the school corporation that is the local education agency determines that there:

(1) is not a qualified licensed teacher available from the entities entering into an agreement under subsection (a); and

(2) is a qualified postsecondary instructor available;

to instruct in an educational program described under subsection (c), the superintendent may request the professional standards board to issue a substitute teacher's license to the instructor of an educational program described in subsection (c).

(f) If the professional standards board finds that there is not a qualified licensed teacher available from the entities entering into an agreement under subsection (a) to instruct in an educational program described under subsection (c), the professional standards board may issue a substitute teacher's license to the instructor of an educational program described in subsection (c).

(g) An instructor for an educational program described under subsection (c) must be compensated at the same rate as that determined for a teacher under IC 20-6.1-4-8 and the local education agency's contract with certificated employees.

(h) The board shall adopt rules under IC 4-22-2 to govern the distribution of state funds for purposes of this section.

P.L.207-2003

[S.238. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-2-9-18, AS AMENDED BY P.L.65-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Before the auditor makes the endorsement required by IC 36-2-11-14, the auditor may require that a tax identification number identifying the affected real property be placed on an instrument that conveys, creates, encumbers, assigns, or otherwise disposes of an interest in or a lien on real property. The tax identification number may be established by the auditor with the approval of the state board of accounts. If the tax identification number is affixed to the instrument or if a tax identification number is not required, the auditor shall make the proper endorsement on demand.

(b) On request, a county auditor shall provide assistance in obtaining the proper tax identification number for instruments subject to this section.

(c) The tax administration number established by this section is for use in administering statutes concerning taxation of real property and is not competent evidence of the location or size of the real property affected by the instrument.

(d) The legislative body of a county may adopt an ordinance authorizing the auditor to collect a fee in an amount that does not exceed five dollars (\$5) for each:

(1) real property endorsement that the auditor makes; deed; or

(2) legal description of each parcel contained in the deed;

for which the auditor makes a real property endorsement. This fee is in addition to any other fee provided by law. The auditor shall place revenue received under this subsection in a dedicated fund for use in maintaining plat books.

P.L.208-2003

[S.242. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 5-14-3-4, AS AMENDED BY HEA 1935-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
- (10) Application information declared confidential by the twenty-first century research and technology fund board under

IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the

department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under

subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing **medical** advisory ~~committee~~: **board**. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent,

mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection without the prior approval of the public agency. The submitting public agency:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 8-2.1-24-18, AS AMENDED BY SEA 474-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) 49 CFR Parts 382 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue

as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has applied for or holds a commercial driver's license (as defined in IC 9-13-2-29), diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly

monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing **medical advisory committee board** established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate

carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 3. IC 9-14-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The commissioner ~~may~~ **shall** create a driver licensing ~~medical advisory committee~~: **board**.

SECTION 4. IC 9-14-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The ~~committee board~~ consists of five (5) members, **of whom:**

- (1) two (2) members must have unlimited licenses to practice medicine in Indiana, **including one (1) neurologist with expertise in epilepsy;** and
- (2) one (1) member must be licensed as an optometrist.

The ~~committee board~~ members serve at the pleasure of the commissioner.

SECTION 5. IC 9-14-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A ~~committee board~~ member is entitled to be reimbursed for travel expenses necessarily incurred in the performance of the member's duties and is also entitled to receive a salary per diem as prescribed by the budget agency.

SECTION 6. IC 9-14-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The ~~committee board~~ shall provide the commissioner with ~~technical resources to assist~~ **assistance** in the administration of Indiana driver licensing laws, including:

- (1) ~~providing advice, technical knowledge, and~~ guidance to the commissioner in the area of licensing drivers with health or other problems that may adversely affect a driver's ability to operate a vehicle safely;
- (2) **recommending factors to be used in determining qualifications and ability for issuance and retention of a driver's license; and**
- (3) **recommending and participating in the review of license suspension, restriction, or revocation appeal procedures.**

SECTION 7. IC 9-14-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commissioner may request assistance from any of the ~~committee~~ **board** members at any time.

SECTION 8. IC 9-14-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A member of the ~~committee~~ **board** is exempt from a civil action arising or thought to arise from an action taken in good faith as a member of the ~~committee~~ **board**.

SECTION 9. IC 9-14-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The evaluation of medical reports for the commissioner by a member of the ~~committee~~ **board** does not constitute the practice of medicine. This chapter does not authorize a person to engage in the practice of the healing arts or the practice of medicine as defined by law.

SECTION 10. IC 9-24-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The bureau, when issuing a permit or license under this article, may, whenever good cause appears, impose restrictions suitable to the licensee's or permittee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle that the licensee operates. The bureau may impose other restrictions applicable to the licensee or permittee that the bureau determines is appropriate to assure the safe operation of a motor vehicle by the licensee or permittee, **including a requirement to take prescribed medication**. When the restrictions are imposed, the bureau may issue either a special restricted license or shall set forth the restrictions upon the usual license form.

SECTION 11. IC 9-24-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, a person who violates this chapter commits a Class C infraction.

(b) A person who:

- (1) has been issued a permit or license on which there is a printed or stamped restriction as provided under section 7 of this chapter; and
- (2) operates a motor vehicle in violation of the restriction;

commits a Class C misdemeanor. The license of a person who violates this subsection may be suspended in the manner provided for the suspension or revocation of an operator's license.

(c) A person who causes serious bodily injury to or the death of another person when operating a motor vehicle after knowingly or intentionally failing to take prescribed medication, the taking of which was a condition of the issuance of the operator's restricted license under section 7 of this chapter, commits a Class A misdemeanor. However, the offense is a Class D felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this subsection.

(d) A person who violates subsection (c) commits a separate offense for each person whose serious bodily injury or death is caused by the violation of subsection (c).

SECTION 12. IC 9-24-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. (a) In addition to any other penalty imposed for a conviction under section 8(c) of this chapter, the court shall recommend that the person's driving privileges be suspended for a fixed period of at least ninety (90) days and not more than two (2) years.**

(b) The court shall specify:

- (1) the length of the fixed period of suspension; and**
- (2) the date the fixed period of suspension begins;**

whenever the court makes a recommendation under subsection (a).

SECTION 13. IC 9-24-11-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. The bureau shall, upon receiving a record of conviction of a person under section 8(c) of this chapter, set a period of suspension for a fixed period of at least ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in section 10 of this chapter.**

SECTION 14. IC 9-24-15-1, AS AMENDED BY SEA 474-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to the following:**

- (1) A suspension of a driving license upon the failure of an individual to file security or proof of financial responsibility following an accident as required by or upon the failure of any**

individual to satisfy a judgment for damages arising out of the use of a motor vehicle on a public highway as provided for in IC 9-25.

(2) When suspension is by reason of:

(A) physical, mental, or emotional instability;

(B) having caused serious bodily injury to or the death of another person when operating a motor vehicle after knowingly or intentionally failing to take prescribed medication, the taking of which was a condition of the issuance of the operator's restricted driver's license; or if

(C) the applicant has been convicted of involuntary manslaughter or reckless homicide as a result of an automobile accident.

(3) A suspension of the license of an applicant whose license has been previously suspended.

(4) A suspension of the license of an applicant who has failed to use timely appeal procedures provided by the bureau.

(5) After June 30, 2005, a suspension of the license of an applicant whose commercial driver's license has been disqualified under 49 CFR 383.51 or other applicable federal or state law, including an alcohol or a controlled substance conviction under IC 9-30-5-4 or 49 CFR 391.15.

(b) A court may grant a petition for a restricted driving permit from an individual who:

(1) received a request for evidence of financial responsibility after:

(A) an accident under IC 9-25-5-2; or

(B) a conviction of a motor vehicle violation under IC 9-25-9-1; and

(2) failed to provide proof of financial responsibility under IC 9-25-6;

if the individual shows by a preponderance of the evidence that the failure to maintain financial responsibility was inadvertent.

SECTION 15. IC 34-30-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. IC 9-14-4-6 (Concerning members of the driver licensing **medical advisory committee**): **board**).

SECTION 16. [EFFECTIVE JULY 1, 2003] **(a) After June 30, 2003, any reference in a statute or rule referring to the driver**

licensing advisory committee is considered a reference to the driver licensing medical advisory board.

(b) On July 1, 2003, the driver licensing medical advisory board becomes the owner of all the personal property and assets and assumes the obligations and liabilities of the driver licensing advisory committee, as abolished by this act.

P.L.209-2003

[S.268. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 2-5-19-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The committee shall do the following:

(1) Advise and assist the Bureau of the Census in the preparation and organization of decennial census data for use by the general assembly in reapportioning the following:

(A) The house of representatives of the general assembly.

(B) The senate of the general assembly.

(C) The United States House of Representatives.

(2) Work with the Bureau of the Census in defining the boundaries of census blocks in Indiana.

(3) Coordinate Indiana's efforts to obtain an accurate population count in each decennial census.

(4) Work with other state and federal agencies to assist in the local review program conducted in Indiana.

(5) Work with the code revision commission to prepare legislation for introduction in the regular session of the general assembly that meets during the year of the effective date of the decennial census under IC 1-1-3.5 to propose amendments to Indiana law to reflect the population information obtained as a result of the decennial census.

(6) Study costs and other relevant aspects of acquisition by the state of a geographic information system.

(7) Make recommendations concerning changes or amendments to IC 3 (the elections code) to the general assembly, **including legislation for the implementation and administration of the Help America Vote Act of 2002 (42 U.S.C. 15301 through 15545).**

SECTION 2. IC 3-5-2-26.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 26.2. "HAVA" refers to the Help America Vote Act of 2002 (42 U.S.C. 15301 through 15545).**

SECTION 3. IC 3-5-2-53 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 53. "Voting system" means **the following:**

(1) Before January 1, 2006, a combination of mechanical, electromechanical, or electronic equipment that is used to cast and count votes. The term includes the software and firmware required to program and to control the equipment. Equipment that is not an integral part of a voting system but that can be used as an adjunct to the system is considered to be a component of the system.

(2) After December 31, 2005, as provided in 42 U.S.C. 15481:

(A) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support that equipment) that is used:

(i) to define ballots;

(ii) to cast and count votes;

(iii) to report or display election results; and

(iv) to maintain and produce any audit trail information; and

(B) the practices and associated documentation used:

(i) to identify system components and versions of those components;

(ii) to test the system during its development and maintenance;

(iii) to maintain records of system errors and defects;

**(iv) to determine specific system changes to be made to a system after the initial qualification of the system; and
(v) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).**

SECTION 4. IC 3-5-4-7, AS AMENDED BY P.L.122-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Except as otherwise provided in this title, a reference to a federal statute or regulation in this title is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2003**.

SECTION 5. IC 3-5-8-2, AS ADDED BY P.L.126-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** The statement required by section 1 of this chapter must contain the following:

- (1) A statement of the qualifications that an individual must meet to vote in Indiana, including qualifications relating to registration.
- (2) A statement describing the circumstances that permit a voter who has moved from the precinct where the voter is registered to return to that precinct to vote.
- (3) A statement that an individual who meets the qualifications and circumstances listed in subdivisions (1) and (2) may vote in the election.
- (4) A statement describing how a voter who is challenged at the polls may be permitted to vote.
- (5) The date of the election and the hours during which the polls will be open, as required by 42 U.S.C. 15482.**
- (6) Instructions on how to vote, including how to cast a vote and how to cast a provisional ballot, as required by 42 U.S.C. 15482.**
- (7) Instructions for mail-in registrants and first time voters under IC 3-7-33-4.5 and 42 U.S.C. 15483, as required under 42 U.S.C. 15482.**
- (8) General information on voting rights under applicable federal and state laws, including the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated, as required under 42 U.S.C. 15482.**
- (9) General information on federal and state laws regarding prohibitions on acts of fraud and misrepresentation, as**

required under 42 U.S.C. 15482.

(10) A statement informing the voter what assistance is available to assist the voter at the polls.

~~(6)~~ **(11)** A statement informing the voter what circumstances will spoil the voter's ballot and the procedures available for the voter to request a new ballot.

~~(7)~~ **(12)** A statement describing which voters will be permitted to vote at the closing of the polls.

~~(8)~~ **(13)** Other information that the commission considers important for a voter to know.

(b) The voter's bill of rights is not required to contain the information described in subsection (a)(5), (a)(6), (a)(7), (a)(8), and (a)(9) before January 1, 2004.

SECTION 6. IC 3-5-8-3, AS ADDED BY P.L.126-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) As required by 42 U.S.C. 15483, and after December 31, 2003, the precinct election board shall post the voter's bill of rights in a public place in each polling place on election day.**

(b) The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters.

SECTION 7. IC 3-6-3.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 3.7. The Secretary of State

Sec. 1. Except as provided by IC 3-7-11-1, the secretary of state is the state's chief election official.

Sec. 2. In addition to performing the duties related to elections specified in this title, the secretary of state, with the consent of the co-directors of the election division shall do the following:

(1) Work with the federal Election Assistance Commission to encourage students enrolled at institutions of higher education (including community colleges) to assist state and local governments in the administration of elections by serving as nonpartisan poll workers or assistants.

(2) Consult with the federal Election Assistance Commission in the development of materials, seminars, and advertising

targeted at students to implement the Help America Vote College Program conducted by the Election Assistance Commission under 42 U.S.C. 15521.

(3) Consult with the Help America Vote Foundation established under 36 U.S.C. 1526 in developing programs to encourage secondary school students (including students educated in the home) to participate in the election process in a nonpartisan manner as poll workers or assistants to local election officials in precinct polling places.

(4) Consult and coordinate with (and provide administrative support to) the co-directors of the election division in the development and implementation of the state plan under HAVA (42 U.S.C. 15401 through 15406).

(5) Perform all duties required to be performed by the state or the chief state election official under HAVA.

Sec. 3. The secretary of state may develop programs to encourage Indiana secondary school students and students in institutions of higher education in Indiana to assist state and local governments in the administration of elections.

SECTION 8. IC 3-6-4.2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. The election division shall assist the secretary of state in the implementation of HAVA.**

SECTION 9. IC 3-6-4.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. The election division shall do the following:**

- (1) Prepare and distribute paper ballots for the election or retention of persons to federal and state offices and for public questions in compliance with this title.
- (2) Maintain complete and uniform descriptions and maps of all precincts in Indiana.
- (3) Promptly update the information required by subdivision (2) after each precinct establishment order is filed with the commission under IC 3-11-1.5.
- (4) Issue media watcher cards under IC 3-6-10-6.
- (5) Prepare and transfer to the department of state revenue voter registration affidavits for inclusion in state adjusted gross income tax booklets under IC 6-8.1-3-19.

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

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

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

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

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

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

SECTION 10. IC 3-6-4.2-12.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.1. (a) This section applies to the development, implementation, and amendment of the state plan under HAVA (42 U.S.C. 15401 through 15406).**

(b) An individual appointed by the co-directors to serve on the committee established to develop the state plan to implement HAVA under 42 U.S.C. 15405 is entitled to receive the compensation or reimbursement provided under subsection (d) or (e).

(c) For purposes of subsection (d), an individual who holds:

(1) a state office is considered an employee of the state; or

(2) an office of a political subdivision is considered an employee of the political subdivision.

(d) Each member of the committee who is not a state employee or an employee of a political subdivision is entitled to receive both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(e) Each member of the committee who is a state employee or an employee of a political subdivision is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(f) The committee's expenses, including the payment of per diem and reimbursements under this section, shall be paid from the Section 101 account of the election administration assistance fund established under IC 3-11-6.5.

SECTION 11. IC 3-6-4.2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) As authorized under 42 U.S.C. 15421, the secretary of state with the consent of the co-directors of the election division shall apply to the Secretary of Health and Human Services for payments under the HAVA (42 U.S.C. 15421 through 15425) to do the following:**

(1) Make polling places (including the path of travel, entrances, exits, and voting areas of each polling place) more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters.

(2) Provide individuals with disabilities and other individuals described in subdivision (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

(b) If the secretary of state receives payments from the Secretary of Health and Human Services under 42 U.S.C. 15421 through 15425, the election division shall expend the money as described in the application submitted under 42 U.S.C. 15423.

SECTION 12. IC 3-6-4.2-14, AS AMENDED BY P.L.26-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Each year in which a general or municipal election is held, the election division shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title **and federal law (including HAVA and NVRA)**. The election division may, but is not required to, call a meeting under this section during a year in which a general or a municipal election is not held.

(b) Each circuit court clerk shall attend a meeting called by the election division under this section.

(c) The co-directors of the election division shall set the time and place of the instructional meeting. In years in which a primary election is held, the election division:

- (1) may conduct the meeting before the first day of the year; and
- (2) shall conduct the meeting before primary election day.

The instructional meeting may not last for more than two (2) days.

(d) Each member of a county election board or board of registration **and an individual who has been elected or selected to serve as circuit court clerk but has not yet begun serving in that office** is entitled to receive all of the following:

- (1) A per diem of twenty-four dollars (\$24) for attending the instructional meeting called by the election division under this section.
- (2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting called by the election division under this section.
- (3) Reimbursement for the payment of the instructional meeting registration fee from the county general fund without appropriation.
- (4) An allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.

SECTION 13. IC 3-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 4.5. Administrative Complaints Concerning Uniform

and Nondiscriminatory Election Technology and Administrative Requirements Under Title III of the Help America Vote Act of 2002

Sec. 1. This chapter applies after December 31, 2003.

Sec. 2. As used in this chapter, "Title III" refers to Title III of HAVA (42 U.S.C. 15481 through 15485).

Sec. 3. As required by 42 U.S.C. 15512, this chapter establishes the state based administrative complaint procedures to remedy grievances concerning uniform and nondiscriminatory election technology and administrative requirements under Title III.

Sec. 4. The remedies provided under this chapter are supplemental to any other remedies provided to an aggrieved party under this title.

Sec. 5. As required by 42 U.S.C. 15512, the procedures prescribed by this chapter must be uniform and nondiscriminatory.

Sec. 6. As provided by 42 U.S.C. 15512, a person who believes there is a violation of any provision of Title III, including a violation that has occurred, is occurring, or is about to occur, may file a complaint with the election division.

Sec. 7. As required by 42 U.S.C. 15512, a complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under IC 33-16-4.

Sec. 8. The complaint filed under section 7 of this chapter must state the following:

- (1) The name and mailing address of the person alleged to be committing the violation of Title III described in the complaint.**
- (2) Whether the person filing the complaint has filed a complaint concerning the violation with a county election board under IC 3-6-5.1.**
- (3) The nature of the injury suffered (or about to be suffered) by the person filing the complaint.**

Sec. 9. The election division shall promptly provide a copy of the complaint by first class mail to the members of the commission and the persons identified in the complaint.

Sec. 10. A person entitled to file a complaint under this chapter may file a complaint with the county election board where the violation allegedly occurred under IC 3-6-5.1. If a person filed a

complaint under IC 3-6-5.1, the election division shall not begin enforcement procedures under this chapter regarding the complaint until the person filing the complaint files a complaint with the election division under this chapter.

Sec. 11. This section applies if the complaint alleges that either co-director of the election division has committed the violation. The aggrieved person shall file the complaint with the chair of the commission. The chair of the commission shall perform the duties otherwise performed by the election division concerning a complaint.

Sec. 12. As permitted under 42 U.S.C. 15512, the election division (or commission) may consolidate complaints filed under this chapter.

Sec. 13. The election division shall determine whether a complaint filed under this chapter describes a violation of Title III if the facts set forth in the complaint are assumed to be true. If the election division determines that:

- (1) even if the facts set forth in the complaint are assumed to be true, there is no violation of Title III; or
 - (2) the person has not complied with section 7 of this chapter;
- the election division shall dismiss the complaint and publish the order dismissing the matter in the Indiana Register.

Sec. 14. If the election division dismisses a complaint under section 13 of this chapter, the election division shall provide a copy of this determination by certified mail to:

- (1) the person who filed the notice;
- (2) the person alleged to have committed the violation;
- (3) the members of the commission; and
- (4) the attorney general.

Sec. 15. If the election division determines that the complaint alleges a violation of Title III if the facts alleged in the complaint are assumed to be true and that the person has complied with section 7 of this chapter, the election division shall conduct an investigation under IC 3-6-4.2.

Sec. 16. The election division, upon completing the investigation, shall submit the results of the investigation to the commission, which shall then issue a written report. The election division shall provide a copy of the report by certified mail to:

- (1) the person who filed the complaint;

- (2) the person alleged to have committed the violation;
- (3) the members of the commission; and
- (4) the attorney general.

Sec. 17. The report described in section 16 of this chapter must:

- (1) indicate the date when the complaint alleging the violation was received by the election division;
- (2) contain findings of fact regarding the alleged violation and state whether a violation of Title III has occurred, or appeared to be likely to occur when the complaint was filed;
- (3) state what steps, if any, the person alleged to have committed the violation has taken to correct the violation or to prevent a reoccurrence of the violation;
- (4) suggest any additional measures that could be taken to correct a violation;
- (5) indicate the date when a violation was corrected or is expected to be corrected; and
- (6) provide any additional information or recommendations useful in resolving this complaint.

Sec. 18. As required by 42 U.S.C. 15512, at the request of the person filing a complaint, or at the request of a member of the commission, the commission shall conduct a hearing on the complaint and prepare a record of the hearing. A request for a hearing must be filed with the election division not later than noon seven (7) days after the report is mailed under section 16 of this chapter.

Sec. 19. After concluding the hearing, the commission shall:

- (1) affirm the report;
- (2) amend the report; or
- (3) refer the matter to the election division for further investigation and submission of a subsequent report to the commission.

Sec. 20. As required by 42 U.S.C. 15512, if the commission determines that based on the evidence presented, there is no violation of any provision of Title III or that the person has not complied with section 7 of this chapter, the commission shall dismiss the complaint and publish the order dismissing the matter in the Indiana Register.

Sec. 21. As authorized by 42 U.S.C. 15512, if the commission determines that there is a violation of any provision of Title III, the

commission shall determine and provide the appropriate remedy if authorized by law to do so. If providing the remedy would require additional or amended Indiana legislation, the commission shall notify the census data advisory committee and provide recommendations regarding the form and content of this legislation.

Sec. 22. The secretary of state may file a civil action seeking declaratory or injunctive relief to secure or implement a remedy determined by the commission to be appropriate under section 21 of this chapter.

Sec. 23. The commission shall forward a written summary of any action taken by the commission under section 20 or 21 of this chapter by certified mail to:

- (1) the person who filed the complaint;
- (2) the person alleged to have committed the violation; and
- (3) the attorney general.

Sec. 24. As required by 42 U.S.C. 15512, the commission shall make the final determination regarding the complaint not later than ninety (90) days after the date the complaint is filed. The person filing the complaint may file a written consent permitting the commission to take a longer period to make the final determination regarding the complaint.

Sec. 25. As required by 42 U.S.C. 15512, if the commission fails to make the final determination regarding the complaint within the period applicable to the complaint under section 24 of this chapter, the complaint shall be resolved not later than sixty (60) days after the deadline applicable to the complaint under section 24 of this chapter.

Sec. 26. A complaint described by section 25 of this chapter shall be resolved by referral to an arbitrator selected jointly by the commission and the person who filed the complaint.

Sec. 27. As provided by 42 U.S.C. 15512, the record and other materials from any proceedings conducted by the commission shall be made available for use by the arbitrator.

Sec. 28. The arbitrator shall file a report with the election division setting forth the resolution of the complaint. The report must specify the following:

- (1) Whether a violation of Title III has occurred or was about to occur when the complaint was filed.

(2) The appropriate remedy to correct any violation.

(3) Whether providing the remedy would require additional or amended Indiana legislation or a civil action for declaratory or injunctive relief.

(4) Any other information and recommendations necessary to fully provide any appropriate relief under this chapter.

SECTION 14. IC 3-6-5-17, AS AMENDED BY P.L.212-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Each county election board shall submit a report to the election division after each primary, special, municipal, and general election describing the activities of the board during the previous year. The board shall include the following in the report:

(1) Information relating to the expenses of office maintenance and elections within the county or political subdivisions within the county.

(2) A copy of the statement of the county election board containing the votes cast for each candidate and on each public question in each precinct at the last election preceding the submission of the report.

(3) Any additional information relating to elections that the commission prescribes.

(b) The report described in subsection (a) must be postmarked, ~~or~~ hand delivered, **or transmitted** to the election division **using the computerized list under IC 3-7-26.3** not later than fourteen (14) days after each election.

(c) The election division shall send a copy of each report to the office not later than ten (10) days after receiving the report.

SECTION 15. IC 3-6-5-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.5. **(a) As required by 42 U.S.C. 1973ff-1(c), each county election board shall submit a report to the election division after each general election setting forth the combined number of absentee ballots:**

(1) transmitted by the county election board to absent uniformed services voters and overseas voters for the election; and

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

(b) The report must be:

- (1) postmarked or hand delivered to the election division not later than fourteen (14) days after the election; and**
- (2) in the form prescribed by the federal Election Assistance Commission under Section 703(b) of HAVA (42 U.S.C. 1973ff-1 (note)).**

SECTION 16. IC 3-6-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. **(a)** A county election board may appoint and at its pleasure remove clerks, custodians, and other employees that are necessary in the execution of its powers. The county election board may determine the duties, rank, and salaries of its appointees.

(b) The county election board may employ students enrolled at institutions of higher education (including community colleges) to assist in the administration of elections by serving as nonpartisan assistants, in accordance with the requirements of the Help America Vote College Program conducted by the Election Assistance Commission under 42 U.S.C. 15521.

SECTION 17. IC 3-6-5.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 5.1. County Procedures for Resolving Administrative Complaints Concerning Uniform and Nondiscriminatory Election Technology and Administrative Requirements Under Title III of the Help America Vote Act of 2002

Sec. 1. This chapter applies after December 31, 2003.

Sec. 2. As used in this chapter, "Title III" refers to Title III of HAVA (42 U.S.C. 15481 through 15485).

Sec. 3. This chapter establishes a county based administrative complaint procedure to supplement the state based administrative complaint procedure under IC 3-6-4.5 to remedy grievances concerning uniform and nondiscriminatory election technology and administrative requirements under Title III. A person who files a complaint under this chapter retains the right to file a complaint with the election division under IC 3-6-4.5.

Sec. 4. The remedies provided under this chapter are supplemental to any other remedies provided to an aggrieved party under this title.

Sec. 5. The procedures prescribed by this chapter must be

uniform and nondiscriminatory.

Sec. 6. A person who believes there is a violation of any provision of Title III, including a violation that has occurred, is occurring, or is about to occur, may file a complaint with the circuit court clerk of the county where the violation occurred, is occurring, or is about to occur.

Sec. 7. A complaint filed under this chapter must be written, signed, and sworn to before an individual authorized to administer an oath under IC 33-16-4.

Sec. 8. The complaint filed under section 6 of this chapter must state the following:

- (1) The name and mailing address of the person alleged to be committing the violation of Title III described in the complaint.
- (2) Whether the person filing the complaint has filed a complaint concerning the violation with the election division under IC 3-6-4.5.
- (3) The nature of the injury suffered (or about to be suffered) by the person filing the complaint.

Sec. 9. The circuit court clerk shall promptly provide a copy of the complaint by first class mail to the members of the county election board and the persons identified in the complaint.

Sec. 10. If the county election board is notified at any time that the person who filed a complaint under this chapter has filed a complaint with the election division under IC 3-6-4.5 regarding this matter, the county election board shall dismiss the proceeding under this chapter.

Sec. 11. This section applies if the complaint alleges that the circuit court clerk has committed the violation. The aggrieved person shall file the complaint with the chair of the county election board. The chair shall perform the duties otherwise performed by the circuit court clerk concerning a complaint.

Sec. 12. The county election board may consolidate complaints filed under this chapter.

Sec. 13. The circuit court clerk shall determine whether a complaint filed under this chapter describes a violation of Title III if the facts set forth in the complaint are assumed to be true. The circuit court clerk may consult with the election division in making this determination. If the circuit court clerk determines that:

- (1) even if the facts set forth in the complaint are assumed to be true, there is no violation of Title III; or
- (2) that the person has not complied with section 7 of this chapter;

the circuit court clerk shall dismiss the complaint and publish notice of the order dismissing the matter in accordance with IC 5-3-1.

Sec. 14. If the circuit court clerk dismisses a complaint under section 13 of this chapter, the circuit court clerk shall provide a copy of this determination by certified mail to:

- (1) the person who filed the notice;
- (2) the person alleged to have committed the violation;
- (3) the members of the county election board; and
- (4) the election division.

Sec. 15. If the circuit court clerk determines that the complaint alleges a violation of Title III if the facts alleged in the complaint are assumed to be true and that the person has complied with section 7 of this chapter, the circuit court clerk shall conduct an investigation under IC 3-6-5.

Sec. 16. The circuit court clerk, upon completing the investigation, shall submit the results of the investigation to the county election board, which shall then issue a written report. The circuit court clerk shall provide a copy of the report by certified mail to:

- (1) the person who filed the complaint;
- (2) the person alleged to have committed the violation;
- (3) the members of the county election board; and
- (4) the election division.

Sec. 17. The report described in section 16 of this chapter must:

- (1) indicate the date when the complaint alleging the violation was received by the county election board;
- (2) contain findings of fact regarding the alleged violation and state whether a violation of Title III has occurred or appeared to be likely to occur when the complaint was filed;
- (3) state what steps, if any, the person alleged to have committed the violation has taken to correct the violation or to prevent a reoccurrence of the violation;
- (4) suggest any additional measures that could be taken to correct a violation;

(5) indicate the date when a violation was corrected or is expected to be corrected; and

(6) provide any additional information or recommendations useful in resolving this complaint.

Sec. 18. At the request of the person filing a complaint, or at the request of a member of the county election board, the board shall conduct a hearing on the complaint and prepare a record of the hearing. This request must be filed not later than noon seven (7) days after the report was mailed under section 16 of this chapter.

Sec. 19. After concluding the hearing, the county election board shall:

(1) affirm the report;

(2) amend the report;

(3) refer the matter to the circuit court clerk for further investigation and submission of a subsequent report to the county election board; or

(4) refer the matter to the election division.

Sec. 20. If the county election board determines that based on the evidence presented, there is no violation of any provision of Title III or that the person has not complied with section 7 of this chapter, the county election board shall dismiss the complaint and publish notice of the order dismissing the matter in accordance with IC 5-3-1.

Sec. 21. If the county election board determines that there is a violation of any provision of Title III, the county election board shall determine and provide the appropriate remedy if authorized by law to do so. If the county election board determines that it is not authorized by law to provide the appropriate remedy, the county election board shall dismiss the complaint.

Sec. 22. The county election board shall forward a written summary of any action taken by the commission under section 20 or 21 of this chapter by certified mail to:

(1) the person who filed the complaint;

(2) the person alleged to have committed the violation; and

(3) the election division.

SECTION 18. IC 3-6-6-13, AS AMENDED BY P.L.126-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A county election board shall fill a vacancy in a precinct election office before the hour set for the opening of the

polls, upon the nomination of the appropriate county chairman.

(b) This subsection applies to a precinct election office when, at noon, fourteen (14) days before election day, the appropriate county chairman has made no nomination for the office. The county election board, by unanimous vote of the entire membership of the board, may fill the office by appointing an individual who would be eligible to serve in the office if nominated by the county chairman.

(c) If a vacancy is filled by the county election board under subsection (b), the board may, by unanimous vote of the entire membership of the board, fill the office by appointing a student:

(1) enrolled at an institution of higher education (including a community college); and

(2) who is a registered voter of the county;

to serve as a nonpartisan precinct election officer.

SECTION 19. IC 3-6-6-39, AS ADDED BY P.L.126-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. **(a)** The county election board by **unanimous vote of the entire membership of the board** may permit an individual who is not a voter to ~~be a poll clerk or an election sheriff~~ **serve as any precinct election officer (other than inspector), or to assist a precinct election officer**, if the individual satisfies all the following:

(1) The individual is at least sixteen (16) years of age but not more than seventeen (17) years of age.

(2) The individual is a citizen of the United States.

(3) The individual is a resident of the county.

(4) The individual has a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale.

(5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment **or, if the student is educated in the home, the approval of the individual responsible for the education of the student.**

(6) The individual has the approval of the individual's parent or legal guardian.

(7) The individual has satisfactorily completed any training required by the county election board.

(8) The individual otherwise is eligible to serve as a precinct election officer under this chapter.

(b) After January 1, 2004, an individual appointed to a precinct

election office or assistant under this section must serve in a nonpartisan manner in accordance with the standards developed by the Help America Vote Foundation under 36 U.S.C. 152602.

SECTION 20. IC 3-7-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The NVRA official shall do the following:

(1) Coordinate with the commission to oversee the implementation and administration of NVRA by the state, county, municipal, and nongovernmental offices designated as registration sites under this article.

(2) Develop training programs to assist the offices described in subdivision (1) in properly administering registration services.

(3) Protect the fundamental rights of voters.

(4) Consult with the federal Election **Assistance** Commission under 42 U.S.C. 1973gg-7 to develop a federal mail registration form.

(5) Comply with 42 U.S.C. 1973gg-4(b) by making federal and state mail registration forms available for distribution through governmental and private entities, with particular emphasis on making the forms available for organized voter registration programs.

(6) Comply with 42 U.S.C. 1973gg-6(g) by notifying a county registration officer whenever the NVRA official receives information from a United States attorney that:

(A) a person has been convicted of a felony in a district court of the United States; or

(B) the conviction has been overturned.

(7) Receive notices from voter registration agencies in other states indicating that a person has registered in that state and requests that the person's registration in Indiana be canceled.

(8) Forward notices received under subdivision (7) to the appropriate circuit court clerk or board of registration for cancellation of the voter's registration as provided in 42 U.S.C. 1973gg-6(a)(3)(A).

(9) Assist the federal Election **Assistance** Commission under 42 U.S.C. 1973gg-7(a)(3) by preparing reports concerning the impact of NVRA on election administration in Indiana.

(10) Recommend improvements to the Federal Election

Commission concerning federal and state procedures, forms, or other matters affected by NVRA.

(11) Develop public awareness programs to assist voters in understanding the services available to them under NVRA.

SECTION 21. IC 3-7-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. If the NVRA official determines that the notice alleges a violation of NVRA or this article if the facts set forth in the notice are assumed to be true, the NVRA official shall conduct an investigation under ~~IC 3-6-4~~. **IC 3-6-4.2.**

SECTION 22. IC 3-7-12-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) In addition to the reports required for the statewide voter file, the county voter registration office shall file a report with the election division not later than noon January 31 of each year.

(b) The report must include the following:

- (1) A statement of the number of voters registered in each precinct of the county as of December 31 of the preceding year.
- (2) Any revisions to the county NVRA implementation plan adopted during the preceding year.
- (3) Other data prescribed by the division.

(c) This section expires January 1, 2006.

SECTION 23. IC 3-7-12-28.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 28.1. (a) This section applies after December 31, 2005.**

(b) In addition to the reports required for the statewide voter file, the county voter registration office shall file a report with the election division not later than noon January 31 of each year.

(c) The report must include the following:

- (1) Any revisions to the county NVRA implementation plan adopted during the preceding year.**
- (2) Other data prescribed by the division.**

SECTION 24. IC 3-7-12-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. After concluding the hearing, the county election board shall:

- (1) affirm the report;
- (2) amend the report;
- (3) refer the matter to the **circuit court** clerk for further

investigation and submission of a subsequent report to the board;
or

(4) refer the matter to the NVRA official.

SECTION 25. IC 3-7-13-13, AS AMENDED BY P.L.126-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, when an individual registers to vote, the individual must provide the individual's driver's license number issued under IC 9-24-11 ~~or the individual's identification card number issued under IC 9-24-16~~; **as provided under 42 U.S.C. 15483.**

(b) If an individual does not have a driver's license issued under IC 9-24-11, ~~or an identification card issued under IC 9-24-16~~, the individual must provide the last four (4) digits of the individual's Social Security number when the individual registers to vote, **as provided under 42 U.S.C. 15483.**

(c) This subsection applies after December 31, 2005. As required under 42 U.S.C. 15483, if an individual does not have a Social Security number, the election division shall assign the individual a number to be associated with the individual's registration in the computerized list maintained under IC 3-7-26.3. If the individual has an identification card number issued under IC 9-24-16, the election division shall assign that number as the voter's number under this subsection. If the individual does not have an identification card number issued under IC 9-24-16, the election division shall assign a unique identifying number to the voter's registration record in the computerized list, as provided under 42 U.S.C. 15483.

(d) The number provided by the individual under subsection (a) or (b), ~~or the number assigned to the individual under subsection (c)~~, is the individual's voter identification number.

~~(d)~~ **(e)** A voter's voter identification number may not be changed unless:

- (1)** the voter made an error when providing the number when registering to vote;
- (2)** the election division or a county voter registration office made an error when entering the number into the computerized list under IC 3-7-26.3;
- (3)** the voter obtains or provides a driver's license number

under IC 9-24-11 or a Social Security number after the voter was assigned a number under subsection (c); or

(4) the voter ceases to have a driver's license number under IC 9-24-11 after the voter provided that number under subsection (a).

(e) (f) If a voter transfers the voter's registration and the voter's voter identification number is not included in the voter's registration records, the voter registration officer of the county in which the voter's registration is to be transferred shall require the voter to provide the number required by subsection (a) or (b) before the voter's registration is transferred. **If, after December 31, 2005, the voter does not have either of the numbers described in subsection (a) or (b), a voter identification number shall be assigned to the voter under subsection (c).**

SECTION 26. IC 3-7-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter prescribes procedures for voter registration by mail as provided in 42 U.S.C. 1973gg-4 **and after December 31, 2003, 42 U.S.C. 15483.**

SECTION 27. IC 3-7-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As provided in 42 U.S.C. 1973gg-4(a)(1) **and after December 31, 2003, 42 U.S.C. 15483**, a ~~circuit court clerk or board of county voter~~ registration office shall accept and use the mail voter registration form prescribed by the federal Election Assistance Commission under 42 U.S.C. 1973gg-7(a)(2).

SECTION 28. IC 3-7-22-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As provided in 42 U.S.C. 1973gg-4(a)(2) **and after December 31, 2003, 42 U.S.C. 15483**, a ~~circuit court clerk or board of county voter~~ registration office shall accept and use a mail voter registration form prescribed by the commission that complies with 42 U.S.C. 1973gg-7(b)(2), **42 U.S.C. 15483 after December 31, 2003**, and this article.

SECTION 29. IC 3-7-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A mail registration form prescribed under section 3 of this chapter may only require information necessary to enable the ~~circuit court clerk or board of county voter~~ registration office to do the following:

(1) Assess the eligibility of the applicant, **including after**

December 31, 2003, the eligibility of the applicant under 42 U.S.C. 15483.

(2) Administer the voter registration and election process.

(b) The information required under subsection (a) may include the following:

(1) The signature of the applicant.

(2) Data relating to previous registration by the applicant.

(c) The form may not include any requirement for notarization or other formal authentication.

SECTION 30. IC 3-7-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A mail registration form prescribed under section 3 of this chapter must meet the following requirements:

(1) The form must include a statement that does the following:

(A) Sets forth each eligibility requirement for registration (including citizenship).

(B) Contains an attestation that the applicant meets each of the eligibility requirements.

(C) Requires the signature of the applicant, under penalty of perjury.

(2) The form must include, in print that is identical to the print used in the attestation part of the application, information setting forth the penalties provided by law for submission of a false voter registration application.

(3) After December 31, 2003, the question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(4) After December 31, 2003, the question "Will you be 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be eighteen (18) years of age on or before election day.

(5) After December 31, 2003, a statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under 42 U.S.C. 15483 must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the

first time.

SECTION 31. IC 3-7-26-2, AS AMENDED BY P.L.199-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The election division shall develop and maintain a statewide voter registration file.

(b) Subject to section 20 of this chapter, not later than ~~July~~ **January** 1, 2004, the election division shall maintain the statewide voter registration file so that the file is accessible by the election division and county voter registration offices through a secure connection over the Internet.

(c) The statewide voter registration file must comply with the standards and requirements described in 42 U.S.C. 15483.

SECTION 32. IC 3-7-26-3, AS AMENDED BY P.L.199-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Each county voter registration office shall provide the voter registration information required under section 7 of this chapter to the election division.

(b) The voter registration office shall ~~periodically~~ update the voter registration information as provided in this chapter and in IC 3-7-38.1.

(c) The election division shall format the statewide voter registration file required under section 2(b) of this chapter so that only the county voter registration office of a particular county is able to change data in the file for that particular county's voters.

SECTION 33. IC 3-7-26-8, AS AMENDED BY P.L.199-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Until a county has the capability to transmit the information over the Internet as required under subsection (b), the information required by section 7 of this chapter shall be provided on magnetic media or other machine readable form to the election division.

(b) Subject to section 20 of this chapter, not later than ~~July~~ **January** 1, 2004, a county voter registration office shall transmit the information required by section 7 of this chapter to the election division over the Internet, in a manner and using a method prescribed by the election division, through a secure connection to the statewide voter registration file.

(c) The commission shall prescribe a format to ensure the standardization and readability of the data provided under subsection

(a) or (b).

SECTION 34. IC 3-7-26-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21. This chapter expires January 1, 2006.**

SECTION 35. IC 3-7-26.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 26.3. Statewide Voter Registration List

Sec. 1. This chapter applies after December 31, 2005.

Sec. 2. As used in this chapter, "computerized list" refers to the statewide voter registration list established under section 3 of this chapter.

Sec. 3. As required under 42 U.S.C. 15483, and not later than January 1, 2006, the secretary of state with the consent of the co-directors of the election division shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration list under this chapter.

Sec. 4. As required under 42 U.S.C. 15483, the computerized list must:

- (1) be defined, maintained, and administered at the state level;**
- (2) contain the name and registration information of every voter in Indiana; and**
- (3) assign a unique identifier to each voter in Indiana.**

Sec. 5. In accordance with 42 U.S.C. 15483, the computerized list serves as:

- (1) the single system for storing and managing the official list of voters throughout Indiana; and**
- (2) the official voter registration list for the conduct of all elections in Indiana.**

Sec. 6. As required under 42 U.S.C. 15483, the computerized list must be coordinated with other agency data bases within Indiana.

Sec. 7. As required under 42 U.S.C. 15483, each county voter registration office, the election division, and the secretary of state must be able to obtain immediate electronic access to the information contained in the computerized list.

Sec. 8. The computerized list must be formatted so that only the county voter registration office of a county may change data in the file concerning the voters registered in that county.

Sec. 9. As required under 42 U.S.C. 15483, a county voter registration office must electronically enter all voter registration information obtained by the county voter registration office into the computerized list on an expedited basis at the time the information is provided to the county voter registration office.

Sec. 10. As required under 42 U.S.C. 15483, the secretary of state and the election division shall provide the support required for the county voter registration office to enter the information into the computerized list.

Sec. 11. As required under 42 U.S.C. 15483, the county voter registration office shall perform list maintenance with respect to the computerized list on a regular basis. The list maintenance activity required under this section includes the removal of an individual from the list when required by this article and NVRA following:

- (1) the death of the individual;
- (2) the individual's confirmation that the individual resides outside the county in which the individual is registered; or
- (3) an inactive voter's failure to respond to a notice or otherwise act in accordance with 42 U.S.C. 1973gg-6 to require the voter's registration to be reclassified as active within the period prescribed by NVRA.

Sec. 12. As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list with the department of correction records concerning individuals disfranchised under IC 3-7-46.

Sec. 13. As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list with the state department of health concerning individuals identified as deceased under IC 3-7-45.

Sec. 14. As required under 42 U.S.C. 15483, the computerized list maintenance performed under sections 11 through 13 of this chapter must ensure that:

- (1) the name of each voter appears in the computerized list;
- (2) only voters who are not eligible to vote are removed from the computerized list; and
- (3) duplicate names of an individual voter are eliminated from the computerized list.

Sec. 15. As required under 42 U.S.C. 15483, the election division

and each county voter registration office shall provide adequate technological security measures to prevent unauthorized access to the computerized list.

Sec. 16. As required under 42 U.S.C. 15483, the election division and each county voter registration office shall ensure that voter registration records are accurate and updated regularly.

Sec. 17. As required under 42 U.S.C. 15483, the election division and each county voter registration office shall perform the list maintenance required under NVRA to ensure that inactive voters described in section 11(3) of this chapter and 42 U.S.C. 1973gg-6(d)(1)(B) are removed from the official list of eligible voters.

Sec. 18. As required under 42 U.S.C. 15483, the secretary of state, the co-directors of the election division, and the bureau of motor vehicles commission shall enter into an agreement to match information in the computerized list data base with information in the data base of the bureau of motor vehicles commission to enable the election division (acting on behalf of the secretary of state) and the commission to verify the accuracy of the information provided on voter registration applications.

Sec. 19. (a) As required under 42 U.S.C. 15483, the bureau of motor vehicles commission shall enter into an agreement with the Commissioner of Social Security under 42 U.S.C. 405(r)(8)(A) to verify information set forth on voter registration applications.

(b) The following information is subject to verification under this section:

(1) Whether the name (including the first name and any family forename or surname), date of birth (including month, day, and year), and Social Security number of an individual provided to the Commissioner of Social Security match the information contained in the Commissioner's records.

(2) Whether the individual is shown in the records of the Commissioner of Social Security as deceased.

Sec. 20. As required by 42 U.S.C. 15483, the agreement under section 19 of this chapter must include:

(1) safeguards to assure the maintenance of the confidentiality of any information disclosed to the bureau;

(2) procedures to permit the bureau to use the information to maintain the bureau's records; and

(3) procedures to permit the election division to coordinate the records of the computerized list established under this chapter with the bureau's data base as provided by section 6 of this chapter.

Sec. 21. As provided by 42 U.S.C. 15483, the information provided by the Commissioner of Social Security or by an individual to the bureau of motor vehicles is confidential. The information may be used only for the purposes described under 42 U.S.C. 15483 and sections 19 and 20 of this chapter.

SECTION 36. IC 3-7-27-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) As required under 42 U.S.C. 1973gg-6(i), a county voter registration office shall retain records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the voter registration list. These records include the following:

- (1) Lists of names and addresses of voters who were sent notices under the voter list maintenance program.
- (2) Information concerning whether a voter has responded to a notice described by subdivision (1) as of the date the inspection of the record is made.

(b) The county voter registration office shall retain the records described by this section for at least two (2) years. Except for records concerning declinations to register to vote or that indicate the identity of a voter registration agency where a person registered, the county voter registration office shall make the records available for public inspection and photocopying at a reasonable cost as provided in IC 5-14-3.

(c) ~~This subsection applies to a county that maintains voter registration information on a computerized system.~~ In accordance with IC 5-14-3-3(g) and notwithstanding any other statute, a county voter registration office shall, with regard to voter registration information **concerning voters of the county** on a computerized system, act in accordance with a nondiscriminatory uniform policy adopted by the county election board. The policy must either permit a person to duplicate or obtain a duplicate copy of a computer tape, computer disc, microfilm, or other similar record system that contains this voter registration information or not permit the person to duplicate or obtain

a duplicate copy of the information.

(d) A person who requests computerized voter registration information under subsection (c) must provide a written statement that the person will not:

- (1) use the information to solicit merchandise, goods, services, or subscriptions; or
- (2) sell, loan, give away, or otherwise deliver the information obtained by the request to any other person;

for a purpose other than political activities or political fundraising activities.

(e) Publication of information obtained under subsection (d) in a news broadcast or newspaper is not prohibited.

SECTION 37. IC 3-7-27-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section applies to a county that maintains voter registration information in a computerized system.

(b) The county voter registration office shall prepare an entry in the computerized system that accurately reflects the information set forth in the original affidavit of registration **and, if the applicant was required to provide documentation under IC 3-7-33-4.5, whether the required documentation has been provided.**

(c) If the documentation required under IC 3-7-33-4.5 has been provided, the entry must include the following:

- (1) The date the documentation was filed with the county voter registration office.**
- (2) Whether the documentation was filed with the county voter registration office:**
 - (A) by a precinct election board after the person voted in person at the polling place;**
 - (B) by the county election board after the person applied to cast an absentee ballot; or**
 - (C) by the applicant as part of the original filing of the application to register to vote, or in a subsequent filing received by the county voter registration office.**

(3) A brief description of the type of documentation provided. The election division shall provide each county voter registration office with a suggested coding system for identifying the types of documentation.

(d) However, the county voter registration office is only required to enter a voter's voting history for the previous ten (10) years if that history is available.

~~(e)~~ (e) The county voter registration office is not required to prepare a duplicate paper copy of a registration properly entered into the computerized system.

~~(f)~~ (f) The computerized system must be able to generate lists of voters organized alphabetically and by precinct of residence.

(g) This section expires January 1, 2006.

SECTION 38. IC 3-7-27-20.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 20.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall prepare an entry in the computerized system that accurately reflects the information set forth in the original affidavit of registration. However, the county voter registration office is required to enter a voter's voting history for the previous ten (10) years only if that history is available.

(c) The county voter registration office is not required to prepare a duplicate paper copy of a registration properly entered into the computerized system.

SECTION 39. IC 3-7-27-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) This section applies to a county whose voter registration records are maintained on a computerized system described by section 20 of this chapter.

(b) The ~~circuit court clerk or board of~~ **county voter registration office** is not required to maintain duplicate paper copies of original registrations if the county maintains a regularly updated copy of the computerized record at a secure location outside of the **county voter registration office** ~~of the circuit court clerk or board of registration~~ that would prevent loss of registration information if the records in the **county voter registration office** ~~of the circuit court clerk or board of registration~~ were not available.

(c) Notwithstanding IC 5-15, a ~~circuit court clerk or board of~~ **county voter registration office** may dispose of duplicate paper copies of original registrations made before January 1, 1995, by destroying the duplicate paper copies.

(d) This section expires January 1, 2006.

SECTION 40. IC 3-7-27-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office is not required to maintain duplicate paper copies of original registrations.

(c) Notwithstanding IC 5-15, a county voter registration office may dispose of duplicate paper copies of original registrations made before January 1, 2006, by destroying the duplicate paper copies.

SECTION 41. IC 3-7-27-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 22. (a) This section applies before January 1, 2006, to a county whose voter registration records are maintained on a computerized system described by section 20 of this chapter. After December 31, 2005, this section applies to all counties.**

(b) Before January 1, 2006, the circuit court clerk or board of county voter registration office may maintain the original affidavits of registration in a secure location outside of the county voter registration office of the circuit court clerk or board of registration if:

- (1) the county maintains a regularly updated copy of the computerized record as described in section 21(b) of this chapter; and**
- (2) the original affidavits are not located in the same location as the updated copy of the computerized record.**

After December 31, 2005, the county voter registration office may maintain the original affidavits of registration in a secure location outside the county voter registration office.

SECTION 42. IC 3-7-27-23, AS ADDED BY P.L.176-1999, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23. (a) This section applies to a county that maintains voter registration information in a computerized system.**

(b) If a county voter registration office enters into a contract to acquire voter registration computer software provided by a person other than a person who:

- (1) had previously furnished the voter registration computer software to the county; or**

(2) is currently providing technical assistance regarding the computer software to the county voter registration office; the county voter registration office shall notify the person who furnished the software or is providing support for the software of this determination. This notice shall be sent by certified mail, return receipt requested, to the most recent address provided to the county by this person.

(c) Not later than sixty (60) days after the county voter registration office mails the notice described in subsection (b), the person receiving the notice shall provide the person who has entered into a contract with the county voter registration office with information concerning the specifications for the computer software program furnished to the county or supported by that person. A person is not required to provide proprietary information to another person under this subsection but is required to act in good faith to permit the county voter registration office to install the voter registration software supplied by another person.

(d) This section expires January 1, 2006.

SECTION 43. IC 3-7-29-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Not later than ten (10) days before the election at which the registration record is to be used, the ~~circuit court clerk or board of registration~~ **county voter registration office** shall prepare certified copies of the list of registered voters for each precinct in the county.

(b) The lists must contain the **following information concerning each registered voter:**

(1) The full name of the voter.

(2) The address ~~and~~ of the voter.

(3) The assigned county identification number. ~~of each registered voter.~~

(4) After December 31, 2003, whether the voter is required to provide additional identification before voting either in person or by absentee ballot.

(c) The names shall be arranged in the same order as they are in the registration record of the precinct.

SECTION 44. IC 3-7-29-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) This subsection applies before January 1, 2006.** When the inspector of a precinct

procures the ballots and other election supplies for an election, the inspector shall also procure from the ~~circuit court clerk or board of registration:~~ **county voter registration office:**

- (1) in a county whose registration records are not maintained on a computerized system described by IC 3-7-27-20, the duplicate copy of the registration record; or
- (2) in a county with a computerized registration system, the certified copies of the registration record of the precinct with the information required under section 1 of this chapter;

and other necessary registration supplies.

(b) This subsection applies after December 31, 2005. When the inspector of a precinct procures the ballots and other election supplies for an election, the inspector shall also procure from the county voter registration office the certified copies of the registration record of the precinct with the information required under section 1 of this chapter and other necessary registration supplies.

SECTION 45. IC 3-7-29-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) This subsection applies before January 1, 2006.** The ~~circuit court clerk or board of registration~~ **county voter registration office** in a county with a computerized registration system may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under IC 3-10-1-24.5 or IC 3-11-8-25.

(b) This subsection applies after December 31, 2005. The county voter registration office may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under IC 3-10-1-24.5 or IC 3-11-8-25.

SECTION 46. IC 3-7-30-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As required under 42 U.S.C. 1973gg-6(a)(6), the records of ~~the statewide voter registration system or a circuit court clerk or board of registration~~ **county voter registration office** indicating the identity of the voter registration agency through which an individual registered ~~is~~ **are** confidential.

SECTION 47. IC 3-7-30-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Certain uses of

information from the statewide voter file are prohibited:

(1) before January 1, 2006, under IC 3-7-26;

(2) after December 31, 2005, under IC 3-7-26.3.

SECTION 48. IC 3-7-30-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Certain voter registration information in the statewide voter registration file maintained by the election division:

(1) under IC 3-7-26 before January 1, 2006; and

(2) under IC 3-7-26.3 after December 31, 2005;

is confidential.

SECTION 49. IC 3-7-33-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** A ~~circuit court clerk or board of registration~~ **county voter registration office** shall compare a registration form that has been received by the ~~clerk or board~~ **county voter registration office** with the registration record and determine if the individual has already registered according to the records of the ~~clerk or board~~ **county voter registration office**.

(b) This section expires January 1, 2006.

SECTION 50. IC 3-7-33-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a)** This section applies to a voter registration application submitted on a registration by mail form under ~~IC 3-7-31~~ **IC 3-7-22**.

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

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

SECTION 51. IC 3-7-33-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. **(a) This section applies after December 31, 2003.**

(b) Except as provided in subsection (c), this section applies to an individual who:

(1) submits an application to register to vote by mail under IC 3-7-22; and

(2) has not previously voted in:

(A) a general election in Indiana (or a special election for federal office in Indiana); or

(B) a general election (or a special election for federal office) in the county where the individual has submitted an application under this chapter if a statewide voter registration system is not operational in accordance with the requirements of IC 3-7-26 and 42 U.S.C. 15483 on the date the application is received by the county voter registration office.

(c) This section does not apply to an individual who complies with the requirements in any of the following:

(1) The individual submits an application to register to vote by mail under this chapter and includes with that mailing a copy of:

(A) a current and valid photo identification; or

(B) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(2) The individual submits an application to register to vote by mail under this chapter that includes the individual's:

(A) Indiana driver's license number; or

(B) last four (4) digits of the individual's Social Security number;

and the county voter registration office or election division matches the information submitted by the applicant with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application.

(3) The individual is an absent uniformed services voter or overseas voter.

(4) The individual is entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual.

(5) The individual is entitled to vote other than in person under any other federal law.

(d) When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is subject to the requirements to provide additional documentation under this section and 42 U.S.C. 15483.

(e) As required by 42 U.S.C. 15483, a county voter registration office shall administer the requirements of this section in a uniform and nondiscriminatory manner.

(f) If the county voter registration office determines that the applicant:

(1) is not required to submit additional documentation under this section; or

(2) has provided the documentation required under this section;

the county voter registration office shall process the application in accordance with section 5 of this chapter.

(g) If the county voter registration office determines that the applicant is required to submit additional documentation under this section and 42 U.S.C. 15483, the office shall process the application under section 5 of this chapter and, if the applicant is otherwise eligible to vote, add the information concerning this documentation to the voter's computerized registration entry under IC 3-7-27-20(c).

(h) The county voter registration office shall remove the notation described in subsection (g) after the voter votes in an election for a federal office.

SECTION 52. IC 3-7-33-5, AS AMENDED BY P.L.122-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) When the ~~circuit court clerk or board of registration~~ **county voter registration office** receives an application for a new registration or an application with information that revises or adds information to the applicant's current voter registration record, the ~~clerk or board~~ **county voter registration office** shall determine if the applicant appears to be eligible to register to vote based on the information in the application.

(b) As required under 42 U.S.C. 1973gg-6(a)(2), the ~~circuit court clerk or board of registration~~ **county voter registration office** shall send a notice to each person from whom the ~~clerk or board~~ **county voter registration office** receives a voter registration application. The

~~clerk or board~~ **county voter registration office** shall send a notice to the applicant at the mailing address provided in the application.

(c) The notice required by subsection (b) must set forth the following:

- (1) A statement that the application has been received.
- (2) The disposition of the application by the ~~clerk or board~~ **county voter registration office**.

(3) If the ~~clerk or board~~ **county voter registration office** determines that the applicant appears to be eligible, the notice must state the following:

(A) The applicant is registered to vote under the residence address when the applicant receives the notice. An applicant is presumed to have received the notice unless the notice is returned by the United States Postal Service due to an unknown or insufficient address.

(B) The name of the precinct in which the voter is registered.

(C) The address of the polling place for the precinct in which the voter is registered.

(D) The voter's voter identification number.

(4) **In accordance with 42 U.S.C. 1973ff-1(d)**, if the ~~clerk or board~~ **county voter registration office** has denied the application, the notice must include the reasons for the denial.

(d) The notice required by subsection (b) may include a voter registration card.

(e) If the notice is returned by the United States Postal Service due to an unknown or insufficient address, the ~~clerk or board~~ **county voter registration office** shall determine that the applicant is ineligible and deny the application.

SECTION 53. IC 3-7-34-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. This chapter applies when a ~~circuit court clerk or board of~~ **county voter registration office** receives a registration form that is not properly completed under:

- (1) IC 3-7 or **after December 31, 2003, 42 U.S.C. 15483**; or
- (2) is filed in an incorrect county.

SECTION 54. IC 3-7-34-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section applies when a ~~circuit court clerk or board of~~ **county voter registration office** receives a registration form that is not fully and properly

completed so that the clerk or board can determine if the applicant is eligible to register under this article **or after December 31, 2003, fails to answer either of the questions set forth in IC 3-7-22-5(3) or IC 3-7-22-5(4).**

(b) As required by 42 U.S.C. 15483, the clerk or board county voter registration office shall promptly make:

- (1) one (1) effort to contact the voter by mail if possible; and
- (2) one (1) effort to contact the voter by telephone if a telephone number is listed.

SECTION 55. IC 3-7-34-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) This subsection applies after December 31, 2003, to a registration application that is incomplete as a result of the failure of the applicant to answer either of the questions set forth in IC 3-7-22-5(3) or IC 3-7-22-5(4). If the county voter registration office obtains a written statement from the applicant:**

- (1) answering either or both of the questions that were not answered on the original application; and**
- (2) not later than the twenty-ninth day before the date of the next general election following the date the application was filed;**

the county voter registration office shall process the form under this article.

(b) This subsection applies to a registration application that is incomplete for a reason other than the failure of the applicant to answer either of the questions set forth in IC 3-7-22-5(3) or IC 3-7-22-5(4). If the circuit court clerk or board of county voter registration office obtains information under section 2 section 2(b)(1) of this chapter that permits the clerk or board county voter registration office to complete the registration form, the clerk or board county voter registration office shall process the form under this article.

SECTION 56. IC 3-7-34-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. **(a) If a registration form contains all of the information required to be supplied by the voter, but does not include the information required to be supplied by the bureau of motor vehicles commission or a voter registration agency, the circuit court clerk or board of county voter registration office shall**

promptly make one (1) effort to contact the officer, commission, or agency to obtain the information.

(b) This subsection applies after December 31, 2005. If the information is not obtained from the officer, commission, or agency under subsection (a) not later than seven (7) days after the county voter registration office provides the notice, the county voter registration office shall notify the NVRA official. The NVRA official shall contact the officer, commission, or agency to request that the information be provided to the county voter registration office or that the officer, commission, or agency file a statement with the county voter registration office indicating why the information is not available.

SECTION 57. IC 3-7-34-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. **(a) This subsection applies before January 1, 2006.** If the registration form is not compatible with the county's voter registration system, the ~~circuit court clerk or board of county voter~~ registration office may reproduce the form for the county's system and retain the original form to document the registration.

(b) This subsection applies after December 31, 2005. If the registration form is not compatible with the county's voter registration files of original voter registration affidavits, the county voter registration office may reproduce the form for the county's system and retain the original form to document the registration.

SECTION 58. IC 3-7-35-2, AS AMENDED BY P.L.38-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The county voter registration office shall ensure that the software program used to generate the poll list for the precinct in which the voter resides indicates whether the name of the voter should be included on a poll list.

(b) The software program must generate a poll list that does not include the name of a voter unless the voter will be:

- (1) at least eighteen (18) years of age when the election is conducted; or
- (2) eligible to vote in the election under this article.

(c) This section expires January 1, 2006.

SECTION 59. IC 3-7-35-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2003]: **Sec. 2.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall generate a poll list for the precinct where the voter resides that does not include the name of a voter unless the voter will be:

(1) at least eighteen (18) years of age when the election is conducted; or

(2) eligible to vote in the election under this article.

SECTION 60. IC 3-7-35-3, AS AMENDED BY P.L.38-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) The county voter registration office shall ensure that the software program used to generate a jury list indicates whether the name of the voter should be used for jury service.**

(b) The software program must generate a jury list that does not include the name of a voter unless the voter will be at least eighteen (18) years of age when the jury is empaneled.

(c) This section expires January 1, 2006.

SECTION 61. IC 3-7-35-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.1. (a) This section applies after December 31, 2005.**

(b) The county voter registration office shall generate information to be used in the compilation of a jury list that does not include the name of a voter unless the voter will be at least eighteen (18) years of age when the jury is empaneled.

SECTION 62. IC 3-7-38.1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. This chapter expires January 1, 2006.**

SECTION 63. IC 3-7-38.2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. A voter list maintenance program conducted under this chapter or before January 1, 2006, IC 3-7-38.1 must be:**

(1) uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973);

(2) not result in the removal of the name of a person from the official list of votes solely due to the person's failure to vote; and

(3) completed not later than ninety (90) days before a primary, general, or municipal election.

SECTION 64. IC 3-7-38.2-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As provided under 42 U.S.C. 1973gg-6(c)(2)(B)(i), this chapter and **before January 1, 2006**, IC 3-7-38.1 do not prevent the removal of a voter's name from the voter registration record during the final ninety (90) day period before a primary, general, or municipal election due to any of the following in accordance with this article:

- (1) The written request of the voter.
- (2) Disenfranchisement due to criminal conviction and incarceration.
- (3) The death of the voter.

SECTION 65. IC 3-7-38.2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As provided under 42 U.S.C. 1973gg-6(c)(2)(B)(ii), this chapter and **before January 1, 2006**, IC 3-7-38.1 do not prevent the correction of voter registration records under this article.

SECTION 66. IC 3-7-38.2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. To assist in performing voter list maintenance under this chapter and **before January 1, 2006**, to supplement the duplicate voter registration elimination program under IC 3-7-38.1, the NVRA official may submit the names of all registered voters in Indiana to the United States Postal Service National Change of Address Service. The submission under this chapter shall be compiled from the county voter registration information submitted to the ~~commission~~ **election division** under:

- (1) IC 3-7-26 **before January 1, 2006; and**
- (2) **IC 3-7-26.3 after December 31, 2005.**

SECTION 67. IC 3-7-40-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The circuit court clerk or board of registration shall add the "ZIP Code + Four" designation to the address of each voter in the voter registration record.

(b) This section expires January 1, 2006.

SECTION 68. IC 3-7-40-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **This subsection applies before January 1, 2006.** One (1) time each calendar year the NVRA official may submit to the United States Postal Service a list of the names and addresses of voters with rural route addresses.

(b) This subsection applies after December 31, 2005. The NVRA official may submit to the United States Postal Service a list of the

names and addresses of voters with rural route addresses.

SECTION 69. IC 3-7-40-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a) This subsection applies before January 1, 2006.** When notified by the NVRA official of a conversion from rural route addresses to numbered addresses under this chapter, the ~~circuit court clerk or board of county voter registration office~~ shall, as soon as practicable, do the following:

- (1) Draw a red line through the rural route address appearing on the affidavit or form of registration and write the numbered address that replaces the rural route address on the affidavit or form.
- (2) Make an appropriate entry in each computerized record for the precinct.

(b) This subsection applies after December 31, 2005. When notified by the NVRA official of a conversion from rural route addresses to numbered addresses under this chapter, the county voter registration office shall, as soon as practicable, amend:

- (1) the original affidavit filed by the voter to indicate the numbered address that replaces the rural route address on the affidavit; and**
- (2) the entry for the voter in the computerized list under IC 3-7-26.3.**

SECTION 70. IC 3-7-40-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) This section applies if the ~~circuit court clerk or board of county voter registration office~~ is notified by:

- (1) the United States Postal Service; or
- (2) a local public official or plan commission under this chapter; that the mailing address, street name, or residence number of a voter's residence has been changed by the United States Postal Service, local public official, or plan commission.

(b) The ~~clerk or board~~ county voter registration office shall, as soon as practicable after the change becomes effective:

- (1) draw a red line through the mailing address, street name, or residence number appearing on the affidavit or form of registration and write the changed mailing address, street name, or residence number on the affidavit or form; and
- (2) make an appropriate entry in each computerized record for the

precinct.

(c) This section expires January 1, 2006.

SECTION 71. IC 3-7-42-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **(a) This subsection applies before January 1, 2006.** At the time of transfer, the ~~clerk or board~~ **county voter registration office** shall draw a red line through the name or number of the precinct appearing on the affidavit or form of registration and shall write the name or number of the precinct to which the voter has been transferred and make an appropriate entry in the computerized record for the precinct.

(b) This subsection applies after December 31, 2005. At the time of transfer, the county voter registration office shall amend:

(1) the original affidavit filed by the voter to indicate the changed mailing address, street name, or residence number on the affidavit; and

(2) the entry for the voter in the computerized list under IC 3-7-26.3.

SECTION 72. IC 3-7-43-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** A request from a voter under this chapter may be made when the voter registers in another county in Indiana or in a jurisdiction outside of Indiana. A registration form under this section must be signed by the voter or, if not signed by the voter, after the NVRA official notifies the ~~circuit court clerk or board of county~~ **voter registration office** that the jurisdiction where the voter has registered ~~can provide a signed copy of the voter's request if desired by the clerk or board:~~ **has provided the election division with written notice of the voter's registration in the jurisdiction and request for cancellation of previous registrations.**

(b) The election division shall forward a copy of the notice to the appropriate county voter registration office.

SECTION 73. IC 3-7-43-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a)** This section applies to a voter who requests a cancellation of voter registration under IC 3-7-39-6.

(b) This subsection applies before January 1, 2006. The ~~circuit court clerk or board of county~~ **voter registration office** of the county in which a voter registers shall send the authorization of cancellation

to the ~~circuit court clerk or board of registration~~ **county voter registration office** of the ~~county or counties of previous residence~~ within fifteen (15) days after receipt of the authorization. However, all authorizations shall be sent to the ~~circuit court clerk or board~~ **county voter registration office** not later than the fifteenth day before the date on which an election will be held.

(c) This subsection applies after December 31, 2005. The county voter registration office of the county in which a voter registers shall send the authorization of cancellation to the county voter registration office on an expedited basis, as required by IC 3-7-26.3.

SECTION 74. IC 3-7-43-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a) This subsection applies before January 1, 2006.** The ~~circuit court clerk or board of~~ **county voter registration office** shall remove the affidavit of the voter from the registration record of the county and shall cancel the affidavit of registration by writing the word "canceled" and the date of the cancellation across the face of the affidavit and entering the cancellation in any computerized record.

(b) This subsection applies after December 31, 2005. The county voter registration office shall cancel the affidavit of registration and enter the date and other information concerning the cancellation in the computerized list under IC 3-7-26.3.

SECTION 75. IC 3-7-43-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) This subsection applies before January 1, 2006.** If either of the addresses given by a person under IC 3-7-39 is outside Indiana, the county voter registration office shall, not later than fifteen (15) days after receipt, send the authorization of cancellation to the election division.

(b) This section applies after December 31, 2005. If either of the addresses given by a person under IC 3-7-39 is outside Indiana, the county voter registration office shall send the authorization of cancellation to the election division on an expedited basis.

(c) The election division shall promptly send the authorization to the voter registration office of the political subdivision that has jurisdiction over the address.

SECTION 76. IC 3-7-45-2, AS AMENDED BY P.L.199-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 2. (a) Not later than:

- (1) January 31;
- (2) April 30;
- (3) July 31; and
- (4) October 31;

of each year the state department of health shall submit a report to the election division electronically in a format prescribed by the commission.

(b) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons who:

- (1) died within Indiana but outside of the county during the preceding three (3) months; and
- (2) maintained a residence address within the county during the two (2) years preceding the date of death.

(c) Each county health officer and municipal health officer shall report to the state department of health the names, ages, and known voting addresses in the county of all persons:

- (1) who have died within the jurisdiction of the officer; or
- (2) for whom burial permits have been issued by the officer;

during the previous three (3) months. The state department of health shall report this information to the election division.

(d) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons:

- (1) who died outside Indiana during the preceding three (3) months;
- (2) who maintained a residence address within the county during the two (2) years preceding the date of death; and
- (3) whose name was supplied to the state department of health under an agreement made under section 5 of this chapter.

(e) This section expires January 1, 2006.

SECTION 77. IC 3-7-45-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.1. (a) This section applies after December 31, 2005.**

(b) As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list generated by the statewide voter registration system under IC 3-7-26.3 with the state department of

health to permit a county voter registration office to cancel the registration records of deceased individuals on an expedited basis.

(c) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons who:

(1) died within Indiana but outside the county of residence; and

(2) maintained a residence address within the county during the two (2) years preceding the date of death.

(d) Each county health officer and municipal health officer shall report to the state department of health the names, ages, and known voting addresses in the county of all persons:

(1) who have died within the jurisdiction of the officer; or

(2) for whom burial permits have been issued by the officer.

The state department of health shall report this information to the election division.

(e) The state department of health shall report to the election division, by county, the names, ages, and known residence addresses of all persons:

(1) who died outside Indiana;

(2) who maintained a residence address within the county during the two (2) years preceding the date of death; and

(3) whose names were supplied to the state department of health under an agreement made under section 5 of this chapter.

SECTION 78. IC 3-7-45-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **This subsection applies before January 1, 2006.** Not later than thirty (30) days after receipt of the reports required by section 2 of this chapter, each circuit court clerk or board of county voter registration office shall cancel the registration of each deceased person listed in the reports.

(b) **This subsection applies after December 31, 2005. As required by 42 U.S.C. 15483, after receipt of the reports required by section 2 of this chapter, each county voter registration office shall cancel the registration of each deceased person listed in the reports.**

SECTION 79. IC 3-7-45-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **This subsection applies before January 1, 2006.** Except as provided in subsection (b);

(c), a ~~circuit court clerk~~ **county voter registration office** shall cancel the registration of a deceased person not later than thirty (30) days after receiving a copy of the deceased person's death certificate.

(b) This subsection applies after December 31, 2005. Except as provided in subsection (c), a county voter registration office shall cancel the registration of a deceased person after receiving a copy of the deceased person's death certificate on an expedited basis, as required under 42 U.S.C. 15483. The county voter registration office shall enter the date and other information regarding the cancellation into the computerized list under IC 3-7-26.3.

(c) A ~~circuit court clerk~~ **county voter registration office** may require additional written information before canceling the registration of a person under subsection (a) **or (b)** if the information contained in the death certificate is insufficient to identify the person whose registration is to be canceled. If:

(1) additional written information is not given to the ~~circuit court clerk;~~ **county voter registration office;** or

(2) the additional written information is insufficient to identify the person whose registration is to be canceled;

the ~~circuit court clerk~~ **county voter registration office** is not required to cancel the person's registration under subsection (a).

SECTION 80. IC 3-7-45-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The state department of health shall negotiate with appropriate agencies in each state other than Indiana to acquire information regarding the deaths of Indiana residents occurring in each of the other states. The state department of health may offer to share with each other state information regarding the deaths of the other state's residents in Indiana.

(b) If an agreement is made with the agency of another state under this section, the agreement must provide for acquisition of information about the deaths of Indiana residents in the other state so that the state department of health can forward that information ~~to counties~~ as provided in section 2 **or 2.1** of this chapter.

SECTION 81. IC 3-7-45-6, AS ADDED BY P.L.38-1999, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The election division or a contractor acting on behalf of the election division under IC 3-7-38.1 may obtain a list

of Indiana residents identified as deceased by the federal Social Security Administration.

(b) The election division or a contractor acting on behalf of the election division under IC 3-7-38.1 shall provide each county voter registration office with a report identifying the deceased individuals who are shown as residing in the county according to the statewide voter file prepared under IC 3-7-38.1.

(c) Except as provided in section 7 of this chapter, the county voter registration office shall cancel the registration of each deceased person listed in the report provided under subsection (b).

(d) This section expires January 1, 2006.

SECTION 82. IC 3-7-45-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.1. (a) This section applies after December 31, 2005.**

(b) The election division shall obtain information regarding Indiana residents identified as deceased by the federal Social Security Administration as required by 42 U.S.C. 15483 and in conformity with IC 3-7-26.3.

(c) The election division shall provide each county voter registration office with a report identifying the deceased individuals who are shown as residing in the county.

(d) Except as provided in section 7 of this chapter, the county voter registration office shall cancel the registration of each deceased person listed in the report provided under subsection (c).

SECTION 83. IC 3-7-45-8, AS ADDED BY P.L.199-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8. The NVRA official shall notify the circuit court clerk or board of each county voter registration office of each respective county of the names of deceased persons obtained under this chapter.**

SECTION 84. IC 3-7-46-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. As permitted under 42 U.S.C. 1973gg-6(a)(3)(B) and in the manner required under 42 U.S.C. 15483, a circuit court clerk or board of county voter registration office shall remove from the official list of registered voters the name of a voter who is disfranchised under this chapter due to a criminal conviction.**

SECTION 85. IC 3-7-46-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) This section applies to a person convicted of a felony in a district court of the United States.

(b) As required by 42 U.S.C. 1973gg-6(g)(5), the NVRA official shall notify the ~~circuit court clerk or board of county voter~~ **registration office** of the county in Indiana in which the person resides of the information provided by the United States attorney under 42 U.S.C. 1973gg-6(g)(2), 42 U.S.C. 1973gg-6(g)(3), and 42 U.S.C. 1973gg-6(g)(4).

(c) If the information provided under subsection (b) indicates that the person is disfranchised under section 2 of this chapter, the ~~clerk or board county voter registration office~~ shall remove the name of the person from the voter registration records **on an expedited basis as required by 42 U.S.C. 15483.**

SECTION 86. IC 3-7-46-4, AS AMENDED BY P.L.199-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Not later than the second Tuesday of each month, the department of correction shall provide the NVRA official with a list identifying each person who:

- (1) is a resident of Indiana;
- (2) has been convicted of a crime; and
- (3) has been placed in a department of correction facility during the previous month.

(b) The department of correction shall provide the information required by this section electronically in a format prescribed by the commission.

(c) This section expires January 1, 2006.

SECTION 87. IC 3-7-46-4.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.1. (a) This section applies after December 31, 2005.**

(b) As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list generated by the statewide voter registration system under IC 3-7-26.3 with the department of correction to permit a county voter registration office to cancel the registration records of disfranchised individuals on an expedited basis.

(c) The department of correction shall provide the NVRA official with a list identifying each person who:

- (1) is a resident of Indiana;**
- (2) has been convicted of a crime; and**
- (3) has been placed in a department of correction facility during the previous month.**

(d) The department of correction shall provide the information required by this section electronically in a format prescribed by the election division.

SECTION 88. IC 3-7-46-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The NVRA official shall notify the ~~circuit court clerk or board of county voter~~ **registration office** of each county where a person on the **report list** resides **for processing under section 8 of this chapter.**

SECTION 89. IC 3-7-46-6 AS AMENDED BY SEA 136-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Not later than:

- (1) January 31;
- (2) April 30;
- (3) July 31; and
- (4) October 31;

of each year, a county sheriff shall provide the ~~circuit court clerk or board of county voter~~ **registration office** with a **list with report containing** the information set forth in subsection (b) **for processing under section 8 of this chapter.**

(b) The list required by subsection (a) must identify each person who:

- (1) is a resident of Indiana;
- (2) has been convicted of a crime; and
- (3) has been placed in a county correctional facility during the previous ~~three (3) month period:~~ **quarter.**

SECTION 90. IC 3-7-46-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The ~~circuit court clerk or board of county voter~~ **registration office** shall notify the ~~clerk or board county voter registration office~~ of each county where a person on the list resides **that a voter registered in that county has been listed on the report described in section 6 of this chapter.**

SECTION 91. IC 3-7-46-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. If the information provided under**

section 5 or 6 of this chapter indicates that the person is disfranchised under section 2 of this chapter, the county voter registration office shall:

- (1) remove the name of the person from the voter registration records; and
- (2) after January 1, 2006, enter the date and other information regarding the cancellation into the computerized list under IC 3-7-26.3;

on an expedited basis, as required under 42 U.S.C. 15483.

SECTION 92. IC 3-7-46-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) This subsection applies before January 1, 2006.** On the last day of each month, each county voter registration office shall prepare a list of the names and last known addresses of all persons within the county who have been disfranchised. The county voter registration office may secure the list at any time, but not later than the twenty-ninth day before a primary, general, or municipal election.

(b) This subsection applies after December 31, 2005. Each county voter registration office shall prepare a notice to be mailed to the names and last known addresses of all persons within the county who have been disfranchised.

SECTION 93. IC 3-7-46-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a) This subsection applies before January 1, 2006.** Not later than thirty (30) days after preparation of the list under section 8 of this chapter, the circuit court clerk or board of registration shall send a notice to each alleged disfranchised person at the person's last known address using a form prescribed by the commission under this article.

(b) This subsection applies after December 31, 2005. After preparation of the notice under section 8 of this chapter, the county voter registration office shall mail the notice to the alleged disfranchised person not later than the day following the day that the voter's registration has been canceled under this chapter. The notice must be mailed to each alleged disfranchised person at the person's last known address using a form prescribed by the commission under this article.

SECTION 94. IC 3-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Each county

election board shall furnish the inspector of each precinct, for use on primary election day:

- (1) a copy of the last regularly prepared registration record; or
- (2) in a county with a computerized registration system, a certified copy under IC 3-7-29 of the list of all voters registered to vote in the precinct.

(b) The ~~circuit court clerk or board of county voter~~ registration office in a county with a computerized voting system may also provide the inspector of each precinct in the county with a certified photocopy of the signature on the affidavit or form of registration of each voter of the precinct for the comparison of signatures under section 24.5 of this chapter.

(c) If the name of a person offering to vote at the primary is in the registration record or listed in the certified copy prepared for the precinct, it is sufficient evidence of the person's right to vote unless the person is challenged.

(d) This section expires January 1, 2006.

SECTION 95. IC 3-10-1-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7.1. (a) This section applies after December 31, 2005.**

(b) Each county election board shall furnish the inspector of each precinct for use on primary election day a certified copy under IC 3-7-29 of the list of all voters registered to vote in the precinct.

(c) The county voter registration office may also provide the inspector of each precinct in the county a certified photocopy of the signature on the affidavit or form of registration of each voter of the precinct for the comparison of signatures under section 24.6 of this chapter.

(d) If the name of a person offering to vote at the primary is in the registration record or listed in the certified copy prepared for the precinct, it is sufficient evidence of the person's right to vote unless the person is challenged.

SECTION 96. IC 3-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8. (a) This subsection applies before January 1, 2004.** A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record or on the certified copy of the

registration record in a county with a computerized registration system may vote if the circuit court clerk or board of registration provides a signed certificate of error under IC 3-7-48 showing that the person is a registered voter of the precinct.

(b) This subsection applies after December 31, 2003. A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record of the precinct or on the certified copy of the registration record prepared under IC 3-7-29 may:

- (1) vote if the county voter registration office provides a signed certificate of error; or**
- (2) cast a provisional ballot under IC 3-11.7, as provided by 42 U.S.C. 15482.**

SECTION 97. IC 3-10-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10.5. (a) This section applies after December 31, 2003.**

(b) This section does not apply to a voter who is challenged under section 10 of this chapter on the basis of party affiliation.

(c) In accordance with 42 U.S.C. 15482, a voter challenged under this chapter is entitled to cast a provisional ballot under IC 3-11.7 after executing the affidavit under section 9 of this chapter.

SECTION 98. IC 3-10-1-24, AS AMENDED BY P.L.199-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24. (a)** A voter who desires to vote must give the voter's name and political party to the poll clerks of the precinct on primary election day. The poll clerks shall require the voter to write the following on the poll list:

- (1) The voter's name.**
 - (2) The voter's current residence address.**
 - (3) The name of the voter's party.**
- (b) The poll clerks shall:**
- (1) ask the voter to provide **or update** the voter's voter identification number;**
 - (2) tell the voter the number the voter may use as a voter identification number; and**
 - (3) explain to the voter that the voter is not required to provide a**

voter identification number at the polls.

(c) If the voter is unable to sign the voter's name, the voter must sign the poll list by mark, which must be witnessed by one (1) of the poll clerks or assistant poll clerks acting under IC 3-6-6, who shall place the poll clerk's or assistant poll clerk's initials after or under the mark.

SECTION 99. IC 3-10-1-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24.5. (a) This section does not apply to a precinct in a county with a computerized registration system whose inspector was:

- (1) furnished with a list certified under IC 3-7-29; and
- (2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote.

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21 or if the voter executes a challenged voter's affidavit under IC 3-11-8-22, the voter may then vote.

(d) This section expires January 1, 2006.

SECTION 100. IC 3-10-1-24.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 24.6. (a) This section applies after December 31, 2005.**

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote.

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk does

not execute a challenger's affidavit under IC 3-11-8-21 or if the voter executes a challenged voter's affidavit under IC 3-11-8-22, the voter may then vote.

SECTION 101. IC 3-10-1-31, AS AMENDED BY SEA 136-2003, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

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

- (1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or
- (2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(c) **This subsection applies before January 1, 2006.** Upon delivery of the poll lists, the ~~circuit court clerk or board of the county voter registration office~~ may unseal the envelopes containing the poll lists. For the purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42; ~~or~~
- (3) adding the registration of a voter under IC 3-7-48-8; **or**
- (4) **recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15843 and IC 3-11-8 or IC 3-11-10;**

the ~~clerk or board~~ **county voter registration office** may inspect the poll lists and update the registration record of the county. The ~~clerk or board~~ **county voter registration office** shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(d) **This subsection applies after December 31, 2005.** Upon delivery of the poll lists, the **county voter registration office** may

unseal the envelopes containing the poll lists. For purposes of:

- (1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or**
- (2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;**

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

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

SECTION 102. IC 3-10-7-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. **(a)** A town election board shall canvass the votes from a municipal election in the manner prescribed by IC 3-12-4.

(b) After completion of the canvass, the town election board shall immediately file the poll lists, ballots, tally sheets, and other election forms with the circuit court clerk of the county containing the greatest percentage of population of the town for preservation and voter list maintenance in accordance with IC 3-10-1-31.

SECTION 103. IC 3-10-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. An affidavit executed under this chapter must contain the following information:

- (1) The person's last, first, and middle name, in that order.
- (2) The person's birthplace and date of birth.
- (3) Whether the person is a United States citizen.
- (4) The person's current address, including the county. If the person resides in a municipality, the address must include the street address, including apartment number or other designation, or the name and room number of the hotel or lodging house. If the person does not reside in a municipality, the address must include the mailing address and the street or road.

(5) The address of the person's previous residence, including the county.

(6) The person's statement that the person satisfies the conditions set forth in section 2 of this chapter.

(7) After December 31, 2005, the person's voter identification number to permit transfer of the registration under IC 3-7-13-13.

SECTION 104. IC 3-10-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. After December 31, 2005, the written affirmation described in section 3 of this chapter must include the person's voter identification number to permit transfer of the registration under IC 3-7-13-13.**

SECTION 105. IC 3-11-3-11, AS AMENDED BY P.L.126-2002, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The county election board shall deliver the following to each inspector or the inspector's representative:

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

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

(3) The local ballots printed under the direction of the county election board as follows:

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

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

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

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

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

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

SECTION 106. IC 3-11-3-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. **(a) This subsection applies before January 1, 2006.** Each county election board shall prepare and have delivered to the inspectors of the precincts, at the time they receive the ballots for their precincts, a suitable number of blank poll list sheets and any other forms, papers, certificates, and oaths that are required to be furnished to precinct election boards. The forms and papers must have proper captions. ~~In a~~ **The county having a board of registration, the board of voter registration may office shall cooperate with the county election board in the preparation of the poll lists.**

(b) This subsection applies after December 31, 2005. Each county election board shall prepare and have delivered to the inspectors of the precincts, at the time they receive the ballots for their precincts, a suitable number of voter registration lists certified under IC 3-7-29 and any other forms, papers, certificates, and oaths that are required to be furnished to precinct election boards. The forms and papers must be prepared in compliance with IC 3-5-4-8. The county voter registration office shall cooperate with the county election board in the preparation of the lists certified under IC 3-7-29.

SECTION 107. IC 3-11-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) This section does not apply to a county with a computerized registration system that has furnished the inspector of a precinct with certified copies of the list of registered voters prepared under IC 3-7-29.

(b) The county election board shall prepare the poll lists in looseleaf sheet form or book form. The sheets must have adequate space and lines on each side for taking the signatures and addresses of the voters. The sheets may contain the names and addresses of the voters in the respective precincts in alphabetical order, with a space opposite each name for the signature and address of the voter when the voter votes and any other information required by law.

(c) This section expires January 1, 2006.

SECTION 108. IC 3-11-3-18, AS AMENDED BY P.L.199-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) At the extreme top of a poll list sheet the heading "VOTERS POLL LIST" should appear, followed by the following information:

- (1) The type of election.
- (2) The date of the election.
- (3) **After December 31, 2003, mail in registration requiring additional voter identification.**
- (4) The name of the precinct, township (or ward), and county.

(b) Following the information required in subsection (a), the following headings should appear from left to right on each sheet:

- (1) "Signature of Voter".
- (2) "Address of Voter".
- (3) "Voter Identification Number (Optional)".
- (4) "If any voter shows his or her ballot after being marked, or by accident mutilates or defaces his or her ballot, note it in this column. Also note any other irregularity in this column."

(c) This section expires January 1, 2006.

SECTION 109. IC 3-11-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) After the polls are closed, the looseleaf poll list sheets that have been used in the precinct on election day shall be assembled and fastened together between two (2) manila tag board covers with the two (2) paper fasteners provided for that purpose. The manila tag board covers shall be punched and cut the same size as the poll list sheets.

(b) This section expires January 1, 2006.

SECTION 110. IC 3-11-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) The looseleaf poll list sheets, the book form poll lists, and the covers required by sections 17 and 19 of this chapter are a part of the election supplies.

(b) This section expires January 1, 2006.

SECTION 111. IC 3-11-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. **As required by 42 U.S.C. 15482**, the inspector of each precinct shall post the samples of each of the state and local ballots provided by the county election board under this article in and about the polls. The sample ballots shall be printed on different paper than the genuine ballots.

SECTION 112. IC 3-11-4-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. In accordance with 42 U.S.C. 1973ff-1(b), the election division is designated as the single office in Indiana responsible for providing information regarding voter registration procedures under IC 3-7 and absentee ballot procedures under this chapter to be used by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in Indiana.**

SECTION 113. IC 3-11-4-6, AS AMENDED BY P.L.1-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a)** This section applies, notwithstanding any other provision of this title, to absentee ballot applications for the following:

- (1) An absent uniformed services voter.
- (2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).
- (3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) **In accordance with 42 U.S.C. 1973ff-3, whenever a voter files an application for an absentee ballot and indicates on the application that the voter:**

- (1) is an absent uniformed services voter or an overseas voter; and**
- (2) does not expect to be in the county on the next general election day following the date the application is filed and**

expects to remain absent from the county until at least the date of the second general election following the date the application is filed;

the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during that period. The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(f) Whenever a voter described in subsection ~~(a)~~ **(a)(2)** files an application for a primary election absentee ballot and indicates on the application that

~~(1)~~ **(1)** the voter is an absent uniformed services voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve ~~(12)~~ months following the date of the application;

~~(2)~~ **(2)** the voter is an address confidentiality program participant, ~~or~~

~~(3)~~ **(3)** the voter is an overseas voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve ~~(12)~~ months following the date of the application;

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

~~(f)~~ **(g)** The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

~~(g)~~ **(h)** The county election board shall by fax transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax, the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot."

~~(h)~~ **(i)** The county election board shall send confirmation to a voter described in subsection ~~(g)~~ **(h)** that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If:

(A) the voter does not provide a fax number or an electronic mail address; **or**

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;

the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

SECTION 114. IC 3-11-4-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board shall determine if the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office. If the applicant is not a voter of the precinct according to the registration record **(or if the application as**

completed and filed does not otherwise comply with this chapter), the county election board shall deny the application.

(b) This subsection applies after December 31, 2003, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and**
- (2) to the voter at the address at which the voter requested that the absentee ballot be mailed.**

(c) This subsection applies after December 31, 2003. If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and**
- (2) the applicant has filed this documentation according to the records of the county voter registration office.**

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

(d) If the applicant:

- (1) is a voter of the precinct according to the registration record; and**
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and**
- (3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;**

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 115. IC 3-11-4-17.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.7. (a) This section applies when a voter:

- (1) has been mailed the official ballot under this chapter; and
- (2) notifies the county election board that the ballot has been destroyed, spoiled, lost, or not received by the voter after a reasonable time has elapsed for delivery of the ballot by mail.

(b) **As required under 42 U.S.C. 15481**, the voter may obtain a replacement official ballot under the procedures set forth in this chapter after the voter files a statement with the county election board. The statement must affirm, under penalties of perjury, that the voter did not receive the official ballot (or that the ballot was received by the voter, but was destroyed, spoiled, or lost), and must set forth any facts known by the voter concerning the destruction, spoiling, or loss of the ballot.

(c) After a voter files the statement required under subsection (b), the county election board may issue a replacement official ballot to the voter in accordance with this chapter and shall include information regarding the official replacement ballot in the certification provided to the precinct inspector under section 22 of this chapter.

(d) After receiving the official replacement ballot, the voter shall destroy any spoiled ballot in the possession of the voter or any lost or delayed official ballot that comes into the possession of the voter.

SECTION 116. IC 3-11-4-18, AS AMENDED BY P.L.126-2002, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) If a voter satisfies any of the following, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

- (1) The voter will be absent from the county on election day.
- (2) The voter will be absent from the precinct of the voter's residence on election day because of service as:
 - (A) a precinct election officer under IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

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

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

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

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

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

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

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

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

(c) The ballot shall be mailed:

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

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

whichever is later.

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

~~(d)~~ **(e)** The ballot described in subsection ~~(c)~~; **(d)**:

(1) must be mailed:

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

(B) not more than five (5) days after the date of delivery of the

ballots under section 13(b) of this chapter;
whichever is later; and

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

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

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

- (1) information concerning the effect of casting multiple votes for an office; and**
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.**

SECTION 117. IC 3-11-4-21, AS AMENDED BY P.L.38-1999, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit **in conformity with 42 U.S.C. 1973ff-1(b)**, providing that the voter affirms under penalty of perjury that the following information is true:

- (1) The name of the precinct and township (or ward and city or town).
- (2) That the voter is:
 - (A) a resident of; or
 - (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.
- (3) The voter's complete residence address, including the name of the city or town and county.
- (4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
- (5) That:
 - (A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;

(B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

SECTION 118. IC 3-11-6.5-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.3. As used in this chapter, "fund" refers to the election administration assistance fund established by section 2 of this chapter.**

SECTION 119. IC 3-11-6.5-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.7. As used in this chapter, "purchase" includes the purchasing, leasing, and lease-purchasing of voting systems.**

SECTION 120. IC 3-11-6.5-1, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this section, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

(b) The department shall award quantity purchase agreements to vendors for new voting systems or upgrades or expansion of existing

voting systems by counties.

(c) Both of the following must apply before the department may issue a quantity purchase agreement to a voting system vendor:

(1) The commission has found that all of the following would be enhanced by the vendor's new or upgraded voting system:

- (A) Reliability of a county's voting system.
- (B) Efficiency of a county's voting system.
- (C) Ease of use by voters.
- (D) Public confidence in a county's voting system.

(2) The commission has otherwise approved the vendor's new voting system or the upgrade or expansion of the existing voting system for use under this title.

(d) The quantity purchase agreement must include options for a county to:

- (1) purchase;
- (2) lease-purchase; or
- (3) lease;

new voting systems or upgrades or expansion of existing voting systems.

(e) The purchase of new voting systems or upgrades or expansions of existing voting systems by a county or under a quantity purchase agreement entered into by the department under this section is considered an acquisition by the state for purposes of 42 U.S.C. 15401 if the voting system, upgrade, or expansion complies with 42 U.S.C. 15481 through 15502.

(f) Not later than December 31, 2005, each county shall purchase at least one (1) voting system under this section for each polling place in the county to meet the requirements set forth under IC 3-11-15-13.

SECTION 121. IC 3-11-6.5-2, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **In accordance with 42 U.S.C. 15404, the voting system improvement election administration assistance fund is established for the purpose of following purposes:**

(1) As provided by 42 U.S.C. 15401, to carry out activities to improve the administration of elections for federal office.

(2) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C.

15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 if the state obtains the equipment after November 7, 2000.

(3) As provided by 42 U.S.C. 15401, to use funds provided to the state under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) as a reimbursement of costs in obtaining voting equipment that complies with 42 U.S.C. 15481 under a multiyear contract incurred after December 31, 2000.

(4) For reimbursing counties for the

(+) purchase

(2) lease-purchase; or

(3) lease;

of new voting systems or for the upgrade or expansion of existing voting systems that would not qualify for reimbursement under subdivision (2) or (3).

(b) The fund consists of the following:

(1) Money appropriated to the fund by the general assembly, including any money appropriated from the build Indiana fund.

(2) All money allocated to the state by the federal government:

(A) under Section 101 of HAVA (42 U.S.C. 15301), as required by 42 U.S.C. 15304;

(B) under Section 102 of HAVA (42 U.S.C. 15302), as required by 42 U.S.C. 15304;

(C) under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408); and

(D) under any other program for the improvement of voting systems: election administration.

(3) Proceeds of bonds issued by the Indiana bond bank for improvement of voting systems as authorized by law.

The auditor of state shall establish an account within the fund for money appropriated by the general assembly and a separate ~~account~~ **accounts** within the fund for any money received by the state from the federal government **for each source of allocations described under subdivision (2)**. Proceeds of bonds issued by the Indiana bond bank under subdivision (3) may be deposited into ~~either any~~ **either any** account, as determined by the election division.

(c) ~~The election division secretary of state with the consent of the co-directors of the election division~~ shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the **Section 101 account of the fund**. **If money is not available for this purpose in the Section 101 account of the fund, the expenses of administering the fund shall be paid from money appropriated under subsection (b)(1).**

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund **and allocated among the accounts within the fund according to the balances of the respective accounts.**

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

(g) Money in the fund is appropriated continuously for the purposes stated in subsection (a).

(h) Money in the fund derived from appropriations made by the general assembly or that are the proceeds of bonds issued by the Indiana bond bank may be used only to reimburse counties for the:

- (1) purchase;
- (2) lease-purchase; or
- (3) lease;

of new voting systems or upgrades or expansion of existing voting systems after June 30, 2001.

(i) Money in the fund derived from money received by the state from the federal government may be used for either of the following purposes:

- (1) To reimburse counties for the:
 - (A) purchase;
 - (B) lease-purchase; or
 - (C) lease;

of new voting systems or upgrades or expansion of existing voting systems after June 30, 2001.

- (2) To reimburse counties for the purchase of new voting systems or upgrades or expansion of existing voting systems after January 1, 1998, and before July 1, 2001.

SECTION 122. IC 3-11-6.5-3.1 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) This section applies to money received under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) and deposited in the account established under section 2 of this chapter for those funds.**

(b) Except as provided in subsection (c), money deposited in the account must be used to comply with the requirements of Title III of HAVA (42 U.S.C. 15481 through 15502).

(c) As authorized under 42 U.S.C. 15401(b), money deposited in the account may be used for other purposes authorized under Section 101 of HAVA (42 U.S.C. 15301) if the secretary of state with the approval of the co-directors of the election division files the certification required by Section 251(b)(2)(B) of HAVA (42 U.S.C. 15401(b)(2)(A)).

(d) If the secretary of state makes the certification described in subsection (c), the secretary of state with the approval of the co-directors of the election division may transfer amounts that do not in total exceed the amount described in Section 251(b)(2)(B) from the Title II account of the fund to the Section 101 account of the fund.

(e) In conformity with Section 254(a)(7) of HAVA (42 U.S.C. 15404), the state shall maintain expenditures by the state for activities funded by the payment of funds described by this section at a level that is not less than the level of those expenditures maintained by the state for the fiscal year ending June 30, 2000.

SECTION 123. IC 3-11-6.5-4, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. (a) To receive reimbursement for the purchase of voting systems under this chapter, a county must file an application with the election division, in the form required by the election division. The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter (repealed) not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.**

(b) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this chapter if

the county's application demonstrates to the budget agency **determines** either of the following:

(1) ~~That~~ The county **has purchased or will**

- ~~(A)~~ purchase;
- ~~(B)~~ lease-purchase; or
- ~~(C)~~ lease;

a new voting system or an upgrade or expansion of an existing voting system ~~from a vendor that has a quantity purchase agreement awarded under section 4 of this chapter.~~ **to comply with HAVA that would be eligible for reimbursement under HAVA and this chapter from any fund account.**

(2) The county purchased a new voting system or an upgrade or expansion of the county's existing voting system after January 1, 1998, and before July 1, 2001, **that would not qualify for reimbursement from federal funds received under HAVA**, and the new voting system or upgrade or expansion of the county's existing voting system enhanced all of the following:

- (A) Reliability of the county's voting system.
- (B) Efficiency of the county's voting system.
- (C) Ease of use of the county's voting system by voters.
- (D) Public confidence in the county's voting system.

SECTION 124. IC 3-11-6.5-5, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a county's application is approved under section 4 of this chapter, the **secretary of state with the consent of the co-directors of the** election division shall, subject to this section, reimburse the county from the ~~voting system improvement fund~~ an amount equal to fifty percent (50%) of the purchase price of a new voting system or the upgrade or expansion of an existing voting system. If the county has entered into an agreement to lease-purchase or lease a new voting system or the upgrade or expansion of an existing voting system each year the election division shall reimburse the county fifty percent (50%) of the county's lease-purchase or lease payments for that year. **be determined by the secretary of state with the consent of the co-directors of the election division.**

(b) Payment of money from the ~~voting system improvement fund~~ is subject to the availability of money in the fund and the requirements of this chapter **and HAVA.**

(c) It is the intent of the general assembly that a county eligible for reimbursement under section 4 of this chapter be reimbursed from federal money received by the state to the maximum extent permitted by federal law.

(d) This section expires January 1, 2006.

SECTION 125. IC 3-11-6.5-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.1. When approving applications for reimbursement for voting systems under this chapter, the budget agency shall give priority to approving applications to replace a punch card voting system or voting machine system.**

SECTION 126. IC 3-11-6.5-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.1. (a) This section applies to money received under Section 102 of HAVA (42 U.S.C. 15302) and deposited in the account established under section 2 of this chapter for those funds.**

(b) Money deposited in the account must be used for the purposes set forth in Section 102 of HAVA (42 U.S.C. 15302).

(c) As permitted under 42 U.S.C. 15302, a county may apply to receive reimbursement from the fund.

(d) To receive reimbursement or voting systems under this section, a county must file an application with the election division in the form required by the election division. The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(e) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the county has purchased a voting system to comply with Section 102 of HAVA and is eligible for reimbursement under this section.

(f) The budget agency, after review by the budget committee,

shall approve a county's application for disbursement of voting systems to the county if the budget agency determines that the county is entitled to receive voting systems under this section to comply with Section 102 of HAVA.

(g) If a county's application for reimbursement is approved under this section, the secretary of state shall, subject to subsection (j), reimburse the county from the fund in an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars (\$4,000).

(h) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 127. IC 3-11-6.5-8, AS ADDED BY P.L.239-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section applies to money received under Section 101 of HAVA (42 U.S.C. 15301) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used in accordance with the requirements applicable under Section 101 of HAVA (42 U.S.C. 15301).

(c) The money may be used with the approval of the co-directors of the election division for the following purposes:

(1) By the secretary of state for any purpose authorized by this title and permitted under 42 U.S.C. 15301.

(2) To reimburse counties for the purchase of new voting systems eligible for reimbursement under section 7.1 of this chapter, to the extent that money received and deposited under section 7.1 of this chapter is insufficient to replace all voting machine systems and punch card voting systems in Indiana.

(3) To reimburse counties for the upgrade or expansion of existing voting systems to comply with HAVA.

(d) As permitted under 42 U.S.C. 15301, a county may apply to receive reimbursement under subsection (c).

(e) To receive payment for the development and implementation of a program for educating voters about voting procedures; **reimbursement under this section**, a county must make an application to the **budget agency election division** in the form required by the **budget agency election division**. **If the county filed an application under section 3 of this chapter not later than January 31, 2003:**

(1) the application may be amended to comply with this chapter; or

(2) the county may file a new application under this section.

The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application.

~~(b)~~ (f) The budget agency, after review by the budget committee, shall approve a county's application for **payment reimbursement** under this **chapter section** if the county's application demonstrates to the budget agency ~~all of the following:~~

~~(1) That the county has developed a program for educating voters about the use of the county's voting system.~~

~~(2) That the commission has approved the program and the county's implementation plan for the program.~~

~~(3) That the program will enhance all of the following:~~

~~(A) Familiarity of voters with the county's voting system.~~

~~(B) Accessibility of the county's voting system to voters.~~

~~(C) Ease of use of the county's voting system by voters.~~

~~(D) Public confidence in the county's voting system.~~

determines that the application complies with the requirements for reimbursement under subsection (c)(2) or (c)(3).

~~(c)~~ (g) If a county's application is approved under ~~this section;~~ **subsection (c)(2)**, the ~~division secretary of state with the consent of the co-directors of the election division~~ shall, subject to subsection ~~(d);~~ **(i)**, pay the county from the ~~voting system education~~ fund an amount equal to fifty percent (50%) of the amount of reasonable development and implementation costs of the county's program for educating voters about voting procedures, as determined by the budget agency: **not more than the amount determined by STEP TWO of the following formula:**

STEP ONE: Determine the number of precincts in the county

that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election that cannot be replaced with funds available under section 7.1 of this chapter.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars (\$4,000).

(h) If a county's application is approved under subsection (c)(3), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund in an amount to be determined by the secretary of state with the consent of the co-directors of the election division.

(d) (i) Payment of money from the voting system education fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 128. IC 3-11-8-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.4. (a) As authorized under 42 U.S.C. 15421, a county election board may apply on behalf of a county to the Secretary of Health and Human Services for payments under HAVA (42 U.S.C. 15421 through 15425) to do the following:

(1) Make polling places (including the path of travel, entrances, exits, and voting areas of each polling place) more accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as other voters.

(2) Provide individuals with disabilities and other individuals described in subdivision (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections.

(b) If a county election board submits an application under subsection (a), the application must:

(1) comply with 42 U.S.C. 15423; and

(2) be filed with the election division not later than the submission of the application under subsection (a).

(c) If a county election board receives payments from the Secretary of Health and Human Services under 42 U.S.C. 15421 through 15425, the payments shall be deposited in the county general fund and appropriated to the county election board for the purposes described in the application. The county election board shall spend the money for the purposes described in the application.

(d) As required by 42 U.S.C. 15425, the county election board shall file a report with the Secretary of Health and Human Services regarding the activities conducted with these funds and the expenditures made with respect to the categories listed in subsection (a)(1) and (a)(2). The county election board shall file a copy of the report with the election division and the state board of accounts not later than the date the report is submitted under this subsection.

SECTION 129. IC 3-11-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. **(a)** When the hour for closing the polls occurs, the precinct election board shall permit all voters who:

- (1) have passed the challengers and who are waiting to announce their names to the poll clerks for the purpose of signing the poll list;
- (2) have signed the poll list but who have not voted; or
- (3) are in the act of voting;

to vote. In addition, the inspector shall require all voters who have not yet passed the challengers to line up in single file within the chute. The poll clerks shall record the names of the voters in the chute, and these voters may vote unless otherwise prevented according to law.

(b) This subsection applies:

- (1) after December 31, 2003; and**
- (2) if a court order (or other order) has been issued to extend the hours that the polls are open under section 8 of this chapter.**

As provided in 42 U.S.C. 15482, the inspector shall identify the voters who would not otherwise be eligible to vote after the closing of the polls under subsection (a) and shall provide a provisional ballot to the voter in accordance with IC 3-11.7.

SECTION 130. IC 3-11-8-15, AS AMENDED BY SEA 136-2003,

SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) Persons other than:

- (1) members of a precinct election board;
- (2) poll clerks and assistant poll clerks;
- (3) election sheriffs;
- (4) deputy election commissioners;
- (5) pollbook holders;
- ~~(6) challengers;~~
- ~~(7) (6)~~ watchers; and
- ~~(8) (7)~~ minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29; **and**
- (8) an assistant to a precinct election officer appointed under IC 3-6-6-39;**

are not permitted in the polls during an election except for the purpose of voting.

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

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

SECTION 131. IC 3-11-8-22, AS AMENDED BY P.L.126-2002, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) A voter challenged under section 20 of this chapter may vote if the voter makes an affidavit in writing **that the voter is a legal voter of the precinct under section 23 of this chapter** and either of the following applies:

- (1) The voter's name appears on the registration list.
- (2) The voter does one (1) of the following:
 - (A) Produces a certificate of error issued by a registration official of the county in accordance with IC 3-7-48 showing that the voter is registered in the precinct where the voter resides and offers to vote.
 - (B) Produces an affidavit executed under IC 3-10-10 or IC 3-10-11 if the voter executed an affidavit under those

provisions.

(C) Makes an oral or a written affirmation under IC 3-10-12.

(b) After December 31, 2003, a voter challenged under section 20 of this chapter:

- (1) whose name does not appear on the registration list; and
- (2) who is not permitted to cast a vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12;

is entitled to cast a provisional ballot under IC 3-11.7 if the voter makes an affidavit in writing that the voter is a legal voter of the precinct.

SECTION 132. IC 3-11-8-23, AS AMENDED BY P.L.126-2002, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. The affidavit of a challenged voter required by section 22 of this chapter must be sworn and affirmed and must contain the following:

- (1) A statement that the voter is a citizen of the United States.
- (2) The voter's date of birth to the best of the voter's information and belief.
- (3) A statement that the voter has been a resident of the precinct for thirty (30) days immediately before this election or is qualified to vote in the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.
- (4) The voter's name and a statement that the voter is generally known by that name.
- (5) A statement that the voter has not voted and will not vote in any other precinct in this election.
- (6) The voter's occupation.
- (7) The voter's current residential address, including the street or number and if applicable, the voter's residential address thirty (30) days before the election, and the date the voter moved.
- (8) A statement that the voter understands that making a false statement on the affidavit is punishable under the penalties of perjury.
- (9) After December 31, 2003, if the individual's name does not appear on the registration list and the individual is not entitled to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12, a statement that the individual

registered to vote and where the individual believes the individual registered to vote **during the registration period described by:**

(A) IC 3-7-13-10; or

(B) IC 3-7-36-11, if the voter registered under that section.

SECTION 133. IC 3-11-8-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23.5. (a) This section applies after December 31, 2003.**

(b) In accordance with 42 U.S.C. 15482, a voter challenged under section 21 of this chapter is entitled to cast a provisional ballot under IC 3-11.7 after executing the affidavit under section 23 of this chapter.

SECTION 134. IC 3-11-8-25, AS AMENDED BY P.L.199-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25. (a) After a voter has passed the challengers or has been sworn in, the voter shall be admitted to the polls. Upon entering the polls, the voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:**

(1) The voter's name.

(2) The voter's current residence address.

(b) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(c) This subsection applies after December 31, 2003. The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 or IC 3-11-3-18 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the

poll clerk shall advise the voter that the voter must present a piece of identification described in subsection (d) to the poll clerk.

(d) This subsection applies after December 31, 2003. As required by 42 U.S.C. 15483, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) a current and valid photo identification; or**
- (2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.**

(e) This subsection applies after December 31, 2003. If a voter presents a document under subsection (d), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(f) This subsection applies after December 31, 2003. If a voter required to present documentation under subsection (d) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(g) This subsection applies after December 31, 2003. The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

(h) This subsection does not apply to a precinct in a county with a computerized registration system whose inspector was:

- (1) furnished with a list certified under IC 3-7-29; and**
- (2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.**

In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is

authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

~~(d)~~ **(i)** If, in a precinct governed by subsection ~~(c)~~: **(h)**:

- (1) the poll clerk does not execute a challenger's affidavit; or
- (2) the voter executes a challenged voter's affidavit under section 22 of this chapter or had executed the affidavit before signing the poll list;

the voter may then vote.

(j) This section expires January 1, 2006.

SECTION 135. IC 3-11-8-25.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25.1. (a) This section applies after December 31, 2005.**

(b) After a voter has passed the challengers or has been sworn in, the voter shall be admitted to the polls. Upon entering the polls, the voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

- (1) The voter's name.**
- (2) The voter's current residence address.**

(c) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

- (1) ask the voter to provide or update the voter's voter identification number;**
- (2) tell the voter the number the voter may use as a voter identification number; and**
- (3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.**

(d) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote. If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the

manner prescribed by section 21 of this chapter.

(e) If, in a precinct governed by subsection (c):

- (1) the poll clerk does not execute a challenger's affidavit; or
- (2) the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;

the voter may then vote.

SECTION 136. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25.5. If an individual signs the individual's name and address on the poll list under section 25 of this chapter and then leaves the polls without casting a ballot **or after casting a provisional ballot**, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 137. IC 3-11-8-26, AS AMENDED BY P.L.199-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) If a voter:

- (1) cannot sign; or
- (2) is a voter with a disability that makes it difficult for the voter to sign;

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be.

(b) If satisfied as to the voter's identity under subsection (a), one (1) of the poll clerks shall then place the following on the poll list:

- (1) The voter's name.
- (2) The voter's current residence address.

(c) The poll clerks shall:

- (1) ask the voter to provide the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(d) The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote.

(e) This section expires January 1, 2006.

SECTION 138. IC 3-11-8-26.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: **Sec. 26.1. (a) This section applies after December 31, 2005.**

(b) If a voter:

- (1) cannot sign; or**
- (2) is a voter with a disability that makes it difficult for the voter to sign;**

the voter's name and address, the poll clerks shall, by proper interrogation, satisfy themselves that the voter is the person the voter represents the voter to be.

(c) If satisfied as to the voter's identity under subsection (b), one (1) of the poll clerks shall then place the following on the poll list:

- (1) The voter's name.**
- (2) The voter's current residence address.**

(d) The poll clerks shall:

- (1) ask the voter to provide or update the voter's voter identification number;**
- (2) tell the voter the number the voter may use as a voter identification number; and**
- (3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.**

(e) The poll clerk shall then add the clerk's initials in parentheses, after or under the signature. The voter then may vote.

SECTION 139. IC 3-11-8-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION [EFFECTIVE JANUARY 1, 2004]: **Sec. 27.5. (a) This section applies after December 31, 2003.**

(b) In accordance with 42 U.S.C. 15482, a voter challenged under section 27 of this chapter is entitled to cast a provisional ballot under IC 3-11.7 after executing the affidavit under section 23 of this chapter.

SECTION 140. IC 3-11-10-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies after December 31, 2003.**

(b) Upon receipt of an absentee ballot from a voter required to provide additional information to the county voter registration office under IC 3-7-33-4.5, the county election board shall contact the county voter registration office to determine if the additional information has been filed with the office by the voter.

(c) If the voter has filed the information with the county voter

registration office, the county election board shall add a notation to the application indicating that the required information has been filed and that the absentee ballot may be counted if the ballot otherwise complies with this article.

(d) If the voter has not filed the information with the county voter registration office, the county election board shall add a notation on the application filed by a voter described under subsection (c) and on the envelope provided under this chapter reading substantially as follows:

"INSPECTOR: AS OF (insert date absentee ballot application approved) THIS VOTER WAS REQUIRED TO FILE ADDITIONAL DOCUMENTATION WITH THE COUNTY VOTER REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE COUNTED. CHECK THE POLL LIST AND COUNTY ELECTION BOARD CERTIFICATION TO SEE IF THE VOTER HAS FILED THIS INFORMATION. IF NOT, PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT OTHERWISE COMPLIES WITH INDIANA LAW."

SECTION 141. IC 3-11-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) On election day each circuit court clerk (or an agent of the clerk) shall visit the appropriate post office to accept delivery of absentee envelopes at the latest possible time that will permit delivery of the ballots to the appropriate precinct election boards before 6 p.m.

(b) **This subsection applies after December 31, 2003. Not later than noon on election day, the county voter registration office shall visit the appropriate post office to accept delivery of mail containing documentation submitted by a voter to comply with IC 3-7-33-4.5. The office shall immediately notify the county election board regarding the filing of this documentation to permit the board to provide certification of this filing to the appropriate precinct election boards before 6 p.m.**

SECTION 142. IC 3-11-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the

polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) This subsection applies after December 31, 2003. Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

(1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3-18; and

(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) This subsection applies after December 31, 2003. If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and

(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

(1) 42 U.S.C. 1973ff for federal offices; and

(2) IC 3-11-4-12(d) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 143. IC 3-11-10-16, AS AMENDED BY P.L.126-2002, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) If the inspector finds under section 15 of

this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered **and after December 31, 2003, is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;**
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

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

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

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

SECTION 144. IC 3-11-10-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) This section applies after December 31, 2003.**

(b) If the inspector finds under section 16(a) of this chapter that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under section 16(a) of this chapter apply, the inspector shall direct that the absentee ballot be processed as a provisional ballot under IC 3-11.7.

SECTION 145. IC 3-11-10-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS**

[EFFECTIVE JULY 1, 2003]: **Sec. 24.5. (a) This section applies after December 31, 2005.**

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

SECTION 146. IC 3-11-10-25, AS AMENDED BY P.L.126-2002, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) A voter who votes by absentee ballot because of:

- (1) illness or injury; or
- (2) caring for a confined person at a private residence;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
 - (A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
 - (B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

- (1) agreed to by the board and the voter; and
- (2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

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

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;**
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and**
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.**

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and**
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.**

SECTION 147. IC 3-11-10-26, AS AMENDED BY P.L.126-2002, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

- (1) in the office of the circuit court clerk; or
- (2) at a satellite office established under section 26.3 of this chapter.

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

time prescribed by IC 3-11-4-3.

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

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

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

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

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;**
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and**
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.**

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

- (1) information concerning the effect of casting multiple votes for an office; and**
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.**

SECTION 148. IC 3-11-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. **(a)** A voter voting

before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

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

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

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

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

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

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

SECTION 149. IC 3-11-10-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. **(a) After December 31, 2003, this section does not apply to an absentee ballot required to be treated as a provisional ballot under IC 3-11.7.**

(b) If an envelope containing an absentee ballot has not been opened before the close of the polls, then the envelope may not be opened without an order of a court.

SECTION 150. IC 3-11-11-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. (a) This section applies after December 31, 2005.**

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program to notify a voter of the effect of casting multiple ballots for a single office on a paper ballot.

SECTION 151. IC 3-11-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a) After a voter has**

signed the poll list, one (1) of the poll clerks or assistant poll clerks shall deliver to the voter one (1) of each ballot that the voter is entitled to vote at the election and one (1) pencil or pen. Both judges, on request, shall give an explanation of the voting method. If necessary, a precinct election officer shall assist a voter in determining if the proper initials appear on a ballot.

(b) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when a voter receives a paper ballot under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and**
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.**

SECTION 152. IC 3-11-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) **This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on a paper ballot.**

(b) After receiving ballots under section 6 of this chapter, a voter shall, without leaving the room, go alone into one (1) of the booths or compartments that is unoccupied and indicate:

- (1) the candidates for whom the voter desires to vote by making a voting mark on or in the squares immediately before the candidates' names; and
- (2) the voter's preference on each public question by making a voting mark in front of the word "yes" or "no" under the question.

~~(b)~~ **(c)** Write-in votes shall be cast by:

- (1) making a voting mark on or in the square immediately before the space provided for write-in voting; and
- (2) printing the name of the candidate in the space provided for write-in voting.

SECTION 153. IC 3-11-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a)** A voter shall mark all ballots while screened from observation. The exterior of a voting booth or compartment and each area of the polls must be in plain view of the precinct election board. Each voting booth or compartment shall be placed so that a person voting on the opposite

side of the railing or a person on the outside of the polls cannot see or determine how a voter votes. The inspector, judges, and poll clerks may not remain or allow any other person to remain in a position or near a position that would permit them to see or ascertain how a voter votes.

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

- (1) permitted to verify in a private and an independent manner the votes selected by the voter before the ballot is cast and counted;**
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and**
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.**

SECTION 154. IC 3-11-12-40 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 40. This chapter expires January 1, 2006.**

SECTION 155. IC 3-11-13-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) This section applies after December 31, 2005.**

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program to notify a voter of the effect of casting multiple ballots for a single office on an optical scan ballot card tabulated at a central location.

SECTION 156. IC 3-11-13-18, AS AMENDED BY P.L.239-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18. (a) This subsection does not apply to an optical scan voting system and expires January 1, 2006.** Each ballot card provided under section 17 of this chapter must have two (2) attached perforated stubs on which is printed the same serial number. The top stub shall be bound or stapled in the package of ballot cards

retained by the precinct election officers. The following information must be printed on the second stub:

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

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

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

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

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

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

SECTION 157. IC 3-11-13-20, AS AMENDED BY P.L.239-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section does not apply to an optical scan voting system.

(b) Each county election board shall maintain a record of the serial numbers of all of the ballot cards provided to a precinct and shall note in this record the precinct to which each ballot card relates.

(c) This section expires January 1, 2006.

SECTION 158. IC 3-11-13-28.5, AS AMENDED BY P.L.239-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28.5. (a) Unless challenged, a voter may proceed to vote.

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

stub declined by the voter under section 33 of this chapter) shall be retained by the precinct election board and returned to the election board following the close of the polls.

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

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

- (1) information concerning the effect of casting multiple votes for an office; and**
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.**

SECTION 159. IC 3-11-13-28.7, AS AMENDED BY P.L.176-1999, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28.7. (a) The two (2) poll clerks of each precinct shall place their initials in ink on the secrecy envelope of a ballot card (or on the fold-over part of a ballot card described in section 18(c)(1) of this chapter) at the time the card is issued to a voter. The initials must be in the poll clerk's ordinary handwriting or printing and without a distinguishing mark of any kind.

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

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

SECTION 160. IC 3-11-13-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. (a) In addition to the instructions printed on the ballot card or ballot labels, instructions to voters shall be posted in each voting booth or placed on the marking

device. Each voter shall be instructed by both judges, on request, on how to operate the voting device before the voter enters the voting booth.

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

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

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

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

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

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

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

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

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

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

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

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

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

SECTION 161. IC 3-11-13-31.7, AS AMENDED BY P.L.176-1999, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31.7. (a) **This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an optical scan voting system.**

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

- (1) the candidates for whom the voter desires to vote by punching a hole in or marking the squares immediately beside the candidates' names; and
- (2) the voter's preference on each public question by punching a hole in or marking the square beside the word "yes" or "no" under the question.

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

SECTION 162. IC 3-11-14-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) **This section is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what constitutes a vote on an electronic voting system.**

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

- (1) the candidates for whom the voter desires to vote by touching a device on or in the squares immediately above the candidates' names;
- (2) if the voter intends to cast a write-in vote, a write-in vote by touching a device on or in the square immediately below the

candidates' names and printing the name of the candidate in the window provided for write-in voting; and

(3) the voter's preference on each public question by touching a device above the word "yes" or "no" under the question.

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

(d) As provided by 42 U.S.C. 15481, a voter casting a ballot on an electronic voting system must be:

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

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

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

SECTION 163. IC 3-11-15-13, AS AMENDED BY SEA 477-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: (a) To be approved **by the commission** for use in Indiana, a voting system shall meet the following standards:

(1) After December 31, 2005, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. A county complies with the standards described in this subdivision if each polling place in the county has at least one (1) voting system equipped for individuals

with disabilities that complies with the standards described in this subdivision.

(2) A voting system must meet the Voting System Standards approved by the Federal Election Commission on April 30, 2002.

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

(c) This section expires January 1, 2006.

SECTION 164. IC 3-11-15-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.3. (a) This section applies after December 31, 2005.**

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

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

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

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

SECTION 165. IC 3-11-15-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.5. (a) This section applies only to a voting system purchased with funds made available under Title II of HAVA (42 U.S.C. 15321 through 15472) after December**

31, 2006.

(b) As required by 42 U.S.C. 15481, the voting system must comply with the Voting System Standards for disability access set forth in section 13.1 of this chapter and 42 U.S.C. 15481(a)(3) to be used in an election.

SECTION 166. IC 3-11-15-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) A voting system must be able to record accurately each vote and be able to produce an accurate report of all votes cast.

(b) As used in this subsection, "error rate" refers to the error rate of the voting system in counting ballots (determined by taking into account only those errors that are attributable to the voting system and not attributable to an act of the voter). As required by 42 U.S.C. 15481, a voting system must comply with the error rate standards established under section 3.2.1. of the Voting System Standards approved by the Federal Election Commission on April 30, 2002, as those standards were in effect on October 29, 2002.

(c) The inclusion of control logic and data processing methods incorporating parity and check-sums (or equivalent error detection and correction methods) must demonstrate that the system has been designed for accuracy.

SECTION 167. IC 3-11-15-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 32. In considering the compliance of a voting system with this chapter, the commission may determine whether the system conforms with other preferred coding practices and software characteristics set forth in ~~Appendix E of the Performance and Test Standards for Punched, Marksense, and Direct Recording Electronic Voting Systems:~~ **the Voting System Standards adopted by the Federal Election Commission on April 30, 2002.**

SECTION 168. IC 3-11-15-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43. (a) The audit record provisions in this chapter are essential to the complete recording of election operations and reporting of the vote tally. This list of audit records must reflect all of the idiosyncrasies of a system.

- (b) As required by 42 U.S.C. 15481, the voting system must:**
- (1) produce a permanent paper record with a manual audit capacity for the system; and**
 - (2) provide the voter with an opportunity to change the ballot**

or correct any error before the permanent paper record is produced.

(c) The paper record produced under subsection (b) must be made available as an official record for a recount or contest conducted with respect to any election in which the voting system was used.

SECTION 169. IC 3-11.5-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) If the absentee ballot counters find under section 11 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered **and after December 31, 2003, is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;**
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

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

(b) This subsection applies after December 31, 2003. If the absentee ballot counters find under subsection (a) that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under subsection (a) apply, the absentee ballot shall be processed as a provisional ballot under IC 3-11.7.

(c) The absentee ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection (a) or section 13 of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6.

SECTION 170. IC 3-11.7-1-5, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Provisional ballots for:

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

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

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

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

SECTION 171. IC 3-11.7-2-1, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **As provided by 42 U.S.C. 15482, this section applies to the following individuals:**

- (1) An individual:
 - (+) **(A)** whose name does not appear on the registration list; and
 - (2) **(B)** who is not permitted to vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12.
- (2) **An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or IC 3-11-8-27.5 who is challenged as not eligible to vote.**
- (3) **An individual who seeks to vote in an election as a result of a court order (or any other order) extending the time**

established for closing the polls under IC 3-11-8-8.

(b) This subsection applies after December 31, 2003. As required by 42 U.S.C. 15483, a voter who has registered to vote but has not:

- (1) presented identification required under 42 U.S.C. 15483 to the poll clerk before voting in person under IC 3-11-8-25; or**
- (2) filed a copy of the identification required under 42 U.S.C. 15483 to the county voter registration office before the voter's absentee ballot is cast;**

is entitled to vote a provisional ballot under this article.

(c) A precinct election officer shall inform an individual described by subsection (a)(1) or (a)(2) that the individual may cast a provisional ballot if the individual:

- (1) is eligible to vote under IC 3-7-13-1;**
- (2) submitted a voter registration application during the registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if the voter registered under that section); and**
- (3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.**

(d) A precinct election officer shall inform an individual described by subsection (a)(3) that the individual may cast a provisional ballot.

SECTION 172. IC 3-11.7-2-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A provisional voter shall do the following:

- (1) Mark the ballot in the presence of no other person, unless the voter requests help in marking a ballot under IC 3-11-9.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided by the county election board under IC 3-11.7-1-8.
- (5) Securely seal the envelope.

(b) A provisional voter may mark a ballot with a pen or a lead pencil.

(c) This subsection applies to a provisional voter described in section 1(a)(1), 1(a)(2), or 1(a)(3) of this chapter. As provided by 42 U.S.C. 15482, a precinct election officer shall give the provisional

voter a copy of the written instructions prescribed by the county election board under IC 3-11.7-6-3 after the voter returns the envelope containing the provisional voter's ballots.

SECTION 173. IC 3-11.7-2-3, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) Except as provided in subsection (c) and in accordance with 42 U.S.C. 15482, the precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

(c) This subsection applies to the sealed envelope and the affidavits affixed to the envelope of a provisional voter described in section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the precinct election board shall keep the sealed envelope or container separate from the envelope or container described in subsection (b). The envelope or container described in this subsection must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours".

SECTION 174. IC 3-11.7-2-4, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. **As required by 42 U.S.C. 15482, at the close of the polls, the precinct election board shall do the following:**

(1) Seal:

~~(1)~~ **(A)** all the provisional ballots; and

~~(2)~~ **(B)** any spoiled provisional ballots;

of provisional voters other than provisional voters described in section 1(a)(3) of this chapter in the container described in section 3(b) of this chapter and mark on the container the number of provisional ballots contained.

(2) Seal:

(A) all the provisional ballots; and

(B) any spoiled provisional ballots;

of provisional voters described in section 1(a)(3) of this chapter in the container described in section 1(a)(3) of this chapter and mark on the container the number of provisional ballots contained.

The inspector shall return the container with all the provisional ballots to the circuit court clerk after the close of the polls.

SECTION 175. IC 3-11.7-3-5, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If a county chairman fails to make any recommendations **not later than the deadline specified under section 4 of this chapter**, the county election board may appoint any voters of the county.

SECTION 176. IC 3-11.7-5-2, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

- (1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.
- (2) The provisional voter is a qualified voter of the precinct.
- (3) Based on all the information available to the county election board, including:
 - (A) information provided by the provisional voter;
 - (B) information contained in the county's voter registration records; and
 - (C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board may not determine that the provisional voter did not register unless both of the following apply:

- (1) The board makes an actual inquiry of the registration agency where the provisional voter states the provisional voter registered.
- (2) The registration agency informs the board that the registration agency has no record of the provisional voter's registration.

shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the

registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

(c) This subsection applies after December 31, 2003. Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 177. IC 3-11.7-5-3, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the board determines that ~~section 2(a)(1); 2(a)(2); or 2(a)(3) of this chapter does not apply; all the following apply:~~ **the affidavit executed by the provisional voter has not been properly executed, that the provisional voter is not a qualified voter of the precinct, or that the provisional voter did not register to vote at a registration agency under this article on a date within the registration period, the board shall make the following findings:**

- (1) The provisional ballot is invalid.
- (2) The provisional ballot may not be counted.
- (3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid."

SECTION 178. IC 3-11.7-5-8, AS ADDED BY P.L.126-2002, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) During the counting of the ballots, one (1) counter shall read the name of the candidates **and ballot questions** voted for from the ballots.

(b) A:

- (1) member of the county election board who is not a member of the same political party as the counter; or

(2) representative designated by the member;
shall view the ballots as the names **and ballot questions** are read.

SECTION 179. IC 3-11.7-6-3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) As required by 42 U.S.C. 15482, a county election board shall establish a free access system such as a toll-free telephone number or an Internet web site that enables a provisional voter to determine:**

(1) whether the individual's provisional ballot was counted;
and

(2) if the provisional ballot was not counted, the reason the provisional ballot was not counted.

(b) **As required by 42 U.S.C. 15482, the county election board shall establish and maintain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the free access system established by the board under subsection (a).**

(c) **As required by 42 U.S.C. 15482, the county election board shall restrict access to the information available under subsection (a) about a provisional voter's ballot to the individual who cast the ballot.**

(d) **The county election board shall prescribe written instructions to inform a provisional voter how the provisional voter can determine whether the provisional voter's ballot has been counted.**

SECTION 180. IC 3-12-1-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. (a) This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, optical scan voting system, or electronic voting system.**

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

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

(2) in a recount or contest proceeding are provided under

IC 3-12-6, IC 3-12-8, IC 3-12-11, or IC 3-12-12.

SECTION 181. IC 3-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter:

(1) is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot; and

(2) applies to each precinct where voting is by paper ballot.

(b) After the polls have closed, each precinct election board shall count the paper ballot votes for each candidate for each office and on each public question. The board shall begin by counting the state paper ballots and shall complete the count of the state paper ballots before counting the local paper ballots. The ballots shall be counted by laying each ballot upon a table in the order in which it is taken from the ballot box.

(c) Notwithstanding subsection (b), the precinct election board may count absentee ballots before the polls have closed. If the precinct election board counts absentee ballots under this subsection, a member of the precinct election board may not, before the polls have closed, provide any person other than a member of the precinct election board with information concerning the number of votes:

(1) a candidate received for an office; or

(2) cast to approve or reject a public question;

on absentee ballots counted under this subsection.

SECTION 182. IC 3-12-2.5-10 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. This chapter expires January 1, 2006.**

SECTION 183. IC 3-12-3-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.1. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on an optical scan voting system.**

SECTION 184. IC 3-12-3.5-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.1. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a**

vote on an electronic voting system.

SECTION 185. IC 3-12-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each county election board may employ clerical assistants if necessary for the proper canvassing and tabulating of the vote. However, **no except as provided in subsection (d), not** more than one-half (1/2) of the assistants employed by the board may be members of the same political party.

(b) The county election board shall appoint the number of two (2) member write-in teams that are necessary to examine and count write-in votes cast on ballot card voting systems on election night. The county chairmen of the two (2) major political parties of a county shall each designate one (1) member of each write-in team. The write-in teams are considered employees of the county canvassing board and must meet the qualifications of canvassing board employees.

(c) **Except as provided in subsection (d)**, a county election board may not employ a person to assist with canvassing unless the person would be eligible to serve as a precinct election officer under IC 3-6-6-7.

(d) The county election board may, by unanimous vote of the entire membership of the board, employ a student to assist the board under this section if the student is:

- (1) enrolled at an institution of higher education (including a community college); and**
- (2) a registered voter of the county.**

A student appointed under this subsection must serve the board in a nonpartisan manner.

SECTION 186. IC 3-12-4-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system by a county election board.**

SECTION 187. IC 3-12-5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. (a) This section applies to a statement required to be sent or delivered to the election division**

by a circuit court clerk under this chapter.

(b) A statement described in subsection (a) may be sent by using the computerized list established under IC 3-7-26.3. A statement sent under this section complies with any requirement for the statement to be certified or sealed.

SECTION 188. IC 3-12-6-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.**

SECTION 189. IC 3-12-8-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) This section does not apply to a contest concerning whether a contestee was ineligible as alleged under section 2(1) of this chapter.**

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

SECTION 190. IC 3-12-11-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.**

SECTION 191. IC 3-12-12-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. This chapter is enacted to comply with 42 U.S.C. 15481 by establishing uniform and nondiscriminatory standards to define what will be counted as a vote on a paper ballot, an optical scan voting system, or an electronic voting system in a recount conducted under this chapter.**

SECTION 192. IC 3-14-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. A person who**

knowingly, intentionally, or recklessly releases or removes any registration materials **or, after December 31, 2005, information contained in the computerized list maintained under IC 3-7-26.3** from the **county voter registration** office, ~~of the circuit court clerk or board of registration~~, except when release or removal is necessary:

- (1) to comply with IC 3-7; or
- (2) for the destruction of the materials under IC 5-15-6;

commits a Class A misdemeanor.

SECTION 193. IC 3-14-4-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. **(a) This subsection applies before January 1, 2006.** A circuit court clerk, member of a board of registration, or county official, responsible for maintaining computerized voter registration information who recklessly fails to comply with IC 3-7-26 more than thirty (30) days after being required to perform a duty under IC 3-7-26 commits a Class B misdemeanor.

(b) This subsection applies after December 31, 2005. A circuit court clerk, a member of a board of registration, a county official, or another person responsible for maintaining computerized voter registration information who recklessly fails to comply with **IC 3-7-26.3** more than thirty (30) days after being required to perform a duty under **IC 3-7-26.3** commits a Class B misdemeanor.

SECTION 194. IC 3-14-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) An officer or employee of the commission or a county voter registration officer or employee who grants a request for voter registration information under IC 3-7-26 or IC 3-7-27 with knowledge that the information will be used in a manner prohibited by IC 3-7-26 or IC 3-7-27 commits a Class B infraction.

(b) An officer or employee of the commission who has previously received a judgment for committing an infraction under this section, and violates this section a second time shall be dismissed from the officer's or employee's position.

(c) This section expires January 1, 2006.

SECTION 195. IC 3-14-6-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.1. (a) This section applies after December 31, 2005.**

(b) A person who grants a request for voter registration information under IC 3-7-26.3 or IC 3-7-27 with knowledge that the information will be used in a manner prohibited by IC 3-7-26.3 or IC 3-7-27 commits a Class B infraction.

(c) A person who has previously received a judgment for committing an infraction under this section and knowingly, intentionally, or recklessly violates this section a second time commits a Class D felony.

SECTION 196. IC 3-14-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section does not apply to:

- (1) political activities; or
- (2) political fundraising activities.

(b) A person who uses voter registration information obtained under IC 3-7-26, **IC 3-7-26.3 (after December 31, 2005)**, or IC 3-7-27 to solicit **the sale of** merchandise, goods, services, or subscriptions commits a Class B infraction.

(c) The court shall:

- (1) keep a record; and
- (2) send a copy of the record to the prosecuting attorney of the county in which the infraction proceeding was tried;

of a judgment for an infraction proceeding tried under this section.

(d) A person who:

- (1) has previously received a judgment for committing an infraction under this section; and
- (2) knowingly or intentionally uses voter registration information in violation of this section;

commits a Class A misdemeanor.

SECTION 197. IC 5-26.5-2-5, AS ADDED BY P.L.273-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A program participant who is otherwise qualified to vote may apply to vote ~~in the same manner as an absent unformed services voter under provided in~~ IC 3-11-4-6.

SECTION 198. IC 9-24-2.5-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. As required under 42 U.S.C. 15483, the secretary of state (with the consent of the co-directors of the election division) and the commission shall enter**

into an agreement to match information in the computerized list established under IC 3-7-26.3 with information in the data base of the commission to enable the election division and the commission to verify the accuracy of the information provided on voter registration applications.

SECTION 199. IC 9-24-2.5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) As required under 42 U.S.C. 15483, the commission shall enter into an agreement with the Commissioner of Social Security under 42 U.S.C. 405(r)(8)(A) to verify information set forth on voter registration applications.**

(b) The information subject to verification under this section is the following:

(1) Whether the name (including the first name and any family forename or surname), date of birth (including month, day, and year), and Social Security number of an individual provided to the Commissioner of Social Security match the information contained in the Commissioner's records.

(2) Whether the individual is shown in the records of the Commissioner of Social Security as deceased.

(c) The agreement under subsection (b) must comply with 42 U.S.C. 15481 and IC 3-7-26.3.

SECTION 200. IC 11-8-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) The commissioner shall do the following:**

(1) Organize the department, subject to approval by the board, and employ personnel necessary to discharge the duties and powers of the department.

(2) Administer and supervise the department, including all state owned or operated correctional facilities.

(3) Except for employees of the parole board, be the appointing authority for all positions in the department within the scope of IC 4-15-2 and define the duties of those positions in accord with IC 4-15-2.

(4) Define the duties of a deputy commissioner and a superintendent.

(5) Accept committed persons for study, evaluation, classification, custody, care, training, and reintegration.

(6) Determine the capacity of all state owned or operated correctional facilities and programs and keep all Indiana courts having criminal or juvenile jurisdiction informed, on a quarterly basis, of the populations of those facilities and programs.

(7) Utilize state owned or operated correctional facilities and programs to accomplish the purposes of the department and acquire or establish, according to law, additional facilities and programs whenever necessary to accomplish those purposes.

(8) Develop policies, programs, and services for committed persons, for administration of facilities, and for conduct of employees of the department.

(9) Administer, according to law, the money or other property of the department and the money or other property retained by the department for committed persons.

(10) Keep an accurate and complete record of all department proceedings, which includes the responsibility for the custody and preservation of all papers and documents of the department.

(11) Make an annual report to the governor according to subsection (c).

(12) Develop, collect, and maintain information concerning offenders, sentencing practices, and correctional treatment as he considers useful in penological research or in developing programs.

(13) Cooperate with and encourage public and private agencies and other persons in the development and improvement of correctional facilities, programs, and services. ~~and~~

(14) Explain correctional programs and services to the public.

(15) As required under 42 U.S.C. 15483, after January 1, 2006, provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with department records concerning individuals disfranchised under IC 3-7-46.

(b) The commissioner may:

(1) when authorized by law, adopt departmental rules under IC 4-22-2, subject to approval by the board;

(2) delegate powers and duties conferred on him by law to a deputy commissioner or commissioners and other employees of the department;

(3) issue warrants for the return of escaped committed persons (an employee of the department or any person authorized to execute warrants may execute a warrant issued for the return of an escaped person); and

(4) exercise any other power reasonably necessary in discharging his duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 201. IC 12-28-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. Notwithstanding IC 4-6-2, the commission has the following powers, duties, and functions:

(1) Establish and maintain all necessary offices.

(2) Subject to IC 4-15-2:

(A) appoint;

(B) fix the compensation for; and

(C) prescribe the duties of;

the attorneys, other employees, and agents the commission considers necessary.

(3) Provide legal and other advocacy services throughout Indiana to individuals or organizations on matters related to the protection of the legal and human rights of developmentally disabled individuals, mentally ill individuals, and individuals who are seeking or receiving vocational rehabilitation services.

(4) Enter into contractual relationships and sue and be sued in the name of the services.

(5) Apply for, solicit, and accept contributions or grants of money, property, or services made by gift, devise, bequest, grant, or other

means from any source that the commission considers best to assist the services in performing its purpose.

(6) Provide information and referral services.

(7) Adopt rules under IC 4-22-2 to do the following:

(A) Establish and operate local protection and advocacy service units.

(B) Operate the service.

(C) Perform the commission's duties.

(8) Ensure full participation in the electoral process in individuals with disabilities, including registering to vote, casting a vote, and accessing polling places, in accordance with 42 U.S.C. 15461 through 15462.

SECTION 202. IC 16-19-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The state department shall study the vital statistics and endeavor to make intelligent and profitable use of the collected records of death and sickness among the people.

(b) As required under 42 U.S.C. 15483, after January 1, 2006, the department shall provide information to the election division to coordinate the computerized list of voters maintained under IC 3-7-26.3 with the department records concerning individuals identified as deceased under IC 3-7-45.

SECTION 203. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-7-26-20; IC 3-11-6.5-3; IC 3-11-6.5-6; IC 3-11-6.5-7.

SECTION 204. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than December 31, 2003, each county voter registration office shall identify each registered voter in the county who:

(1) registered by mail under IC 3-7-22 by submitting an application after December 31, 2002; and

(2) would be required to provide personal identification under 42 U.S.C. 15483 before voting either in person or by mail at an election conducted after December 31, 2003.

(c) Not later than March 1, 2004, the county voter registration office shall mail a notice to each voter identified in subsection (b). The notice must:

(1) inform the voter regarding the additional personal identification required by federal law before the voter casts a ballot in person or by mail; and

(2) encourage the voter to submit photocopies of the required documentation to the county voter registration office before election day.

(d) Not later than July 1, 2003, the election division shall provide each county voter registration office with a sample notice for purposes of mailings required under this SECTION.

(e) A county:

(1) may mail a notice to a voter under this SECTION at any time after receiving the sample notice under subsection (d); and

(2) is not required to mail the notice to all voters described in subsection (b) as part of the same mailing.

(f) This SECTION expires December 31, 2004.

SECTION 205. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than July 1, 2003, the commission shall act under IC 3-11-4-5.1 to approve absentee ballot application forms that include a notice that certain voters who registered by mail are required to provide additional personal identification before voting an absentee ballot by mail.

(c) Notwithstanding IC 3-5-4-8, an absentee ballot application form approved by the commission before December 31, 2003, that does not comply with subsection (b) may not be accepted for filing with a county election board after December 31, 2003.

(d) This SECTION expires December 31, 2004.

SECTION 206. [EFFECTIVE UPON PASSAGE] (a) The election division of the office of the secretary of state shall study the congressional recommendation set forth in Section 701 of the Help America Vote Act of 2002 that the single office in Indiana designated under IC 3-11-4-5.5 to provide absentee balloting and voter registration information to military and overseas voters also be authorized to accept valid voter registration applications, absentee ballot applications, and absentee ballots from all military and overseas voters who wish to register to vote or vote in Indiana.

(b) The election division shall consult with circuit court clerks and county voter registration officers in conducting this study and

shall publish a report containing the results of this study not later than June 1, 2004.

(c) The election division shall submit the report to the census data advisory committee along with suggestions for additional legislation necessary to implement any recommendations contained in the report.

(d) The election division shall consider incorporating the features described in subsection (a) into the statewide voter registration system established under IC 3-7-26.

(e) This SECTION expires January 2, 2005.

SECTION 207. [EFFECTIVE UPON PASSAGE] (a) Before January 1, 2004, the Indiana election commission shall act under IC 3-11-4-5.1 to make any revision required to the absentee ballot application form prescribed by the commission under that section to conform the application to the standard oath prescribed for absent uniformed services voters and overseas voters under 42 U.S.C. 1973ff-1(b).

(b) An absentee ballot application form approved by the commission before January 1, 2004, that does not comply with any requirement under 42 U.S.C. 1973ff-1(b) may not be used for any election conducted after December 31, 2003.

(c) This SECTION expires January 1, 2005.

SECTION 208. [EFFECTIVE UPON PASSAGE] (a) Before January 1, 2004, the Indiana election commission shall act under IC 3-5-4-8 to make any revision required to the affidavit printed on the absentee ballot mailing envelope described by IC 3-11-4-21 to conform the application to the standard oath prescribed for absent uniformed services voters and overseas voters under 42 U.S.C. 1973ff-1(b).

(b) An absentee ballot mailing envelope approved by the commission before January 1, 2004, that does not comply with any requirement under 42 U.S.C. 1973ff-1(b) or IC 3-11-4-21 may not be used for any election conducted after December 31, 2003.

(c) This SECTION expires January 1, 2005.

SECTION 209. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply to this SECTION.

(b) Notwithstanding IC 3-5-4-8, a registration by mail form approved by the commission under IC 3-7-22 before January 1, 2003, may not be filed by an applicant or processed by a county

voter registration office after December 31, 2003.

(c) The election division shall:

(1) notify the offices and entities designated as mail-in registration form distribution sites under IC 3-7 or a county NVRA plan that the registration forms previously furnished to those offices and entities will be obsolete after December 31, 2003; and

(2) provide each office or entity with mail-in registration forms that comply with IC 3-7-22, as amended by this act, not later than December 31, 2003.

(d) The election division shall provide mail-in registration forms under subsection (c) in the quantity that the election division determines should be sufficient for the office or entity to supply voter registration applications to voters until December 31, 2004. In complying with this subsection, the election division shall attempt to reduce costs by publicizing the availability of a downloadable voter registration application on the election division's web site.

(e) This SECTION expires January 1, 2005.

SECTION 210. [EFFECTIVE UPON PASSAGE] (a) The secretary of state with the consent of the co-directors of the election division shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, and interactive statewide voter registration list in accordance with the requirements set forth in 42 U.S.C. 15483 and IC 3-7-26.3, as added by this act.

(b) Not later than January 1, 2004, the secretary of state with the consent of the co-directors of the election division may certify to the federal Election Assistance Commission under Section 303(d)(1)(B) of the Help America Vote Act of 2002 that the state will not meet the deadline of January 1, 2004, to establish a statewide voter registration system that complies with 42 U.S.C. 15483.

(c) As required by Section 303(d)(1)(B) of the Help America Vote Act of 2002, the certification must state:

(1) that the inability of the state to meet this deadline is for good cause; and

(2) the reasons for the inability to meet the deadline.

(d) This SECTION expires January 1, 2006.

SECTION 211. [EFFECTIVE UPON PASSAGE] (a) This

SECTION applies to a voter who has not been assigned a voter identification number under IC 3-7-13-13.

(b) Not later than January 1, 2006, the election division shall assign a voter identification number to the voter's registration record in the computerized list maintained under IC 3-7-26.3. The number must be assigned in accordance with IC 3-7-13-13.

(c) This SECTION expires January 1, 2006.

SECTION 212. [EFFECTIVE APRIL 1, 2003 (RETROACTIVE)]

(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.

(b) Not later than April 7, 2003, the governor, in consultation and coordination with the secretary of state and the co-directors of the election division, shall notify the federal Administrator of General Services that the state of Indiana intends to use payments under Section 101 of HAVA (42 U.S.C. 15301) in accordance with Section 101 of HAVA.

(c) This section expires December 31, 2003.

SECTION 213. [EFFECTIVE APRIL 1, 2003 (RETROACTIVE)]

(a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.

(b) Not later than April 7, 2003, the governor, in consultation and coordination with the secretary of state and the co-directors of the election division, shall give the notice to the federal Administrator of General Services under Section 102(b) of HAVA (42 U.S.C. 15302) in accordance with Section 102 of HAVA.

(c) This section expires December 31, 2003.

SECTION 214. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply to this SECTION.

(b) Subject to subsection (d), a voting machine system may not be used in an election in Indiana after December 31, 2003.

(c) Subject to subsection (e), a punch card voting system may not be used in an election in Indiana after December 31, 2003.

(d) Notwithstanding subsection (b), a voting machine system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all voting machine systems in Indiana

before January 1, 2004.

(e) Notwithstanding subsection (c), a punch card voting system may be used in an election in Indiana after December 31, 2003, and before January 1, 2006, if not later than December 31, 2003, the secretary of state with the consent of the co-directors of the election division certifies to the federal Administrator of General Services under Section 102(a)(3)(B) of HAVA (42 U.S.C. 15302) that the state cannot replace all punch card voting systems in Indiana before January 1, 2004.

(f) This SECTION expires January 1, 2006.

SECTION 215. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.

(b) The census data advisory committee shall prepare legislation for introduction in the 2004 session of the Indiana general assembly to make appropriate amendments to Indiana statutes by removing references to voting machine systems and punch card voting systems.

(c) This SECTION expires January 1, 2006.

SECTION 216. [EFFECTIVE UPON PASSAGE] (a) The definitions set forth in IC 3-5-2 apply throughout this SECTION.

(b) Not later than June 30, 2003, the secretary of state with the consent of the co-directors of the election division shall file a statement with the federal Election Assistance Commission.

(c) The statement under subsection (b) must certify that the state is in compliance with the requirements referred to in Section 253(b) of HAVA (42 U.S.C. 15403) and be in the form authorized by Section 253 of HAVA.

(d) This SECTION expires December 31, 2003.

SECTION 217. [EFFECTIVE JULY 1, 2003] (a) Each county election board shall determine, not later than December 31, 2003, whether the board will adopt an order authorizing the appointment of a precinct election officer under IC 3-6-6-39, as amended by this act.

(b) An order adopted under this SECTION remains in effect until repealed by the unanimous vote of the entire membership of the county election board.

(c) This SECTION expires January 1, 2004.

SECTION 218. An emergency is declared for this act.

P.L.210-2003

[S.340. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-14-1-27.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 27.5. (a) The board may issue an instructor's license to an individual who is not otherwise licensed to practice dentistry in Indiana if the individual meets the following conditions:**

- (1) The individual has been licensed or has had the equivalent of a license for five (5) of the preceding nine (9) years to practice dentistry in the United States or in any country, territory, or other recognized jurisdiction.**
 - (2) The individual has been approved under the credentialing process of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry that is accredited by:**
 - (A) the American Dental Association Commission on Dental Accreditation; or**
 - (B) the Joint Commission on Accreditation of Health Care Organizations.**
 - (3) The individual has successfully documented or demonstrated clinical and academic competency to the board.**
 - (4) The individual is fluent in the English language.**
 - (5) The individual passes the written law examination administered by the board.**
 - (6) The individual meets the continuing education requirements required by IC 25-14-3.**
 - (7) The individual pays the licensing fee set by the board under subsection (f).**
- (b) A license issued under this section must be held by the**

Indiana school of dentistry for which the licensee is employed.

(c) A license issued under this section does not meet the requirements of IC 25-14-1-16 and may not be used to obtain a general dentistry license under IC 25-14.

(d) A licensee under this section may teach and practice dentistry only at or on behalf of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry.

(e) An instructor's license is only valid during the time the licensee is employed or has a valid employment contract for a full-time faculty position at the Indiana school of dentistry or an affiliated medical center. The Indiana school of dentistry or the affiliated medical center shall notify the board in writing upon the termination of the employment contract of an individual who is issued a license under this section and surrender the license not later than thirty (30) days after the licensee's employment ceases.

(f) The board shall set a fee for the issuance and renewal of a license under this section.

(g) Unless renewed, a license issued by the board under this section expires annually on a date specified by the health professions bureau under IC 25-1-5-4. An applicant for renewal must pay the renewal fee set by the board on or before the renewal date specified by the health professions bureau.

(h) Not more than five percent (5%) of the Indiana school of dentistry's full-time faculty may be individuals licensed under this section.

(i) The board shall adopt rules under IC 4-22-2 necessary to implement this section.

(j) This section expires June 30, 2008.

P.L.211-2003

[S.341. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-4-1-4, AS AMENDED BY P.L.130-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement,

announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments

charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

- (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
- (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
- (iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department

or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any

policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made

under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.

SECTION 2. IC 27-8-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) As used in this section, the term "policy of accident and sickness insurance" does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance.
- (9) A student health insurance policy.

(b) The benefits provided by an individual policy of accident and sickness insurance may not be excluded, limited, or denied for more than twelve (12) months after the effective date of the coverage because of a preexisting condition of the individual.

(c) An individual policy of accident and sickness insurance may not define a preexisting condition, a rider, or an endorsement more restrictively than as:

- (1) a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of enrollment in the plan;
- (2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of enrollment in the plan; or
- (3) a pregnancy existing on the effective date of enrollment in the plan.

(d) An insurer shall reduce the period allowed for a preexisting condition exclusion described in subsection (b) by the amount of time the individual has continuously served under a preexisting condition clause for a policy of accident and sickness insurance issued under IC 27-8-15 if the individual applies for a policy under this chapter not more than thirty (30) days after coverage under a policy of accident and sickness insurance issued under IC 27-8-15 expires.

(e) This subsection applies to a policy that is issued after June

30, 2003, and before July 1, 2005. Notwithstanding subsections (b) and (c), an individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition and complications directly related to the specified condition if:

(1) the period for which the exemption would be in effect does not exceed two (2) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the policy a written notice explaining the waiver of coverage for the specified condition and complications directly related to the specified condition, including a specific description of each condition, complication, service, and treatment for which coverage is being waived.

(B) The:

(i) offer of coverage; and

(ii) policy;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition and specifying each related condition, complication, service, and treatment for which coverage is waived.

(C) The:

(i) offer of coverage; and

(ii) policy;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

(i) review the underwriting basis for the waiver upon request one (1) time per year; and

(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) The waiver of coverage does not apply to coverage required under state law.

(H) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

The insurer shall require an applicant to initial the written notice provided under subdivision (2)(A) and the waiver included in the offer of coverage and in the policy under subdivision (2)(B) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy that includes a waiver under this subsection does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1. This subsection expires July 1, 2007.

(f) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer shall not, on the basis of a waiver contained in a policy as provided in subsection (e), deny coverage for any condition, complication, service, or treatment that is not specified as required in the:

- (1) written notice under subsection (e)(2)(A); and**
- (2) offer of coverage and policy under subsection (e)(2)(B).**

This subsection expires July 1, 2007.

(g) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An individual who is covered under a policy that includes a waiver under subsection (e) may directly appeal a denial of coverage based on the waiver by filing a request for an external grievance review under IC 27-8-29 without pursuing a grievance under IC 27-8-28. This subsection expires July 1, 2007.

(h) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsection (e), an individual policy of accident and sickness insurance may not contain a waiver of coverage for:

- (1) a mental health condition; or**
- (2) a developmental disability.**

This subsection expires July 1, 2007.

(i) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A waiver under this section may be applied to a policy of accident and sickness insurance only at the time the policy is issued. This subsection expires July 1, 2007.

(j) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer or insurance

producer shall not use this section to circumvent the guaranteed access and availability provisions of this chapter, IC 27-8-15, or the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191). This subsection expires July 1, 2007.

(k) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A pattern or practice of violations of subsections (e) through (j) is an unfair method of competition or an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4. This subsection expires July 1, 2007.

SECTION 3. IC 27-8-5-16.5, AS AMENDED BY P.L.96-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) As used in this section, "delivery state" means any state other than Indiana in which a policy is delivered or issued for delivery.

(b) Except as provided in subsection (c), (d), or (e), a certificate may not be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana.

(c) A certificate may be issued to a resident of Indiana pursuant to a group policy not described in subsection (d) that is delivered or issued for delivery in a state other than Indiana if:

- (1) the delivery state has a law substantially similar to section 16 of this chapter;
- (2) the delivery state has approved the group policy; and
- (3) the policy or the certificate contains provisions that are:
 - (A) substantially similar to the provisions required by:
 - (i) section 19 of this chapter;
 - (ii) section 21 of this chapter; and
 - (iii) IC 27-8-5.6; and
 - (B) consistent with the requirements set forth in:
 - (i) section 24 of this chapter;
 - (ii) IC 27-8-6;
 - (iii) IC 27-8-14;
 - (iv) IC 27-8-23;
 - (v) 760 IAC 1-38.1; and
 - (vi) 760 IAC 1-39.

(d) A certificate may be issued to a resident of Indiana under an association group policy, a discretionary group policy, or a trust group

policy that is delivered or issued for delivery in a state other than Indiana if:

- (1) the delivery state has a law substantially similar to section 16 of this chapter;
- (2) the delivery state has approved the group policy; and
- (3) the policy or the certificate contains provisions that are:
 - (A) substantially similar to the provisions required by:
 - (i) section 19 of this chapter;
 - (ii) **section 19.2 of this chapter if the policy or certificate contains a waiver of coverage;**
 - (iii) section 21 of this chapter; and
 - ~~(iii)~~ (iv) IC 27-8-5.6; and
 - (B) consistent with the requirements set forth in:
 - (i) section 15.6 of this chapter;
 - (ii) section 24 of this chapter;
 - (iii) section 26 of this chapter;
 - (iv) IC 27-8-6;
 - (v) IC 27-8-14;
 - (vi) IC 27-8-14.1;
 - (vii) IC 27-8-14.5;
 - (viii) IC 27-8-14.7;
 - (ix) IC 27-8-14.8;
 - (x) IC 27-8-20;
 - (xi) IC 27-8-23;
 - (xii) IC 27-8-24.3;
 - (xiii) IC 27-8-26;
 - (xiv) IC 27-8-28;
 - (xv) IC 27-8-29;
 - (xvi) 760 IAC 1-38.1; and
 - (xvii) 760 IAC 1-39.

(e) A certificate may be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana if the commissioner determines that the policy pursuant to which the certificate is issued meets the requirements set forth in section 17(a) of this chapter.

(f) This section does not affect any other provision of Indiana law governing the terms or benefits of coverage provided to a resident of Indiana under any certificate or policy of insurance.

SECTION 4. IC 27-8-5-19.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19.2. (a) This section applies to an association or a discretionary group policy of accident and sickness insurance:**

- (1) under which a certificate of coverage is issued after June 30, 2003, and before July 1, 2005, by the insurers selected under subsection (c) to an individual member of the association or discretionary group;**
- (2) under which a member of the association or discretionary group is individually underwritten; and**
- (3) that is not employer based.**

(b) Notwithstanding section 19 of this chapter, the commissioner appointed under IC 27-1-1-2 shall, not later than July 1, 2003, establish a two (2) year demonstration project to evaluate the value of preexisting condition exclusion waivers to consumers of policies described in subsection (a). The demonstration project established under this subsection must allow the insurers selected under subsection (c) to issue a policy described in subsection (a) that contains a waiver of coverage described in subsection (e) only if the requirements of this section are met.

(c) The commissioner shall select three (3) insurers (as defined in IC 27-1-2-3) that meet the following requirements to participate in the demonstration project described in subsection (b):

- (1) The insurer has previously offered in Indiana an individually underwritten policy described in subsection (a) with a preexisting condition exclusion waiver.**
- (2) The insurer has a previously documented program for administering a policy described in subdivision (1) that includes consumer safeguards to:**
 - (A) provide prior written notice of conditions subject to the waiver;**
 - (B) limit the number of waivers per individual;**
 - (C) limit the period during which a waiver may be in effect; and**
 - (D) provide for full benefits upon the expiration of the waiver.**

(d) The insurers selected under subsection (c):

- (1) may each issue not more than one thousand five hundred**

(1,500) certificates of coverage containing a waiver under this section; and

(2) shall bear all costs of the demonstration project established under this section, including any research, analysis, and reporting related to the demonstration project.

(e) Notwithstanding section 19 of this chapter, a policy described in subsection (a) may contain a waiver of coverage for a specified condition and complications directly related to the specified condition if:

(1) the period for which the exemption would be in effect does not exceed two (2) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the policy a written notice explaining the waiver of coverage for the specified condition and complications directly related to the specified condition, including a specific description of each condition, complication, service, and treatment for which coverage is being waived.

(B) The:

(i) offer of coverage; and

(ii) certificate of coverage;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition and specifying each related condition, complication, service, and treatment for which coverage is waived.

(C) The:

(i) offer of coverage; and

(ii) certificate of coverage;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

(i) review the underwriting basis for the waiver upon request one (1) time per year; and

(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant

may decline the offer of coverage, and any individual to whom the waiver would have applied may apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) The waiver of coverage does not apply to coverage required under state law.

(H) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

(f) The insurer shall require an applicant to initial the written notice provided under subsection (e)(2)(A) and the waiver included in the offer of coverage and in the certificate of coverage under subsection (e)(2)(B) to acknowledge acceptance of the waiver of coverage.

(g) An insurer shall not, on the basis of a waiver contained in a policy as provided in this section, deny coverage for any condition, complication, service, or treatment that is not specified as required in the:

- (1) written notice under subsection (e)(2)(A); and
- (2) offer of coverage and certificate of coverage under subsection (e)(2)(B).

(h) An individual who is covered under a policy that includes a waiver under this section may directly appeal a denial of coverage based on the waiver by filing a request for an external grievance review under IC 27-8-29 without pursuing a grievance under IC 27-8-28.

(i) An offer of coverage under a policy that includes a waiver under this section does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

(j) Notwithstanding subsection (e), a policy described in subsection (a) may not contain a waiver of coverage for:

- (1) a mental health condition; or
- (2) a developmental disability.

(k) A waiver under this section may be applied to a certificate of coverage of accident and sickness insurance only at the time the certificate is issued.

(l) An insurer or insurance producer shall not use this section to circumvent the guaranteed access and availability provisions of

this chapter, IC 27-8-15, or the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191).

(m) A pattern or practice of violations of this section is an unfair method of competition or an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4.

(n) This section expires July 1, 2007.

SECTION 5. IC 27-8-10-5.1, AS AMENDED BY P.L.233-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) Except as provided in subsections (b) and (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. **However, an offer of coverage described in IC 27-8-5-2.5(e) or IC 27-8-5-19.2(e) does not affect an individual's eligibility for an association policy under this subsection.** Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(b) Except as provided in IC 27-13-16-4, a person is eligible for an association policy upon a showing that:

- (1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;
- (2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or
- (3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(c) The board of directors may establish procedures that would permit:

- (1) an association policy to be issued to persons who are covered by a group insurance arrangement when that person or a dependent's health condition is such that the group's coverage is in jeopardy of termination or material rate increases because of that person's or dependent's medical claims experience; and

(2) an association policy to be issued without any limitation on preexisting conditions to a person who is covered by a health insurance arrangement when that person's coverage is scheduled to terminate for any reason beyond the person's control.

(d) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

- (1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and
- (2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(e) An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

(f) Except as provided in subsection (g), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of

three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(g) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection (b), then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(h) For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 6. IC 27-8-29-6, AS ADDED BY P.L.203-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. As used in this chapter, "external grievance" means the independent review under this chapter of a:

(1) grievance filed under IC 27-8-28; or

(2) denial of coverage based on a waiver described in IC 27-8-5-2.5 or IC 27-8-5-19.2.

SECTION 7. IC 27-8-29-12, AS ADDED BY P.L.203-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. An insurer shall establish and maintain an external grievance procedure for the resolution of external grievances regarding:

(1) an adverse determination of appropriateness;

(2) an adverse determination of medical necessity; or

(3) a determination that a proposed service is experimental or investigational; or

(4) a denial of coverage based on a waiver described in IC 27-8-5-2.5 or IC 27-8-5-19.2;

made by an insurer or an agent of an insurer regarding a service proposed by the treating health care provider.

SECTION 8. IC 27-8-29-13, AS AMENDED BY P.L.1-2002,

SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) An external grievance procedure established under section 12 of this chapter must:

(1) allow a covered individual or a covered individual's representative to file a written request with the insurer for an external grievance review of the insurer's:

(A) appeal resolution under IC 27-8-28-17; or

(B) denial of coverage based on a waiver described in IC 27-8-5-2.5 or IC 27-8-5-19.2;

not more than forty-five (45) days after the covered individual is notified of the resolution; and

(2) provide for:

(A) an expedited external grievance review for a grievance related to an illness, a disease, a condition, an injury, or a disability if the time frame for a standard review would seriously jeopardize the covered individual's:

(i) life or health; or

(ii) ability to reach and maintain maximum function; or

(B) a standard external grievance review for a grievance not described in clause (A).

A covered individual may file not more than one (1) external grievance of an insurer's appeal resolution under this chapter.

(b) Subject to the requirements of subsection (d), when a request is filed under subsection (a), the insurer shall:

(1) select a different independent review organization for each external grievance filed under this chapter from the list of independent review organizations that are certified by the department under section 19 of this chapter; and

(2) rotate the choice of an independent review organization among all certified independent review organizations before repeating a selection.

(c) The independent review organization chosen under subsection (b) shall assign a medical review professional who is board certified in the applicable specialty for resolution of an external grievance.

(d) The independent review organization and the medical review professional conducting the external review under this chapter may not have a material professional, familial, financial, or other affiliation with any of the following:

- (1) The insurer.
- (2) Any officer, director, or management employee of the insurer.
- (3) The health care provider or the health care provider's medical group that is proposing the service.
- (4) The facility at which the service would be provided.
- (5) The development or manufacture of the principal drug, device, procedure, or other therapy that is proposed for use by the treating health care provider.
- (6) The covered individual requesting the external grievance review.

However, the medical review professional may have an affiliation under which the medical review professional provides health care services to covered individuals of the insurer and may have an affiliation that is limited to staff privileges at the health facility, if the affiliation is disclosed to the covered individual and the insurer before commencing the review and neither the covered individual nor the insurer objects.

(e) A covered individual ~~may be required to pay not more than twenty-five dollars (\$25)~~ **shall not pay any** of the costs associated with the services of an independent review organization under this chapter. All ~~additional~~ costs must be paid by the insurer.

SECTION 9. IC 27-8-29-15, AS ADDED BY P.L.203-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) An independent review organization shall:

- (1) for an expedited external grievance filed under section 13(a)(2)(A) of this chapter, within three (3) business days after the external grievance is filed; or
 - (2) for a standard appeal filed under section 13(a)(2)(B) of this chapter, within fifteen (15) business days after the appeal is filed;
- make a determination to uphold or reverse the insurer's appeal resolution under IC 27-8-28-17 based on information gathered from the covered individual or the covered individual's designee, the insurer, and the treating health care provider, and any additional information that the independent review organization considers necessary and appropriate.

(b) When making the determination under this section, the independent review organization shall apply:

- (1) standards of decision making that are based on objective

clinical evidence; and

(2) the terms of the covered individual's accident and sickness insurance policy.

(c) In an external grievance described in section 12(4) of this chapter, the insurer bears the burden of proving that the insurer properly denied coverage for a condition, complication, service, or treatment because the condition, complication, service, or treatment is directly related to a condition for which coverage has been waived under IC 27-8-5-2.5 or IC 27-8-5-19.2.

(d) The independent review organization shall notify the insurer and the covered individual of the determination made under this section:

(1) for an expedited external grievance filed under section 13(a)(2)(A) of this chapter, within twenty-four (24) hours after making the determination; and

(2) for a standard external grievance filed under section 13(a)(2)(B) of this chapter, within seventy-two (72) hours after making the determination.

SECTION 10. [EFFECTIVE JULY 1, 2003] (a) An insurer that issues a policy of accident and sickness insurance that contains a waiver under IC 27-8-5-2.5(e) or IC 27-8-5-19.2, both as added by this act, shall submit to the commissioner of the department of insurance the following information for the reporting periods specified under subsection (b) on a form prescribed by the commissioner:

(1) The number of policies that the insurer issued with a waiver.

(2) A list of specified conditions that the insurer waived.

(3) The number of waivers issued for each specified condition listed under subdivision (2).

(4) The number of waivers issued categorized by the period of time for which coverage of a specified condition was waived.

(5) The number of applicants who were denied insurance coverage by the insurer because of a specified condition.

(6) The number of:

(A) complaints; and

(B) requests for external grievance review; filed in relation to a waiver.

(b) An insurer shall submit the information required under

subsection (a) as follows:

(1) Not later than August 1, 2004, for the reporting period July 1, 2003, through June 30, 2004.

(2) Not later than August 1, 2005, for the reporting period July 1, 2004, through June 30, 2005.

(3) Not later than August 1, 2006, for the reporting period July 1, 2005, through June 30, 2006.

(4) Not later than August 1, 2007, for the reporting period July 1, 2006, through June 30, 2007.

(c) The commissioner of the department of insurance shall forward the information submitted:

(1) under subsection (b)(1) not later than November 1, 2004;

(2) under subsection (b)(2) not later than November 1, 2005;

(3) under subsection (b)(3) not later than November 1, 2006;
and

(4) under subsection (b)(4) not later than November 1, 2007;

to the legislative council.

(d) The commissioner of the department of insurance shall compile the information submitted under subsection (b) and, not later than November 1 of each year, report the information to the legislative council and each member of the general assembly.

(e) The commissioner of the department of insurance shall after June 30 of each year beginning in 2004 perform written or oral interviews with every available certificate holder of a certificate of coverage issued under IC 27-8-5-19.2, as added by this act, and compile the results of the interviews and report the results to the legislative council:

(1) for the period beginning July 1, 2003, and ending June 30, 2004, not later than November 1, 2004;

(2) for the period beginning July 1, 2004, and ending June 30, 2005, not later than November 1, 2005;

(3) for the period beginning July 1, 2005, and ending June 30, 2006, not later than November 1, 2006; and

(4) for the period beginning July 1, 2006, and ending June 30, 2007, not later than November 1, 2007.

All costs related to this subsection must be borne by the insurers selected under IC 27-8-5-19.2, as added by this act.

(f) This SECTION expires June 30, 2008.

SECTION 11. An emergency is declared for this act.

P.L.212-2003

[S.343. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-15-12-19, AS AMENDED BY P.L.66-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) This section applies to an individual who:

- (1) is a Medicaid recipient; **and**
- (2) is not enrolled in the risk-based managed care program. ~~and~~
- ~~(3) resides in a county having a population of more than one hundred thousand (100,000).~~

(b) Subject to subsection (c), the office shall develop the following programs regarding individuals described in subsection (a):

(1) A disease management program for recipients with any of the following **chronic** diseases:

- (A) Asthma.
- (B) Diabetes.
- (C) Congestive heart failure or coronary heart disease.
- ~~(D) HIV or AIDS.~~ **(D) Hypertension.**

(2) A case management program for recipients ~~whose per recipient Medicaid cost is in the highest ten percent (10%) of all individuals described in subsection (a) who are at high risk of chronic disease, that is based on a combination of cost measures, clinical measures, and health outcomes identified and developed by the office with input and guidance from the state department of health and other experts in health care case management or disease management programs.~~

(c) **The office shall implement:**

- (1) a pilot program for at least two (2) of the diseases listed in subsection (b) not later than July 1, 2003; and**
- (2) a statewide chronic disease program as soon as practicable after the office has done the following:**

- (A) Evaluated a pilot program described in subdivision (1).
- (B) Made any necessary changes in the program based on the evaluation performed under clause (A).

(d) The office shall develop and implement a program required under this section in cooperation with the state department of health and shall use the following health care providers to the extent possible:

- (1) Community health centers.
- (2) Federally qualified health centers (as defined in 42 U.S.C. 1396d(l)(2)(B)).
- (3) Rural health clinics (as defined in 42 U.S.C. 1396d(l)(1)).
- (4) Local health departments.
- (5) Hospitals.

(e) The office shall may contract with an outside vendor or vendors to assist in the develop development and implement implementation of the programs required under subsection (b): this section. The office shall begin the contract procurement process not later than October 1, 2001. The contract required under this subsection must be effective not later than July 1, 2002.

~~(d)~~ (f) The vendor or vendors with whom the office contracts under subsection (c) and the state department of health shall provide the office and the select joint commission on Medicaid oversight established by IC 2-5-26-3 with an evaluation and recommendations on the costs, benefits, and health outcomes of the pilot programs required under subsection (b): this section. The evaluations required under this subsection must be provided not more than nine (9) twelve (12) months after the effective implementation date of the contract. pilot programs.

~~(e)~~ (g) The office and the state department of health shall report to the select joint commission on Medicaid oversight established by IC 2-5-26-3 not later than December 31, 2002; November 1 of each year regarding the programs developed under this section.

SECTION 2. IC 16-18-2-55.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 55.5. "Chronic disease", for purposes of IC 16-38-6, has the meaning set forth in IC 16-38-6-1.**

SECTION 3. IC 16-38-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON

PASSAGE]:

Chapter 6. Chronic Disease Registry

Sec. 1. As used in this chapter, "chronic disease" means one (1) of the following conditions:

- (1) Asthma.**
- (2) Diabetes.**
- (3) Congestive heart failure or coronary heart disease.**
- (4) Hypertension.**

Sec. 2. The state department, with the cooperation of the office of Medicaid policy and planning, shall establish a chronic disease registry for the purpose of:

- (1) recording chronic disease cases that are diagnosed or treated in Indiana; and**
- (2) compiling necessary and appropriate information determined by the state department concerning cases described in subdivision (1) in order to do the following:**
 - (A) Conduct epidemiologic and environmental surveys of chronic disease and use appropriate preventive and control measures.**
 - (B) Inform citizens regarding programs designed to manage chronic disease.**
 - (C) Provide guidance to the office of Medicaid policy and planning to identify and develop cost and clinical measures for use in a program required by IC 12-15-12-19.**

Sec. 3. The state department shall use information compiled by a public or private entity to the greatest extent possible in the development of a statewide chronic disease registry under this chapter.

Sec. 4. (a) The following persons may report confirmed cases of chronic disease to the chronic disease registry:

- (1) Physicians.**
- (2) Hospitals.**
- (3) Medical laboratories.**

(b) A person who reports information to the state chronic disease registry under this section may use:

- (1) information submitted to any other public or private chronic disease registry; or**
- (2) information required to be filed with federal, state, or local agencies;**

when completing a report under this chapter. However, the state department may require additional, definitive information.

(c) The office of Medicaid policy and planning shall provide data concerning services for chronic diseases reimbursed by the state Medicaid program to the chronic disease registry. The office shall work with the state department to identify the data available and to determine a means to transmit the information to assist the state department in data collection for the chronic disease registry.

Sec. 5. Except as provided in sections 6, 7, and 8 of this chapter, information obtained by the state department under this chapter concerning chronic disease patients is confidential and may be used by the state department only for the purposes of this chapter.

Sec. 6. The state department may grant a researcher access to confidential information obtained under this chapter concerning individual chronic disease patients if the researcher who is requesting additional information for research purposes or soliciting the patient's participation in a research project obtains the following:

- (1) First, the oral or written consent of the patient's attending physician.
- (2) Second, the patient's written consent by completing a confidential medical release form.

Sec. 7. The state department may release confidential information obtained under this chapter concerning individual chronic disease patients to the following:

- (1) The chronic disease registry of another state if the following conditions are met:
 - (A) The other state has entered into a reciprocal agreement with the state department.
 - (B) The reciprocal agreement under clause (A) states that information that identifies a patient will not be released to any other person without the written consent of the patient.
- (2) Physicians and local health officers for diagnostic and treatment purposes if the following conditions are met:
 - (A) The patient's attending physician gives oral or written consent to the release of the information.
 - (B) The patient gives written consent by completing a confidential medical release form.

(3) The office of Medicaid policy and planning for purposes related to administering the state Medicaid plan.

Sec. 8. A person who reports information for the chronic disease registry under this chapter is immune from any civil or criminal liability that might otherwise be imposed because of the release of confidential information.

Sec. 9. This chapter does not prevent the release to any interested person of epidemiological information that does not identify a chronic disease patient.

Sec. 10. The state department may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 4. IC 16-41-6-1, AS AMENDED BY P.L.293-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Except as provided in **IC 16-41-10-2.5** and subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to the human immunodeficiency virus (HIV) without the consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented.

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

(1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is required or authorized under IC 11-10-3-2.5.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 5. IC 16-41-10-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "emergency medical services provider" means a firefighter, a law enforcement officer, a paramedic, **an emergency medical technician, a physician licensed under IC 25-22.5, a nurse licensed under IC 25-23,** or other person who provides emergency medical services in the course of the person's employment.

SECTION 6. IC 16-41-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) ~~A provider of An~~ emergency medical services **provider** who is exposed to blood or body fluids while providing emergency medical services to a patient may request notification concerning exposure to a dangerous communicable disease under this chapter if the exposure is of a type that has been demonstrated epidemiologically to transmit a dangerous communicable disease.

(b) If a ~~provider of an~~ emergency medical services **provider** desires to be notified **of results of testing following a possible exposure to a dangerous communicable disease** under this chapter, the ~~provider of~~ emergency medical services **provider** shall notify the emergency ~~service facility~~ **medical services provider's employer** not more than twenty-four (24) hours after the ~~patient~~ **emergency medical services provider** is ~~admitted to the facility~~ **exposed** on a form that is prescribed by the state department and the Indiana emergency medical services commission.

(c) The ~~provider of~~ emergency medical services **provider** shall distribute a copy of the completed form required under subsection (b) to the following:

- (1) **If applicable, the receiving medical director of the emergency department of the medical facility:**
 - (A) **to which the patient was admitted following the exposure; or**
 - (B) **in which the patient was located at the time of the exposure.**
- (2) **The facility that employs the provider of emergency medical services provider's employer.**
- (3) The state department.

SECTION 7. IC 16-41-10-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) A patient (including a**

patient who is unable to consent due to physical or mental incapacity) to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter is considered to have consented to:

- (1) testing for the presence of a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and
- (2) release of the testing results to a medical director or physician described in section 3 of this chapter.

The medical director or physician shall notify the emergency medical services provider of the test results.

(b) If a patient described in subsection (a) refuses to provide a blood or body fluid specimen for testing for a dangerous communicable disease, the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may petition the circuit or superior court having jurisdiction in the county:

- (1) of the patient's residence; or
- (2) where the employer of the exposed emergency medical services provider has the employer's principal office;

for an order requiring that the patient provide a blood or body fluid specimen.

SECTION 8. IC 16-41-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b), if a patient to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter:

(1) is admitted to a medical facility following the exposure or is located in a medical facility at the time of the exposure, a physician designated by an emergency the medical service facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:

- (A) cause a blood or body fluid specimen to be obtained from the patient and testing to be performed for a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency

medical services provider; and

(B) notify the medical director of a facility employing the provider of emergency medical services described in section 2 of this chapter if (1) not more than seventy-two (72) hours after a patient is admitted to the facility the facility obtains information from the patient's records or a diagnosis at the facility that the patient has a dangerous communicable disease; and (2) the provider of emergency medical services has complied with section 2 of this chapter; provider's employer; or

(2) is not described in subdivision (1), the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may:

(A) arrange for testing of the patient as soon as possible; or

(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or where the employer of the exposed emergency medical services provider has the employer's principal office for an order requiring that the patient provide a blood or body fluid specimen.

(b) A provider of An emergency medical services provider may, on the form described in section 2 of this chapter, designate a physician other than the medical director of the facility that employs the provider of emergency medical services provider's employer to receive notification: on the form described in section 2 of this chapter: the test results.

(c) The notification required by this section shall be made The medical director or physician described in section 3 of this chapter shall notify the emergency medical services provider of the test results not more than forty-eight (48) hours after the facility determines that a patient medical director or physician receives the test results. has a dangerous communicable disease that is potentially transmissible through the incident.

SECTION 9. IC 16-41-10-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. (a) A medical facility may not physically restrain a patient described in section 2.5 of this chapter in order to test the patient for the presence of a dangerous

communicable disease.

(b) Nothing in this chapter prohibits a patient from being discharged from a medical facility before:

- (1) a test is performed under section 2.5 or 3 of this chapter;
- or
- (2) the results of a test are released under section 3 of this chapter.

(c) A provider or a facility that tests a patient for the presence of a dangerous communicable disease under section 2.5 or section 3 of this chapter is immune from liability for the performance of the test over the patient's objection or without the patient's consent. However, this subsection does not apply to an act or omission that constitutes gross negligence or willful or wanton misconduct.

SECTION 10. IC 16-41-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) ~~If medically indicated;~~ A **medical director or** physician notified under section 3 of this chapter shall, **not more than forty-eight (48) hours after receiving the notification under section 3 of this chapter**, contact the ~~provider of~~ emergency medical services **provider** described in section 2 of this chapter to do the following:

- (1) Explain, without disclosing information about the patient, the ~~infectious~~ **dangerous communicable** disease to which the ~~provider of~~ emergency medical services **provider** was exposed.
- (2) Provide for any medically necessary treatment and counseling to the ~~provider of~~ emergency medical services **provider**.

(b) Expenses of **testing or** treatment and counseling are the responsibility of the ~~provider of~~ emergency medical services **provider** or the provider's employer.

SECTION 11. IC 16-41-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as **otherwise** provided in ~~sections 3 and 4~~ of this chapter, **the medical information referred to in this chapter is confidential**, and a person may not disclose or be compelled to disclose medical or epidemiological information referred to in this chapter.

(b) A person responsible for recording, reporting, or maintaining information referred to in this chapter who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiological

information classified as confidential under this section commits a Class A misdemeanor.

(c) In addition to the penalty prescribed by subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

SECTION 12. IC 34-30-2-77.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 77.4. IC 16-38-6-8 (Concerning persons who report information to the chronic disease registry).**

SECTION 13. IC 34-30-2-81.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 81.5. IC 16-41-10-3.5 (Concerning a provider who tests a patient for the presence of a dangerous communicable disease).**

SECTION 14. **An emergency is declared for this act.**

P.L.213-2003

[S.383. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning business and other associations.

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

SECTION 1. IC 23-1-29-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) This section does not apply to any corporation that has a class of voting shares registered with the Securities and Exchange Commission under Section 12 of the Securities Exchange Act of 1934.**

(b) Unless otherwise provided in the articles of incorporation, any action required or permitted by this article to be taken at a shareholders' meeting may be taken without a meeting and without

a vote if a consent or consents in writing setting forth the action taken are:

(1) signed by shareholders having at least the minimum number of votes necessary to authorize the action at a meeting at which all shareholders entitled to vote were present and voted; and

(2) delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) Unless the articles of incorporation provide that no prior notice is required, written notice of the proposed action containing the information required by section 5 of this chapter must be given to the shareholders at least ten (10) days before the action is taken.

(d) If not otherwise determined under section 7 of this chapter, the record date for determining shareholders entitled to take action without a meeting is the date the first shareholder signs the consent under subsection (b).

(e) Each written consent must bear the date of signature of each shareholder who signs the consent.

(f) A written consent is effective when, within sixty (60) days after the earliest dated consent delivered to the corporation, written consents signed by a sufficient number of shareholders to take action are delivered to the corporation, unless the consent specifies a different prior or subsequent effective date.

(g) For purposes of this subsection, "electronic consent" means a telegram, cablegram, or other form of electronic transmission, and "sign" or "signed" includes any manual, facsimile, conformed, or electronic signature. The following apply to an electronic consent:

(1) An electronic consent to an action to be taken may be transmitted by a:

(A) shareholder; or

(B) person or persons authorized to act for a shareholder.

(2) The date that an electronic consent is transmitted is considered to be the date on which the consent is written, signed, and dated for purposes of this section if the electronic consent is delivered with information from which the corporation can determine:

(A) that the electronic consent was transmitted by a shareholder or by a person or persons authorized to act for

a shareholder; and

(B) the date on which a shareholder or an authorized person or persons transmitted the electronic consent.

(3) An electronic consent is considered to be delivered when:

(A) the consent is reproduced in paper form; and

(B) the paper form is delivered to the corporation.

(4) Notwithstanding subdivisions (1), (2), and (3), electronic consents may be delivered to the corporation in any other manner provided by resolution of the board of directors.

(5) A reliable reproduction of a consent in writing may be used instead of the original writing for any and all purposes for which the original writing could be used if the reproduction is a complete reproduction of the entire original writing.

(h) Unless prior notice has been given to the shareholders as provided in subsection (c), prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent of the shareholders must be given to those shareholders, including nonvoting shareholders entitled to notice under this article, who:

(1) did not consent in writing; and

(2) would have been entitled to notice of the meeting if the record date for the meeting was the date on which the first shareholder's signed consent was delivered to the corporation under subsection (f).

(i) A document required to be filed under any other section of this article regarding the action consented to by the shareholders under this section must state, instead of any statement required by another section of this article concerning any vote of the shareholders, that written consent has been given in accordance with this section.

SECTION 2. IC 23-1-38.5-13, AS ADDED BY P.L.178-2002, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) After conversion of a domestic business corporation to a domestic other entity has been adopted and approved as required by this chapter, articles of entity conversion must be executed on behalf of the corporation by any officer or other duly authorized representative. The articles must:

(1) set forth the name of the corporation immediately before the

filing of the articles of entity conversion and the name to which the name of the corporation is to be changed, which must satisfy the organic law of the surviving entity;

(2) state the type of other entity that the surviving entity will be;

(3) set forth a statement that the plan of entity conversion was duly approved by the shareholders in the manner required by this chapter and the articles of incorporation; and

(4) if the surviving entity is a filing entity, either contain all of the provisions required to be set forth in its public organic document and any other desired provisions that are permitted, or have attached a public organic document, except that, in either case, provisions that would not be required to be included in a restated public organic document may be omitted.

(b) After the conversion of a domestic other entity to a domestic business corporation has been adopted and approved as required by the organic law of the other entity, an officer or another duly authorized representative of the other entity must execute articles of entity conversion on behalf of the other entity. The articles must:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;

(2) set forth a statement that the plan of entity conversion was duly approved in accordance with the organic law of the other entity; **and**

(3) either contain all of the provisions that IC 23-1-21-2(a) requires to be set forth in articles of incorporation and any other desired provisions that IC 23-1-21-2(b) permits to be included in articles of incorporation, or have attached articles of incorporation, except that, in either case provisions that would not be required to be included in restated articles of incorporation of a domestic business corporation may be omitted.

(c) After the conversion of a domestic other entity to a different domestic other entity has been adopted and approved as required by the organic law of the different other entity, an officer or another authorized representative of the other entity must execute the articles of entity conversion on behalf of the other entity. The articles must:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;

(2) set forth a statement that the plan of entity conversion was approved in accordance with the organic law of the other entity; and

(3) if the surviving entity is a filing entity, either contain all the provisions required to be set forth in its public organic document and any other desired provisions that are permitted or have attached a public organic document, except that, in either case, provisions that would not be required to be included in a restated public organic document may be omitted.

(d) After the conversion of a foreign other entity to a domestic business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of entity conversion must be executed on behalf of the foreign other entity by any officer or authorized representative. The articles must:

(1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;

(2) set forth the jurisdiction under the laws of which the other entity was organized immediately before the filing of the articles of entity conversion and the date on which the other entity was organized in that jurisdiction;

(3) set forth a statement that the conversion of the other entity was duly approved in the manner required by its organic law; and

(4) either contain all of the provisions that IC 23-1-21-2(a) requires to be set forth in articles of incorporation and any other desired provisions that IC 23-1-21-2(b) permits to be included in articles of incorporation, or have attached articles of incorporation, except that, in either case, provisions that would not be required to be included in restated articles of incorporation of a domestic business corporation may be omitted.

(e) After the conversion of a foreign other entity to a different foreign other entity has been authorized as required by the laws of

the foreign jurisdiction, the articles of entity conversion must be executed on behalf of the foreign other entity by any officer or authorized representative. The articles must:

- (1) set forth the name of the other entity immediately before the filing of the articles of entity conversion and the name to which the name of the other entity is to be changed, which must satisfy the requirements of IC 23-1-23-1;**
- (2) set forth the jurisdiction under the laws of which the other entity was organized immediately before the filing of the articles of entity conversion and the date on which the other entity was organized in that jurisdiction;**
- (3) set forth a statement that the conversion of the other entity was approved in the manner required by its organic law; and**
- (4) if the surviving entity is a filing entity, either contain all the provisions required to be set forth in its public organic document and any other desired provisions that are permitted or have attached a public organic document, except that, in either case, provisions that would not be required to be included in a restated public organic document may be omitted.**

(d) (f) The articles of entity conversion must be delivered to the secretary of state for filing and take effect at the effective time provided in IC 23-1-18-4.

(e) (g) If the converting entity is a foreign other entity that is authorized to transact business in Indiana under a provision of law similar to IC 23-1-49, its certificate of authority or other type of foreign qualification is canceled automatically on the effective date of its conversion.

P.L.214-2003

[S.386. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-3.1-24-5, AS ADDED BY P.L.192-2002(ss), SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 5. As used in this chapter, "taxpayer" means an individual or entity, **including a pass through entity**, that has any state tax liability.

SECTION 2. IC 6-3.1-24-6, AS ADDED BY P.L.192-2002(ss), SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 6. A taxpayer that:

- (1) provides qualified investment capital to a qualified Indiana business; **and**
- (2) fulfills the requirements of the department of commerce under section 12.5 of this chapter;**

is entitled to a credit against the person's state tax liability in a taxable year equal to the amount specified in section 10 of this chapter.

SECTION 3. IC 6-3.1-24-7, AS ADDED BY P.L.192-2002(ss), SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 7. (a) The department of commerce shall certify that a business is a qualified Indiana business if the department determines that the business:

- (1) is a **high growth company** that:
 - (A) is **entering a new product or process area;**
 - (B) has a **substantial number of employees in jobs:**
 - (i) **requiring postsecondary education or its equivalent; or**
 - (ii) **that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor; and**
 - (C) has a **substantial number of employees that earn at least one hundred fifty percent (150%) of Indiana per capita**

~~personal income;~~

~~(2)~~ has its headquarters in Indiana;

~~(3)~~ **(2)** is primarily focused on **commercialization of** research and development, technology transfers, or the application of new technology, or is determined by the department of commerce to have significant potential to:

(A) bring substantial capital into Indiana;

(B) create jobs;

(C) diversify the business base of Indiana; or

(D) significantly promote the purposes of this chapter in any other way;

~~(4)~~ **(3)** has had average annual revenues of less than ten million dollars (\$10,000,000) in the two (2) years preceding the year in which the business received qualified investment capital from a taxpayer claiming a credit under this chapter;

~~(5)~~ **(4)** has:

(A) at least fifty percent (50%) of its employees residing in Indiana; ~~and or~~

(B) at least seventy-five percent (75%) of its assets located in Indiana; and

~~(6)~~ **(5)** is not engaged in a business involving:

(A) real estate;

(B) real estate development;

(C) insurance;

(D) professional services provided by an accountant, a lawyer, or a physician;

(E) retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or

(F) oil and gas exploration.

(b) A business shall apply to be certified as a qualified Indiana business on a form prescribed by the department **of commerce**.

(c) If a business is certified as a qualified Indiana business under this section, the department **of commerce** shall provide a copy of the certification to the investors in the qualified Indiana business for inclusion in tax filings.

(d) The department **of commerce** may impose an application fee of not more than two hundred dollars (\$200).

SECTION 4. IC 6-3.1-24-9, AS ADDED BY P.L.192-2002(ss), SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 9. (a) The total amount of tax credits that may be allowed under this chapter in a particular calendar year **for qualified investment capital provided during that calendar year** may not exceed ten million dollars (\$10,000,000). **The department of commerce may not certify a proposed investment plan under section 12.5 of this chapter if the proposed investment would result in the total amount of the tax credits certified for the calendar year exceeding ten million dollars (\$10,000,000). An amount of an unused credit carried over by a taxpayer from a previous calendar year may not be considered in determining the amount of proposed investments that the department of commerce may certify under this chapter.**

(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for providing qualified investment capital to a qualified Indiana business after December 31, 2008. **However, this subsection may not be construed to prevent a taxpayer from carrying over to a taxable year beginning after December 31, 2008, an unused tax credit attributable to an investment occurring before January 1, 2009.**

SECTION 5. IC 6-3.1-24-12, AS ADDED BY P.L.192-2002(ss), SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 12. If the amount of the credit determined under section 10 of this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess over to the **taxpayer's** following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. A taxpayer is not entitled to a carryback **or a refund of any unused credit amount.**

SECTION 6. IC 6-3.1-24-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 12.5. (a) A taxpayer wishing to obtain a credit under this chapter must apply to the department of commerce for a certification that the taxpayer's proposed investment plan would qualify for a credit**

under this chapter.

(b) The application required under subsection (a) must include:

- (1) the name and address of the taxpayer;**
- (2) the name and address of each proposed recipient of the taxpayer's proposed investment;**
- (3) the amount of the proposed investment;**
- (4) a copy of the certification issued under section 7 of this chapter that the proposed recipient is a qualified Indiana business; and**
- (5) any other information required by the department of commerce.**

(c) If the department of commerce determines that:

- (1) the proposed investment would qualify the taxpayer for a credit under this chapter; and**
- (2) the amount of the proposed investment would not result in the total amount of tax credits certified for the calendar year exceeding ten million dollars (\$10,000,000);**

the department of commerce shall certify the taxpayer's proposed investment plan.

(d) To receive a credit under this chapter, the taxpayer must provide qualified investment capital to a qualified Indiana business according to the taxpayer's certified investment plan within two (2) years after the date on which the department of commerce certifies the investment plan.

(e) Upon making the investment required under subsection (d), the taxpayer shall provide proof of the investment to the department of commerce.

(f) Upon receiving proof of a taxpayer's investment under subsection (e), the department of commerce shall issue the taxpayer a certificate indicating that the taxpayer has fulfilled the requirements of the department of commerce and that the taxpayer is entitled to a credit under this chapter.

(g) A taxpayer forfeits the right to a tax credit attributable to an investment certified under subsection (c) if the taxpayer fails to make the proposed investment within the period required under subsection (d).

SECTION 7. IC 6-3.1-24-13, AS ADDED BY P.L.192-2002(ss), SECTION 119, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 13. (a) To

receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department, **along with the taxpayer's state tax return or returns, proof that the taxpayer provided qualified investment capital to a qualified Indiana business a copy of the certificate issued by the department of commerce to the taxpayer under section 12.5(f) of this chapter** and all information that the department determines is necessary for the calculation of the credit provided by this chapter.

(b) The department shall record the time of filing of each return claiming a credit under section 6 of this chapter and shall, except as provided in subsection (c), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the calendar year.

(c) If the total credits approved under this section equal the maximum amount allowable in a calendar year, a return claiming the credit filed later in that calendar year may not be approved.

SECTION 8. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]

P.L.192-2002(ss), SECTION 207 applies to this act.

SECTION 9. An emergency is declared for this act.

P.L.215-2003

[S.417. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-44 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 44. Deduction for Purchases of Investment Property by Manufacturers of Recycled Components

Sec. 1. As used in this chapter, "coal combustion product" means the byproducts resulting from the combustion of coal in a

facility located in Indiana, including a fluidized bed boiler. The term includes boiler slag, bottom ash, fly ash, and scrubber sludge.

Sec. 2. As used in this chapter, "investment property" means depreciable personal property that a manufacturer purchases and uses to manufacture recycled components.

Sec. 3. (a) As used in this chapter, "manufacturer" means a taxpayer that:

(1) obtains and uses coal combustion products for the manufacturing of recycled components; and

(2) is at least one (1) of the following:

(A) A new business.

(B) An existing business that, during the taxable year in which the taxpayer claims a deduction under this chapter, expands the business's manufacturing process to manufacture recycled components.

(C) An existing business that:

(i) manufactures recycled components; and

(ii) during the taxable year in which the taxpayer claims a deduction under this chapter, increases purchases of coal combustion products by the amount determined in subsection (b).

(b) To be within the definition set forth in subsection (a), a taxpayer described in subsection (a)(2)(C) must increase the taxpayer's purchases of coal combustion products by the amount determined in STEP THREE of the following STEPS:

STEP ONE: Determine the amount of the taxpayer's purchases of coal combustion products for each of the three (3) taxable years immediately preceding the taxable year in which the taxpayer claims a deduction under this chapter.

STEP TWO: Determine the largest amount determined under STEP ONE.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one-tenth (0.1).

Sec. 4. As used in this chapter, a unit of materials, goods, or other tangible personal property is a "recycled component" if coal combustion products constitute at least fifteen percent (15%) by weight of the substances of which the unit is composed. Recycled components include:

- (1) aggregates;**
- (2) fillers;**
- (3) cementitious materials; or**
- (4) any combination of aggregates, filler, or cementitious materials;**

that are used in the manufacture of masonry construction products (including portland cement based mortar), normal and lightweight concrete, blocks, bricks, pavers, pipes, prestressed concrete products, filter media, and other products approved by the Center for Coal Technology Research established under IC 4-4-30.

Sec. 5. (a) A manufacturer is entitled to a deduction from the assessed valuation of the investment property in the first year that the investment property is subject to assessment under this article.

(b) The amount of a deduction described in subsection (a) equals the product of:

- (1) the assessed value of the investment property; multiplied by**
- (2) fifteen hundredths (0.15).**

Sec. 6. (a) To obtain a deduction under this chapter, a manufacturer must file an application on forms prescribed by the department of local government finance with the auditor of the county in which the investment property is located. A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the investment property is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the investment property is installed must file the application between March 1 and the extended due date for that year.

(b) The deduction application required by this section must contain the following information:

- (1) The name of the owner of the investment property.**
- (2) A description of the investment property.**
- (3) Proof of purchase of the investment property and proof of the date the investment property was installed.**
- (4) The amount of the deduction claimed.**

Sec. 7. A taxpayer that obtains a credit under IC 6-3.1-25.2 may not obtain a deduction under this chapter in a taxable year.

SECTION 2. IC 6-3.1-25.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2004]:

Chapter 25.2. Coal Combustion Product Tax Credit

Sec. 1. As used in this chapter, "coal combustion product" means the byproducts resulting from the combustion of coal in a facility located in Indiana, including a fluidized bed boiler. The term includes boiler slag, bottom ash, fly ash, and scrubber sludge.

Sec. 2. (a) As used in this chapter, "manufacturer" means a taxpayer that:

(1) obtains and uses coal combustion products for the manufacturing of recycled components; and

(2) is one (1) of the following:

(A) A new business.

(B) An existing business that, during a taxable year in which the taxpayer claims a credit under this chapter, begins manufacturing recycled components.

(C) An existing business that:

(i) manufactures recycled components; and

(ii) during a taxable year in which the taxpayer claims a credit under this chapter, increases acquisitions of coal combustion products by the amount determined in subsection (b).

(b) A manufacturer described in subsection (a)(2)(C) must increase the manufacturer's acquisitions of coal combustion products by the amount determined in STEP THREE of the following STEPS:

STEP ONE: Determine the total amount of coal combustion products obtained by the manufacturer for each of the three (3) taxable years immediately preceding the taxable year in which the manufacturer claims a credit under this chapter.

STEP TWO: Determine the largest amount determined under STEP ONE.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one-tenth (0.1).

Sec. 3. As used in this chapter, a unit of materials, goods, or other tangible personal property is a "recycled component" if coal combustion products constitute at least fifteen percent (15%) by weight of the substances of which the unit is composed. Recycled components include:

- (1) aggregates;**
- (2) fillers;**
- (3) cementitious materials; or**
- (4) any combination of aggregates, filler, or cementitious materials;**

that are used in the manufacture of masonry construction products (including portland cement based mortar), normal and lightweight concrete, blocks, bricks, pavers, pipes, prestressed concrete products, filter media, and other products approved by the Center for Coal Technology Research established under IC 4-4-30.

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. (a) A manufacturer is entitled to a credit against the manufacturer's state tax liability as follows:

- (1) In the case of a manufacturer described under section 2(a)(2)(A) or 2(a)(2)(B) of this chapter, the amount of the credit is equal to:**

(A) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; multiplied by

(B) two dollars (\$2).

- (2) In the case of a manufacturer described under section 2(a)(2)(C) of this chapter, the amount of the credit is equal to:**

(A) the difference between:

(i) the number of tons of coal combustion products obtained and used by the manufacturer in the taxable year; and

(ii) the amount determined in STEP TWO of section 2(b) of this chapter; multiplied by

(B) two dollars (\$2).

(b) The total amount of credits allowed under this chapter may not exceed in the aggregate two million dollars (\$2,000,000) for all taxpayers per state fiscal year.

(c) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.

(d) The department shall record the time of filing of each return claiming a credit under this section and shall, except as provided in subsection (e), grant the credit to the taxpayer, if the taxpayer otherwise qualifies for a tax credit under this chapter, in the chronological order in which the return is filed in the state fiscal year.

(e) If the total credits approved under this section equal the maximum amount allowable in the state fiscal year, a return claiming the credit filed later in that same state fiscal year may not be approved. However, if an applicant for which a credit has been approved fails to file the information required by section 9 of this chapter, an amount equal to the credit previously allowed or set aside for the applicant may be allowed to the next eligible applicant or applicants until the total amount has been allowed. In addition, the department may, if the applicant so requests, approve a credit application, in whole or in part, with respect to the next succeeding state fiscal year.

Sec. 6. (a) If a manufacturer that claims a credit under this chapter is a pass through entity (as defined in IC 6-3.1-11.5-8.5) that does not have state tax liability for a taxable year against which the credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

- (1)** the credit determined for the pass through entity for the taxable year; multiplied by
- (2)** the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) If the amount determined under subsection (a) exceeds the state tax liability of the shareholder, partner, or member, the shareholder, partner, or member may not carry over the excess to following taxable years.

Sec. 7. A manufacturer with a facility located in Indiana may claim a credit under this chapter in each of ten (10) consecutive taxable years, beginning with the taxable year in which the manufacturer first claims the credit under this chapter.

Sec. 8. (a) If the amount determined under section 5 of this chapter for a taxable year exceeds the manufacturer's state tax liability for the taxable year, the manufacturer may not carry over the excess to following taxable years.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 9. To obtain a credit under this chapter, the manufacturer must file with the department information that the department determines is necessary for the calculation of the credit provided under this chapter. The department shall keep a list that includes:

- (1) the name of each manufacturer that receives a credit under this chapter and IC 6-1.1-44; and**
- (2) the amount of each credit for the manufacturer in the taxable year;**

and provide the list annually to the Center for Coal Technology Research established under IC 4-4-30.

Sec. 10. A taxpayer that obtains a deduction under IC 6-1.1-44 may not obtain a credit under this chapter for the same taxable year.

SECTION 3. IC 13-11-2-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 15.5. "ASTM" refers to the American Society for Testing and Materials.**

SECTION 4. IC 13-19-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 3. The board may not adopt rules under section 1 of this chapter to regulate the following:**

- (1) The disposal of waste indigenous to the coal mining process and coal combustion products (as defined by ASTM E-2201-02a), including fly or ash, bottom ash, boiler slag, fluidized bed combustion ash, or coal combustion fly or bottom ash in mixture with flue gas desulfurization byproducts generated by material produced from the combustion of coal or the cleaning of stack gases on coal combustion units if the material:**
 - (A) is not included in the definition of hazardous waste or is exempt from regulation as a hazardous waste under 42 U.S.C. 6921; and**
 - (B) is disposed of at a facility regulated under IC 14-34.**

- (2) The use of coal combustion products (as defined by ASTM E-2201-02a), including fly or ash, bottom ash, boiler slag, fluidized bed combustion ash, or coal combustion fly or bottom ash in mixture with flue gas desulfurization byproducts generated by material produced from the combustion of coal or the**

cleaning of stack gases on coal combustion units, or boiler slag if the use includes one (1) of the following uses:

- (A) The extraction or recovery of materials and compounds contained within coal ~~ash~~: **combustion products.**
- (B) Bottom ash as an antiskid material.
- (C) Raw material for manufacturing another product.
- (D) Mine subsidence, mine fire control, and mine sealing.
- (E) Structural fill when combined with cement, sand, or water to produce a controlled strength fill material.
- (F) A base in road construction.
- (G) Cover for coal processing waste disposal locations to inhibit infiltration at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.**
- (H) Providing buffering or enhancing structural integrity for refuse piles at surface and underground mines subject to IC 14-34, so long as a demonstration is made in concurrence with the department of natural resources that the materials and methods to be employed are appropriate for the intended use.**
- (I) Agricultural applications, when applied using appropriate agronomic amounts to improve crop or vegetative production.**

SECTION 5. [EFFECTIVE JANUARY 1, 2004] IC 6-1.1-44, as added by this act, applies to property taxes first due and payable after December 31, 2004.

SECTION 6. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-25.2, as added by this act, applies to taxable years beginning after December 31, 2003.

P.L.216-2003

[S.420. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-94.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 94.4. "Low numbered motor vehicle registration plate", for purposes of IC 9-29-3-19, has the meaning set forth in IC 9-29-3-19.**

SECTION 2. IC 9-13-2-144.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 144.5. "Pull service charge", for purposes of IC 9-29-3-19, has the meaning set forth in IC 9-29-3-19.**

SECTION 3. IC 9-13-2-170.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 170.5. "Special numbered motor vehicle registration plate", for purposes of IC 9-29-3-19, has the meaning set forth in IC 9-29-3-19.**

SECTION 4. IC 9-18-15-1, AS AMENDED BY P.L.222-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person who is the registered owner or lessee of a:

- (1) passenger motor vehicle;
- (2) motorcycle;
- (3) recreational vehicle; or
- (4) vehicle registered as a truck with a declared gross weight of not more than:
 - (A) eleven thousand (11,000) pounds;
 - (B) nine thousand (9,000) pounds; or
 - (C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau

for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

(1) is the registered owner or lessee of a vehicle described in subsection (a); and

(2) is eligible to receive a license plate for the vehicle under:

- (A) IC 9-18-17 (prisoner of war license plates);
- (B) IC 9-18-18 (disabled veteran license plates);
- (C) IC 9-18-19 (purple heart license plates);
- (D) IC 9-18-20 (Indiana national guard license plates);
- (E) IC 9-18-21 (Indiana guard reserve license plates);
- (F) IC 9-18-22 (license plates for persons with disabilities);
- (G) IC 9-18-23 (amateur radio operator license plates);
- (H) IC 9-18-24 (civic event license plates);
- (I) IC 9-18-25 (special group recognition license plates);
- (J) IC 9-18-29 (environmental license plates);
- (K) IC 9-18-30 (~~children's~~ **kids first** trust license plates);
- (L) IC 9-18-31 (education license plates);
- (M) IC 9-18-32.2 (drug free Indiana trust license plates);
- (N) IC 9-18-33 (Indiana FFA trust license plates);
- (O) IC 9-18-34 (Indiana firefighter license plates);
- (P) IC 9-18-35 (Indiana food bank trust license plates);
- (Q) IC 9-18-36 (Indiana girl scouts trust license plates);
- (R) IC 9-18-37 (Indiana boy scouts trust license plates);
- (S) IC 9-18-38 (Indiana retired armed forces member license plates);
- (T) IC 9-18-39 (Indiana antique car museum trust license plates);
- (U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
- (V) IC 9-18-41 (Indiana arts trust license plates);
- (W) IC 9-18-42 (Indiana health trust license plates);
- (X) IC 9-18-43 (Indiana mental health trust license plates);
- (Y) IC 9-18-44 (Indiana Native American Trust license plates);
- (Z) IC 9-18-45.8 (Pearl Harbor survivor license plates); or
- (AA) IC 9-18-46.2 (Indiana state educational institution trust license plates);

may apply to the bureau for a personalized license plate to be affixed

to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 5. IC 9-18-30-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The bureau of motor vehicles shall design and issue a **children's kids first** trust license plate, **beginning January 1, 2004**. The **children's kids first** trust license plate shall be designed and issued as a special group recognition license plate under IC 9-18-25. The final design of the plate must be approved by the board (as defined in IC 12-17-16-2).

SECTION 6. IC 9-18-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A **children's kids first** trust license plate designed under IC 9-18-25 must include the following:

- (1) A basic design for the plate, with consecutive numbers or letters, or both, to properly identify the vehicle.
- (2) A background design, an emblem, or colors that designate the license plate as a children's trust license plate.
- (3) Any other information the bureau considers necessary.

SECTION 7. IC 9-18-30-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~After December 31, 1994~~, A person who is eligible to register a vehicle under this title is eligible to receive a **children's kids first** trust license plate under this chapter **after December 31, 2003**, upon doing the following:

- (1) Completing an application for a **children's kids first** trust license plate.
- (2) Paying the appropriate fee under section 4 of this chapter.

SECTION 8. IC 9-18-30-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The fee for a **children's kids first** trust license plate is as follows:

- (1) The appropriate fee under IC 9-29-5-38.
 - (2) An annual fee of twenty-five dollars (\$25).
- (b) The annual fee referred to in subsection (a)(2) shall be collected by the ~~bureau of motor vehicles~~ commission.

SECTION 9. IC 9-18-30-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The annual fee described in section 4(a)(2) of this chapter shall be deposited with the treasurer of state in a special account.

- (b) The auditor of state shall monthly distribute the money in the

special account established under subsection (a) to the Indiana **children's kids first** trust fund established by IC 12-17-16-12.

SECTION 10. IC 9-18-30-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This section applies only to a license plate issued under IC 9-18-3-5(b).

(b) A municipal corporation (as defined in IC 36-1-2-10) that registers a vehicle under this title is eligible to receive a **children's kids first** trust license plate under this chapter.

(c) If an officer or employee of a municipal corporation requests a **children's kids first** trust license plate for a vehicle that is assigned to or customarily used by the officer or employee, the officer or employee is responsible for paying the annual fee for the **children's kids first** trust license plate under section 4(a)(2) of this chapter, the annual supplemental fee under IC 9-29-5-38, and all annual registration fees under IC 9-29-1-4, IC 9-29-3-17, IC 9-29-5-1, and IC 9-29-5-3.

(d) Notwithstanding subsection (c):

(1) a **children's kids first** trust license plate that is issued under this section; and

(2) all fees and taxes that have been paid to have the plate issued; are considered issued to and paid by the municipal corporation that registered the vehicle for which the license plate was issued, and the municipal corporation is entitled to retain possession of the license plate.

SECTION 11. IC 9-29-3-19, AS AMENDED BY P.L.182-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 19. (a) **As used in this section, "low numbered motor vehicle registration plate" means any motor vehicle registration plate numbered from one (1) to one hundred (100) before or after the county designation number or letter series designation, or both.**

(b) **As used in this section, "pull service charge" refers to the charge that the commission may require for a requested low numbered motor vehicle registration plate or a special numbered motor vehicle registration plate.**

(c) **As used in this section, "special numbered motor vehicle registration plate" means any plate, other than a low numbered motor vehicle registration plate, requested for issuance out of its established numerical sequence.**

(d) Subject to subsections ~~(b)~~ (e) and ~~(c)~~ (f) and with the approval of the commission, the bureau may adopt rules under IC 4-22-2 to do the following:

- (1) Increase or decrease any of the service charges listed in sections 1 through 18 of this chapter.
- (2) Impose a service charge on any other license branch service that is not listed in sections 1 through 18 of this chapter.
- (3) Increase or decrease a service charge imposed under subdivision (2).

~~(b)~~ (e) The bureau's authority to adopt rules under subsection ~~(a)~~ (d) is subject to the condition that a service charge must be uniform throughout all license branches and at all partial service locations in Indiana.

~~(c)~~ (f) The bureau may not impose a pull service charge for a requested passenger motor vehicle registration plate containing the numbers set forth in IC 9-18-2-28 for a vehicle issued a license plate under IC 9-18-17 that designates the vehicle as being owned by a former prisoner of war or by the surviving spouse of a former prisoner of war.

(g) The bureau may not impose a pull service charge of more than fifteen dollars (\$15) for a requested motor vehicle registration plate issued under IC 9-18-25 for a special group recognition license plate that commemorates the bicentennial of the Lewis and Clark expedition.

SECTION 12. IC 12-17-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The purpose of the Indiana ~~children's~~ **kids first** trust program and this chapter is to recognize that:

- (1) the children of the state are its single greatest resource;
- (2) children require the utmost protection to guard their future and the future of the state;
- (3) it is in the public interest to protect children from abuse and neglect; and
- (4) it is in the public interest to reduce infant mortality.

(b) Beginning with the state fiscal year beginning on July 1, 1995, the Indiana ~~children's~~ **kids first** trust program will provide funds for community programs that prevent child abuse and neglect.

(c) Beginning with the state fiscal year beginning July 1, 1998, the

Indiana ~~children's kids first~~ trust program shall provide funds for community programs that reduce infant mortality from the infant mortality account established under section 13.5 of this chapter.

SECTION 13. IC 12-17-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "board" refers to the Indiana ~~children's kids first~~ trust fund board established by section 5 of this chapter.

SECTION 14. IC 12-17-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "fund" refers to the Indiana ~~children's kids first~~ trust fund established by section 12 of this chapter.

SECTION 15. IC 12-17-16-5, AS AMENDED BY P.L.190-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana ~~children's kids first~~ trust fund board is established.

(b) The purpose of the board is to determine whether proposed projects under this chapter should be approved and to perform other duties given to the board by this chapter. The board shall approve projects and recommend to the division that the projects receive funds under sections 12 and 13.5 of this chapter.

(c) The board shall, before January 1 of each year, prepare a budget for expenditures from the fund for the following state fiscal year. The budget must contain priorities for expenditures from the fund to accomplish the projects that have been approved under this chapter. The budget shall be submitted to the division and the budget committee.

(d) The board may employ staff necessary to carry out the duties of the board.

SECTION 16. IC 12-17-16-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The board shall adopt and make available to the public:

- (1) a strategic plan to implement the purposes of this chapter; and
- (2) a method for proposing projects and requesting funds from the Indiana ~~children's kids first~~ trust fund.

SECTION 17. IC 12-17-16-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The Indiana ~~children's kids first~~ trust fund is established to carry out the purposes of this chapter.

(b) The fund consists of the following:

- (1) Appropriations made by the general assembly.
- (2) Interest as provided in subsection (e).
- (3) Fees from **children's kids first** trust license plates issued under IC 9-18-30.
- (4) Money donated to the fund.
- (5) Money transferred to the fund from other funds.

(c) The treasurer of state shall administer the fund.

(d) The expenses of administering the fund and this chapter shall be paid from the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(f) An appropriation made by the general assembly to the fund shall be allotted and allocated at the beginning of the fiscal period for which the appropriation was made.

(g) Money in the fund at the end of a state fiscal year does not revert to the state general fund or any other fund.

(h) Subject to this chapter, there is annually appropriated to the division all money in the fund for the purposes of this chapter. However, the division may not request the allotment of money from the appropriation for a project that has not been approved and recommended by the board.

SECTION 18. IC 12-18-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. On June 30 and December 31 of each year, the treasurer of state shall transfer money from the fund as follows:

(1) Fifty-five percent (55%) of the balance on deposit in the fund or two hundred forty-five thousand dollars (\$245,000), whichever is greater, shall be deposited in the domestic violence prevention and treatment fund established by IC 12-18-4.

(2) The balance in the fund after the transfer of money under subdivision (1) shall be deposited as follows:

(A) One-third (1/3) shall be deposited in the Indiana **children's kids first** trust fund established by IC 12-17-16-12.

(B) Two-thirds (2/3) shall be deposited in the victim and witness assistance fund established by IC 5-2-6-14.

SECTION 19. [EFFECTIVE JULY 1, 2003] (a) After June 30, 2003, any reference in a statute or rule referring to the Indiana children's trust fund board is considered a reference to the Indiana kids first trust fund board.

(b) On July 1, 2003, the Indiana kids first trust fund board becomes the owner of all the personal property and assets and assumes the obligations and liabilities of the Indiana children's trust fund board, as it existed before the effective date of this act.

SECTION 20. An emergency is declared for this act.



P.L.217-2003

[S.446. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-171 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 171. "Special tractor-mobile home rig" means any combination of a mobile home or sectionalized building and a towing vehicle having a width greater than one hundred forty-eight (148) inches and not greater than one hundred seventy-two (172) inches at the base and:

- (1) of which the mobile home, including the hitch, is not more than ~~eighty (80)~~ **eighty-five (85)** feet and the tractor part is not less than twelve (12) feet in length;
- (2) a height not in excess of fourteen (14) feet, six (6) inches; or
- (3) both of the dimensions in subdivisions (1) and (2).

SECTION 2. IC 9-13-2-181 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 181. "Tractor-mobile home rig" means a combination of a mobile home or sectionalized building and a towing vehicle having either a combined overall length of more than sixty (60) feet and not more than ~~eighty-five (85)~~ **one hundred ten (110)** feet of which:

- (1) the mobile home, including the hitch, is not more than ~~seventy~~

~~(70)~~ **eighty-five (85)** feet; and

(2) the tractor part:

(A) is not less than twelve (12) feet in length;

(B) has a width of more than ninety-six (96) inches and not more than one hundred forty-eight (148) inches at the base;

(C) has a height of not more than ~~thirteen (13)~~ **fourteen (14)** feet; ~~six (6) inches~~; or

(D) has at least two (2) of the dimensions in clauses (A) through (C).

SECTION 3. IC 9-20-14-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a) This section applies to a person who purchases a quarterly or an annual permit under IC 9-29-6-7 to move a tractor-mobile home rig.**

(b) A person described in subsection (a) shall use only the permissible routes for moving a tractor-mobile home rig. The person must check the daily detour and restriction bulletin before choosing a route to travel. If the person moves a tractor-mobile home rig on a route that is restricted or prohibited, the person's quarterly or annual permit may be revoked.

(c) If a person's quarterly or annual permit is revoked under subsection (b), the person may not obtain a new quarterly or annual permit for a period of ninety (90) days. The person may move a tractor-mobile home rig under a single trip permit until the person is eligible to obtain a new quarterly or annual permit.

SECTION 4. IC 9-20-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. (a) The Indiana department of transportation may grant a permit to operate a special tractor-mobile home rig on an Indiana highway to a person upon the following conditions and in accordance with the rules that the department prescribes:**

(1) The special tractor-mobile home rig must be operated in a manner that will not unduly impede traffic or increase the hazard to traffic.

(2) The special tractor-mobile home rig may be operated only over the highways in the state highway system, including, except as provided in section 5 of this chapter, the routes designated as federal highways and the state maintained routes through cities

and towns. However, the special tractor-mobile home rig may not extend over the lines delineating highway lanes into another lane except when passing.

(3) The special tractor-mobile home rig may be operated on the roads and highways only after sunrise and before sunset. However, the Indiana Department of Transportation may restrict hours of operation in first and second class cities if the department determines that rush hour traffic would cause an undue hazard to the motoring public.

(4) The special tractor-mobile home rig may be operated only on days other than Sunday and the legal holidays that the Indiana Department of Transportation designates. The special tractor-mobile home rig may be operated between one-half (1/2) hour before sunrise and one-half (1/2) hour after sunset on any weekday and between one-half (1/2) hour before sunrise and noon on Saturday.

(5) The special tractor-mobile home rig may be accompanied by a distinctively marked escort vehicle.

(6) The operator of the special tractor-mobile home rig must be at least eighteen (18) years of age.

(7) The low beam headlights of the towing vehicle for which the permit is granted must be on while the vehicle is in use as a towing vehicle component of a special tractor-mobile home rig.

(8) The special tractor-mobile home rig may not be operated closer than one thousand (1,000) feet to any other special tractor-mobile home rig traveling in the same direction.

(9) Whenever there may be a clear roadway ahead of the special tractor-mobile home rig and more than three (3) vehicles immediately behind the tractor-mobile home rig, the operator of a special tractor-mobile home rig shall pull over to the right of the traveled portion of the road or highway at the first opportunity to do so safely, so as to allow following vehicles to pass.

(10) The special tractor-mobile home rig may not be operated at a speed in excess of ~~forty-five (45)~~ **fifty-five (55)** miles per hour on roads and highways, other than divided highways of at least four (4) lanes, except as otherwise provided by law.

(11) The special tractor-mobile home rig may not be operated as follows:

(A) During the existence of hazardous weather conditions causing visibility to be less than five hundred (500) feet.

(B) During times when the steady wind velocity exceeds twenty-five (25) miles per hour.

(C) At other times and under other conditions that the Indiana Department of Transportation by rule or emergency notice prescribes.

(12) The person to whom the permit is granted shall present satisfactory evidence of the person's financial responsibility as provided in IC 9-25 to the granting authority.

(13) When in use as a towing vehicle component of a special tractor-mobile home rig, the towing vehicle for which the permit is granted must have an overall length of not less than twelve (12) feet.

(14) A permit granted for the towing vehicle component of a special tractor-mobile home rig may be suspended or revoked by the Indiana Department of Transportation for violation of any of the conditions of the permit set forth in this section or for violation of a rule or notice as provided for in this chapter.

(15) The special tractor-mobile home rig may be operated only over roads or highways approved by the authority granting the permits.

(16) The rules pertaining to special tractor-mobile home rigs do not apply to other vehicles.

(b) This section may not be construed to prevent a local authority with respect to highways and roads under the authority's jurisdiction from granting permission to operate a special tractor-mobile home rig on roads and highways under the authority's jurisdiction that are not highways in the state highway system or state maintained routes through cities and towns.

SECTION 5. IC 9-20-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) As used in this section, "extra wide manufactured home rig" means any combination of a manufactured home or sectionalized building and a towing vehicle having all of the following dimensions:

(1) Some part of the combination with a width greater than one hundred seventy-two (172) inches but not greater than one hundred ninety-two (192) inches.

- (2) The:
- (A) manufactured home part of the combination, including the hitch; or
 - (B) sectionalized building part of the combination, including the hitch;
- with a length that does not exceed ~~eighty (80)~~ **eighty-five (85)** feet.
- (3) The tractor part of the combination with a length not less than twelve (12) feet.
- (4) None of the combination with a height greater than fourteen (14) feet six (6) inches.

(b) The Indiana department of transportation may adopt rules under IC 4-22-2 to implement a permit system regulating the transportation of extra wide manufactured home rigs.

(c) Rules adopted by the Indiana department of transportation under this section must address the following:

- (1) The competitive nature of Indiana's manufactured housing industry.
- (2) The safety of persons who use the highways.

SECTION 6. IC 9-20-15-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. (a) This section applies to a person who purchases a quarterly or an annual permit under IC 9-29-6-9 to move a special tractor-mobile home rig.**

(b) A person described in subsection (a) shall use only the permissible routes for moving a special tractor-mobile home rig. The person must check the daily detour and restriction bulletin before choosing a route to travel. If the person moves a special tractor-mobile home rig on a route that is restricted or prohibited, the person's quarterly or annual permit may be revoked.

(c) If a person's quarterly or annual permit is revoked under subsection (b), the person may not obtain a new quarterly or annual permit for a period of ninety (90) days. The person may move a special tractor-mobile home rig under a single trip permit until the person is eligible to obtain a new quarterly or annual permit.

SECTION 7. IC 9-21-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. In addition to the other

limitations in this chapter, and in any oversize vehicle permit issued under IC 9-20, a vehicle that exceeds:

- (1) a width of ten (10) feet, six (6) inches;
- (2) a height of thirteen (13) feet, six (6) inches; or
- (3) a length of eighty-five (85) feet;

may not be operated at a speed greater than ~~forty-five (45)~~ **fifty-five (55)** miles per hour.

SECTION 8. IC 9-29-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a) Except as provided in subsections (b) and (c), the fee for a person who is not a mobile home or sectionalized building retail dealer to move a tractor-mobile home rig under IC 9-20-14-2 is ten dollars (\$10) per trip.**

(b) Notwithstanding subsection (a), a person who is not a mobile home or sectionalized building retail dealer may purchase a quarterly permit for unlimited trips during the quarter to move a tractor-mobile home rig under IC 9-20-14-2. The fee for a quarterly permit is two hundred fifty dollars (\$250).

(c) Notwithstanding subsection (a), a person who is not a mobile home or sectionalized building retail dealer may purchase an annual permit for unlimited trips during the year to move a tractor-mobile home rig under IC 9-20-14-2. The fee for an annual permit is one thousand dollars (\$1,000).

SECTION 9. IC 9-29-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a) Except as provided in subsections (b) and (c), the fee for a person to move a special tractor-mobile home rig under IC 9-20-15-1 is eighteen dollars (\$18) per trip.**

(b) Notwithstanding subsection (a), a person may purchase a quarterly permit for unlimited trips during the quarter to move a special tractor-mobile home rig under IC 9-20-15-1. The fee for a quarterly permit is five hundred dollars (\$500).

(c) Notwithstanding subsection (a), a person may purchase an annual permit for unlimited trips during the year to move a special tractor-mobile home rig under IC 9-20-15-1. The fee for an annual permit is two thousand dollars (\$2,000).

P.L.218-2003

[S.460. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-14-15-1, AS AMENDED BY P.L.67-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Assistance shall be given to a needy disabled individual (referred to as "disabled person" in this chapter) who meets the following qualifications:

(1) Has a pending application on file with the federal Social Security Administration for assistance under Public Law 92-603, supplemental security income (SSI), or is receiving assistance. However, a person whose application for assistance under Public Law 92-603 has been denied but who meets all other requirements of this chapter is eligible for supplemental assistance.

(2) Has one (1) of the following:

(A) A physical or mental impairment, disease, or loss that is verifiable by a physician licensed under IC 25-22.5, that appears reasonably certain to result in death or ~~that has lasted or appears reasonably certain~~ to last for a continuous period of at least ~~four (4) years~~ **twelve (12) months** without significant improvement, and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation.

(B) A mental impairment, disease, or loss that is:

(i) diagnosed by a physician licensed under IC 25-22.5 or a health services provider in psychology licensed under IC 25-33-1; and

(ii) verifiable by a physician licensed under IC 25-22.5 or a psychologist licensed under IC 25-33;

that ~~has lasted or~~ appears reasonably certain to last for a continuous period of at least ~~four (4) years~~ **twelve (12) months**

without significant improvement, and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation. Employment in a sheltered workshop or under an approved vocational rehabilitation plan is not considered a useful occupation for the purposes of this chapter. The determination of medical disability under this subdivision shall be made without reference to the individual's ability to pay for treatment.

(3) Does not have a parent, spouse, or other legally responsible relative able to support the individual.

(4) Is at least eighteen (18) years of age.

(5) Is residing and intends to remain in Indiana in a bona fide living arrangement.

(6) Has insufficient income or other resources to provide a reasonable subsistence according to the standards established by the division.

(7) Except as otherwise provided in this chapter, is not an inmate of or being maintained by a municipal, state, or national institution while receiving assistance.

(8) Has not, at any time within five (5) years immediately before the date of the filing of an application for assistance under this chapter, made an assignment or transfer of property for the purpose of making or that will make the individual eligible for assistance under this chapter, except as otherwise provided in this chapter.

SECTION 2. IC 12-15-2-6, AS AMENDED BY P.L.287-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Subject to subsection (b), an individual who:

(1) is receiving monthly assistance payments under the federal Supplemental Security Income program; and

(2) meets the income and resource requirements established by statute or the office unless the state is required to provide medical assistance to the individual under ~~Section 209(b) of Public Law 92-603~~ passed by the United States Congress **42 U.S.C. 1396a(f)** or under ~~Section 1619(b)(3) of the federal Social Security Act (42 U.S.C. 1382h);~~ **42 U.S.C. 1382h;**

is eligible to receive Medicaid.

(b) An individual who is receiving monthly disability assistance payments under the federal Supplemental Security Income program or the federal Social Security Disability Insurance program must meet the eligibility requirements specified in IC 12-14-15 unless the state is required to provide medical assistance to the individual under ~~Section 1619(b)(3) of the federal Social Security Act (42 U.S.C. 1382h)~~. **42 U.S.C. 1382h.**

(c) The office may not apply a spend down requirement to an individual who is eligible for medical assistance under ~~Section 1619(b)(3) of the federal Social Security Act (42 U.S.C. 1382h)~~. **42 U.S.C. 1382h.**

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The office of Medicaid policy and planning established by IC 12-8-6-1, in cooperation with the attorney general's office, shall contract with an outside vendor to conduct an annual audit of areas of the state Medicaid program, including:

- (1) the claims processing contractor;**
- (2) provider billing practices; and**
- (3) overutilization of services by Medicaid recipients.**

(b) The office of Medicaid policy and planning shall provide any atypical or unusual information collected under this SECTION to the Medicaid clinical advisory committee established under IC 12-15-33.5. The committee shall review individual cases of utilization and clinical practice.

(c) Information obtained or used in the audit required under subsection (a) that identifies an individual Medicaid contractor, provider, or recipient must be kept confidential unless the attorney general commences an official action by the state concerning fraudulent activity.

(d) The office of Medicaid policy and planning shall report to the state budget committee and the select joint commission on Medicaid oversight upon request regarding the office's implementation of this SECTION.

(e) This SECTION expires December 31, 2007.

SECTION 4. An emergency is declared for this act.

P.L.219-2003

[S.474. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 8-2.1-24-18, AS AMENDED BY P.L.92-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) 49 CFR Parts 382 ~~385~~ through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;

- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department; or
- (2) an employee of a law enforcement agency who:
 - (A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any

carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41 as it applies to physical qualifications of drivers hired before September 1, 1985.

(2) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has held a commercial driver's license (as defined in IC 9-13-2-29) before April 1, 1992, diagnosed as an insulin dependent diabetic, if the driver has filed an annual statement with the bureau of motor vehicles completed and signed by a certified endocrinologist attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a

computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist with the bureau of motor vehicles for review by the driver licensing advisory committee established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

(3) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(4) Subpart 396.11 as it applies to driver vehicle inspection reports.

(5) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 2. IC 9-13-2-161 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 161. (a) "School bus" means, except as provided in subsection (b), a:

- (1) bus;
- (2) hack;
- (3) conveyance;
- (4) **commercial motor vehicle**; or
- (5) motor vehicle;

used to transport **preschool, elementary, or secondary** school children to and from school and to and from school athletic games or contests or other school functions. The term does not include a privately owned automobile with a capacity of not more than five (5) passengers that is used for the purpose of transporting school children to and from school.

(b) "School bus", for purposes of IC 9-21, means a motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, including project headstart, or privately owned and operated for compensation for the transportation of children to and from school, including project headstart.

SECTION 3. IC 9-24-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Except as provided in subsection (c), this chapter does not apply to a motor vehicle that meets the following conditions:

- (1) Is used in the transportation of hazardous materials.
- (2) Is not defined as a commercial motor vehicle.

(b) Except as provided in subsection (c), this chapter does not apply to a motor vehicle that meets any of the following conditions:

- (1) Is registered as a recreational vehicle.
- (2) Is used primarily to transport the owner's family members or guests and their possessions for nonbusiness purposes.
- (3) Is registered under IC 9-18 as a farm vehicle or is a farm vehicle that is exempt under 49 U.S.C. 521, 49 U.S.C. ~~2304~~, **31104**, and 49 U.S.C. ~~2701~~ **31301** through ~~2716~~ **as in effect January 1, 1991: 31306.**

- (4) Is utilized as a:
 - ~~(A)~~ **(A)** school bus;
 - ~~(B)~~ **(A)** church bus; or

~~(E)~~ (B) bus operated by a nonprofit benevolent or charitable agency;

that is designed to carry more than fifteen (15) passengers, including the driver, if the vehicle is exempt under 49 U.S.C. 521, 49 U.S.C. ~~2304~~, **31104**, and 49 U.S.C. ~~2701~~ **31301** through ~~2716~~ **31306**, or applicable federal regulations.

(c) The bureau may remove the exemptions granted under subsections (a) and (b) if the bureau, upon notice and public hearing, determines that the waiver is in the interest of safety or of keeping Indiana in compliance with federal law, subject to section 3 of this chapter.

SECTION 4. IC 9-24-6-2, AS AMENDED BY P.L.123-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49 CFR 383 **through 384, and may not be more restrictive than the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).**

(c) Rules adopted under this section must include the following:

- (1) Establishment of classes and periods of validation of commercial driver's licenses.
- (2) Standards for commercial driver's licenses, including suspension and revocation procedures.
- (3) Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of residence in Indiana.
- (4) Development of written or oral tests, driving tests, and fitness requirements.
- (5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including the Social Security number and a unique identifier of the holder.
- (6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.
- (7) Procedures for the notification by the holder of a commercial

driver's license to the bureau and the driver's employer of pointable traffic offense convictions.

(8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.

(9) Other rules necessary to administer this chapter.

(d) 49 CFR 383 **through 384 is are** adopted as Indiana law.

SECTION 5. IC 9-24-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Except as provided in subsection (b), this chapter does not apply to the following:

(1) A suspension of a driving license upon the failure of an individual to file security or proof of financial responsibility following an accident as required by or upon the failure of any individual to satisfy a judgment for damages arising out of the use of a motor vehicle on a public highway as provided for in IC 9-25.

(2) When suspension is by reason of physical, mental, or emotional instability, or if the applicant has been convicted of involuntary manslaughter or reckless homicide as a result of an automobile accident.

(3) A suspension of the license of an applicant whose license has been previously suspended.

(4) A suspension of the license of an applicant who has failed to use timely appeal procedures provided by the bureau.

(5) After June 30, 2005, a suspension of the license of an applicant whose commercial driver's license has been disqualified under 49 CFR 383.51 or other applicable federal or state law, including an alcohol or a controlled substance conviction under IC 9-30-5-4 or 49 CFR 391.15.

(b) A court may grant a petition for a restricted driving permit from an individual who:

(1) received a request for evidence of financial responsibility after:

(A) an accident under IC 9-25-5-2; or

(B) a conviction of a motor vehicle violation under IC 9-25-9-1; and

(2) failed to provide proof of financial responsibility under

IC 9-25-6;

if the individual shows by a preponderance of the evidence that the failure to maintain financial responsibility was inadvertent.

SECTION 6. IC 9-24-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The following information must be included in a petition filed under section 2 of this chapter:

- (1) The petitioner's age, place of residence, and occupation.
- (2) That the petitioner has never been convicted of a similar offense or been suspended for a similar reason.
- (3) The reason and nature of the hardship or burden upon the petitioner's family or dependents.
- (4) The nature of and the necessity of the use of a motor vehicle in the petitioner's employment.
- (5) The petitioner's place of employment, hours worked, and route to be traveled for employment purposes.
- (6) After June 30, 2005, a certified copy of the petitioner's driving record in Indiana and other states in which the petitioner has held driving privileges, including all states in which the petitioner has held a commercial driver's license.**
- (7) After June 30, 2005, a verified statement that the petitioner meets eligibility requirements for a restricted license as set forth in section 6.5 of this chapter.**

SECTION 7. IC 9-30-5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.5. After June 30, 2005, probationary driving privileges under this chapter do not apply to a person who holds a commercial driver's license in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).**

SECTION 8. IC 9-30-9-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. After June 30, 2005, this chapter does not apply to a person who:**

- (1) holds a commercial driver's license; and**
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public**

Law 106-159.113 Stat. 1748).

SECTION 9. IC 9-30-10-9, AS AMENDED BY P.L.175-2001, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) **After June 30, 2005, this section does not apply to a person who:**

- (1) holds a commercial driver's license; and**
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).**

(b) If a court finds that a person:

- (1) is a habitual violator under section 4(c) of this chapter;
- (2) has not been previously placed on probation under this section by a court;
- (3) operates a vehicle for commercial or business purposes, and the person's mileage for commercial or business purposes:
 - (A) is substantially in excess of the mileage of an average driver; and
 - (B) may have been a factor that contributed to the person's poor driving record; and
- (4) does not have:
 - (A) a judgment for a violation enumerated in section 4(a) of this chapter; or
 - (B) at least three (3) judgments (singularly or in combination and not arising out of the same incident) of the violations enumerated in section 4(b) of this chapter;

the court may place the person on probation in accordance with subsection ~~(c)~~: **(d)**.

~~(b)~~ **(c)** If a court finds that a person:

- (1) is a habitual violator under section 4(b) of this chapter;
- (2) has not been previously placed on probation under this section by a court;
- (3) does not have a judgment for any violation listed in section 4(a) of this chapter;
- (4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and
- (5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection ~~(c)~~; **(d)**. However, if the person has any judgments for operation of a vehicle before July 1, 2001, while intoxicated or with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, or for the operation of a vehicle after June 30, 2001, while intoxicated or with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, the court, before the court places a person on probation under subsection ~~(c)~~; **(d)**, must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by one (1) or both of the following:

- (A) The division of mental health and addiction.
- (B) The Indiana judicial center.

~~(c)~~ **(d)** Whenever a court places a habitual violator on probation, the court:

- (1) shall record each of the court's findings under this section in writing;
 - (2) shall obtain the person's driver's license or permit and send the license or permit to the bureau;
 - (3) shall direct the person to apply to the bureau for a restricted driver's license;
 - (4) shall order the bureau to issue the person an appropriate license;
 - (5) shall place the person on probation for a fixed period of not less than three (3) years and not more than ten (10) years;
 - (6) shall attach restrictions to the person's driving privileges, including restrictions limiting the person's driving to:
 - (A) commercial or business purposes or other employment related driving;
 - (B) specific purposes in exceptional circumstances; and
 - (C) rehabilitation programs;
 - (7) shall order the person to file proof of financial responsibility for three (3) years following the date of being placed on probation; and
 - (8) may impose other appropriate conditions of probation.
- ~~(d)~~ **(e)** If a court finds that a person:

- (1) is a habitual violator under section 4(b) or 4(c) of this chapter;
- (2) does not have any judgments for violations under section 4(a) of this chapter;
- (3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or convictions under section 4(b)(5) of this chapter that resulted from driving on a suspended license that was suspended for:
 - (A) the commission of infractions only; or
 - (B) previously driving on a suspended license;
- (4) has not been previously placed on probation under this section by a court; and
- (5) has had the person's driving privileges suspended under this chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years;

the court may place the person on probation under subsection (c) **(d)**.

SECTION 10. IC 12-23-5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. After June 30, 2005, this chapter does not apply to a person who:**

- (1) holds a commercial driver's license; and**
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).**

SECTION 11. IC 33-14-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) **After June 30, 2005, this section does not apply to a person who:**

- (1) holds a commercial driver's license; and**
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).**

(b) A prosecuting attorney may withhold prosecution against an accused person if:

- (1) the person is charged with a misdemeanor;
- (2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney; and

(3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending.

~~(b)~~ (c) An agreement under subsection ~~(a)~~ (b) may include conditions that the person:

- (1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-19-5-1;
- (2) work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment;
- (3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;
- (4) support the person's dependents and meet other family responsibilities;
- (5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;
- (6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;
- (7) report to the prosecuting attorney at reasonable times;
- (8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and
- (9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

~~(c)~~ (d) An agreement under subsection ~~(a)~~(2) (b)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

~~(d)~~ (e) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

~~(e)~~ (f) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-19-8.

~~(f)~~ (g) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection ~~(b)~~(6): (c)(6):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court

administration with the clerk.

SECTION 12. IC 9-24-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. **(a)** Notwithstanding any other provision of this chapter, an individual may not receive a restricted driver's license to operate a commercial motor vehicle if the individual's driving privileges are suspended for an alcohol or drug violation under IC 9-30-5 or 49 CFR 391.15.

(b) This section expires July 1, 2005.

SECTION 13. [EFFECTIVE JULY 1, 2003] **(a)** Notwithstanding IC 8-2.1-24-18, as amended by this act, the requirement that 49 CFR 383 and 384 be incorporated into Indiana law by reference, as provided by IC 8-2.1-24-18, as amended by this act, does not apply before July 1, 2005.

(b) Notwithstanding IC 9-13-2-161, as amended by this act, the inclusion of "commercial motor vehicle" within the definition of "school bus" and the specification that a school bus may be used to transport preschool, elementary, or secondary school children, as provided by IC 9-13-2-161, as amended by this act, does not apply before July 1, 2005.

(c) Notwithstanding IC 9-24-6-1, as amended by this act, IC 9-24-6 does not apply to a motor vehicle that is used as a school bus, that is designed to carry more than fifteen (15) passengers, including the driver, and that is exempt under 49 U.S.C. 521, 49 U.S.C. 31104, and 49 U.S.C. 31301 through 31306, or applicable federal regulations, as provided by IC 9-24-6-1, as amended by this act, before July 1, 2005.

(d) Notwithstanding IC 9-24-6-2, as amended by this act:

(1) the requirement that the rules adopted by the bureau of motor vehicles to regulate persons required to hold a commercial driver's license shall carry out 49 CFR 384;

(2) the prohibition against the rules adopted by the bureau of motor vehicles to regulate persons required to hold a commercial driver's license being more restrictive than the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748); and

(3) the adoption of 49 CFR 384 as Indiana law;

as provided by IC 9-24-6-2, as amended by this act, do not apply before July 1, 2005.

P.L.220-2003

[S.475. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-13-9-1, AS AMENDED BY P.L.134-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Except as provided in ~~section 2.4 of this chapter~~ and subsection (b), in addition to any other statutory power to make investments, each county treasurer and each fiscal officer of any political subdivision other than a county, under the guidelines established, respectively, by the board of county commissioners of each county and the fiscal body of any other subdivision, and any other officer of a local government entity authorized by statute or court order to make investments, may invest any funds held by each in accordance with this chapter.

(b) The ~~state~~ treasurer ~~of state~~ may invest funds under section 2.5 of this chapter.

(c) The funds that may be invested under this chapter include money raised by bonds issued for a future specific purpose, sinking funds, depreciation reserve funds, gift, bequest or endowment, and any other funds available for investment.

SECTION 2. IC 5-13-9-2, AS AMENDED BY P.L.170-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Each officer designated in section 1 of this chapter may invest or reinvest any funds that are held by the officer and available for investment in any of the following:

(1) Securities backed by the full faith and credit of the United States Treasury or fully guaranteed by the United States and issued by any of the following:

- (A) The United States Treasury.
- (B) A federal agency.
- (C) A federal instrumentality.

(D) A federal government sponsored enterprise.

(2) ~~Discount notes~~ **Securities fully guaranteed and** issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(b) If an investment under subsection (a)(1) is made at a cost in excess of the par value of the securities purchased, any premium paid for the securities shall be deducted from the first interest received and returned to the fund from which the investment was purchased, and only the net amount is considered interest income.

(c) The officer making the investment may sell any securities acquired and may do anything necessary to protect the interests of the funds invested, including the exercise of exchange privileges which may be granted with respect to maturing securities in cases where the new securities offered in exchange meet the requirements for initial investment.

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

- (1) a duly designated depository as prescribed in this article; or
- (2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000) may also invest in:

- (1) municipal securities; and
- (2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district.

However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) may also invest money in a host community agreement future fund established by ordinance of the town in:

- (1) municipal securities; and
- (2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

SECTION 3. IC 5-13-10.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b), investments under this chapter may be made only in securities having a stated final maturity of two (2) years or less from the date of purchase.

(b) The treasurer of state may make investments in securities having a final maturity or redemption date that is more than two (2) years and not more than five (5) years after the date of purchase or subscription. After an investment is made under this subsection, the total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the treasurer of state. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the treasurer of state causes the percentage of investments outstanding under this

subsection to exceed twenty-five percent (25%). **The treasurer of state may contract with federally regulated investment advisers and other institutional money managers to make investments under this section.** This subsection expires July 1, 2007.

(c) Unless prohibited under federal law, the treasurer of state shall invest under subsection (b) the funds of the transportation corridor fund established by IC 8-4.5-3-7. The treasurer of state may invest other funds held by the state in compliance with subsection (b). This subsection expires July 1, 2007.

SECTION 4. IC 5-13-10.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. A public officer of the state may invest or reinvest funds that are held by the public officer and available for investment in obligations issued, assumed, or guaranteed **as to the payment of principal and interest** by:

- (1) the International Bank for Reconstruction and Redevelopment;
- or
- (2) the African Development Bank; or
- (3) **the State of Israel.**

SECTION 5. IC 5-13-10.5-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.5. **The treasurer of state may invest or reinvest funds that are held by the treasurer and that are available for investment in commercial paper rated in the highest rating category by one (1) nationally recognized rating service and with a stated final maturity of two hundred seventy (270) days or less from the date of purchase.**

SECTION 6. IC 5-13-9-2.4 IS REPEALED [EFFECTIVE JULY 1, 2003].

P.L.221-2003

[S.479. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 5-2-9-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.7. As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order, a no contact order, or a workplace violence restraining order.**

SECTION 2. IC 5-2-9-6, AS AMENDED BY P.L.133-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a) The clerk of a court that issues a protective order, no contact order, or workplace violence restraining order shall provide a copy of the order to the following:**

- (1) Each party.
- (2) A law enforcement agency of the municipality in which the **protected person protected by the protective order, no contact order, or workplace violence restraining order resides. If a person and an employer are:**

(A) both protected by an order under this section; and

(B) domiciled in different municipalities;

the clerk shall send a copy of the order to the law enforcement agency of the municipality in which the person resides and the employer is located.

- (3) If the **protected person, protected by the protective order, no contact order, or workplace violence restraining order does including an employer, is not reside domiciled** in a municipality, the sheriff of the county in which the protected person resides.

(b) The clerk of a court that issues a protective order, no contact order, or workplace violence restraining order or the clerk of a court in which a petition is filed shall:

- (1) maintain a confidential file to secure any confidential

information about a protected person designated on a uniform statewide form prescribed by the division of state court administration; ~~and~~

(2) provide a copy of the confidential form that accompanies the protective order, no contact order, or workplace violence restraining order to the following:

(A) The sheriff of the county in which the protective order, no contact order, or workplace violence restraining order was issued.

(B) The law enforcement agency of the municipality, if any, in which the protected person, ~~resides~~: **including an employer, is domiciled.**

(C) Any other sheriff or law enforcement agency designated in the protective order, no contact order, or workplace violence restraining order that has jurisdiction over the area in which a protected person, **including an employer**, may be located or protected; ~~and~~

(3) after receiving the return of service information, transmit all return of service information to each sheriff and law enforcement agency required under subdivision (2).

(c) A sheriff or law enforcement agency that receives a protective order, no contact order, or workplace violence restraining order under subsection (a) and a confidential form under subsection (b) shall:

(1) maintain a copy of the protective order, no contact order, or workplace violence restraining order in the depository established under this chapter;

(2) enter:

(A) the date and time the sheriff or law enforcement agency receives the protective order, no contact order, or workplace violence restraining order;

(B) the location of the person who is subject to the protective order, no contact order, or workplace violence restraining order, if reasonably ascertainable from the information received;

(C) the name and identification number of the officer who serves the protective order, no contact order, or workplace violence restraining order;

(D) the manner in which the protective order, no contact order,

or workplace violence restraining order is served;

(E) the name of the petitioner and any other protected parties;

(F) the name, Social Security number, date of birth, and physical description of the person who is the subject of the protective order, no contact order, or workplace violence restraining order, if reasonably ascertainable from the information received;

(G) the date the protective order, no contact order, or workplace violence restraining order expires;

(H) a caution indicator stating whether a person who is the subject of the protective order, no contact order, or workplace violence restraining order is believed to be armed and dangerous, if reasonably ascertainable from the information received; and

(I) if furnished, a Brady record indicator stating whether a person who is the subject of the protective order, no contact order, or workplace violence restraining order is prohibited from purchasing or possessing a firearm or ammunition under federal law, if reasonably ascertainable from the information received;

on the copy of the protective order, no contact order, or workplace violence restraining order or the confidential form; and

(3) establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) A protective order, no contact order, or workplace violence restraining order may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the division of state court administration;

(2) an order of the court; or

(3) a notice of termination and an order of the court.

(e) If a protective order, no contact order, or workplace violence restraining order in a depository established under this chapter is terminated, the person who obtained the order must file a notice of termination on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall provide a copy of the notice of termination of a protective order,

no contact order, or workplace violence restraining order to each of the depositories to which the protective order, no contact order, or workplace violence restraining order and a confidential form were sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If a protective order, no contact order, or workplace violence restraining order or form in a depository established under this chapter is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall provide a copy of the notice of extension or modification of a protective order, no contact order, or workplace violence restraining order to each of the depositories to which the order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification of a protective order, no contact order, or workplace violence restraining order in the court's file.

(g) The clerk of a court that issued an order terminating a protective order, no contact order, or workplace violence restraining order that is an ex parte order shall provide a copy of the order to the following:

(1) Each party.

(2) The law enforcement agency provided with a copy of a protective order, no contact order, or workplace violence restraining order under subsection (a).

SECTION 3. IC 31-9-2-42, AS AMENDED BY P.L.133-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 42. "Domestic or family violence" means, except for an act of self defense, the occurrence of one (1) or more of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member without legal justification.

(2) Placing a family or household member in fear of physical harm without legal justification.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

For purposes of IC 34-26-5, domestic and family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under

IC 35-42-4, whether or not the stalking or sex offense is committed by a family or household member.

SECTION 4. IC 31-14-16-1, AS AMENDED BY P.L.133-2002, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A parent may request a court to issue a protective order against the other parent to prevent domestic or family violence at any time after a final decree of paternity is issued under this article (or IC 31-6-6.1 before its repeal) if the parties have an unemancipated child. The parent must file a petition under IC 34-26-5 in a ~~pending case~~, **the court in which the case is pending**, and the court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

- (1) review the request; and
- (2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this section are controlled by IC 34-26-5.

SECTION 5. IC 31-15-4-1, AS AMENDED BY P.L.133-2002, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) In an action for dissolution of marriage under IC 31-15-2 or legal separation under IC 31-15-3, either party may file a motion for any of the following:

- (1) Temporary maintenance.
- (2) Temporary support or custody of a child of the marriage entitled to support.
- (3) Possession of property.
- (4) Counseling.
- (5) A protective order under IC 34-26-5.

(b) If a party desires a protective order under subsection (a)(5), the party must file a petition under IC 34-26-5 in a ~~pending case~~, **the court in which the case is pending**, and the court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

- (1) review the request; and
- (2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this subsection are controlled by IC 34-26-5.

SECTION 6. IC 31-15-5-1, AS AMENDED BY P.L.133-2002, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 1. Either party may request a protective order to prevent domestic or family violence at any time during the dissolution of marriage or legal separation action by filing a petition under IC 34-26-5 ~~with in~~ the court in ~~which~~ **the case is pending.** ~~case:~~ The court may not require the moving party to give security. If the petitioner requests an ex parte protective order, the court shall immediately:

- (1) review the request; and
- (2) if required, set a hearing;

under IC 34-26-5. The procedure and law for a proceeding under this section are controlled by IC 34-26-5.

SECTION 7. IC 34-6-2-34.5, AS ADDED BY P.L.133-2002, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 34.5. "Domestic or family violence" means, except for an act of self-defense, the occurrence of at least one (1) of the following acts committed by a family or household member:

- (1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member.
- (2) Placing a family or household member in fear of physical harm.
- (3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

For purposes of IC 34-26-5, domestic and family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4, **whether or not the stalking or sex offense is committed by a family or household member.**

SECTION 8. IC 34-26-5-3, AS AMENDED BY HEA 1044-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The division of state court administration shall:

- (1) develop and adopt:
 - (A) a petition for an order for protection;
 - (B) an order for protection, including:
 - (i) orders issued under this chapter;
 - (ii) ex parte orders; ~~and~~
 - (iii) no contact orders under IC 31 and IC 35; **and**
 - (iv) **forms relating to workplace violence restraining orders under IC 34-26-6;**
 - (C) a confidential ~~sheet;~~ **form;**

(D) a notice of modification or extension for an order for protection, **a no contact order, or a workplace violence restraining order;**

(E) a notice of termination for an order for protection, **a no contact order, or a workplace violence restraining order;** and

(F) any other uniform statewide forms necessary to maintain an accurate registry of orders; and

(2) provide the forms under subdivision (1) to the clerk of each court authorized to issue the orders.

(b) In addition to any other required information, a petition for an order for protection must contain a statement listing each civil or criminal action involving:

(1) either party; or

(2) a child of either party.

(c) The following statements must be printed in boldface type or in capital letters on an order for protection, **a no contact order, or a workplace violence restraining order:**

VIOLETION OF THIS ORDER IS PUNISHABLE BY CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

IF SO ORDERED BY THE COURT, THE RESPONDENT IS FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S RESIDENCE, EVEN IF INVITED TO DO SO BY THE PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS THE ORDER FOR PROTECTION VOIDED.

PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g), **ONCE A RESPONDENT HAS RECEIVED NOTICE OF THIS ORDER AND AN OPPORTUNITY TO BE HEARD, IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE, OR POSSESS A FIREARM WHILE SUBJECT TO THIS ORDER IF THE PROTECTED PERSON IS:**

(A) THE RESPONDENT'S CURRENT OR FORMER SPOUSE;

(B) A CURRENT OR FORMER PERSON WITH WHOM

**THE RESPONDENT RESIDED WHILE IN AN INTIMATE RELATIONSHIP; OR
(C) A PERSON WITH WHOM THE RESPONDENT HAS A CHILD.**

INTERSTATE VIOLATION OF THIS ORDER MAY SUBJECT THE RESPONDENT TO FEDERAL CRIMINAL PENALTIES UNDER 18 U.S.C. 2261 AND 18 U.S.C. 2262.

(d) The clerk of the circuit court, or a person or entity designated by the clerk of the circuit court, shall provide to a person requesting an order for protection:

- (1) the forms adopted under subsection (a);
- (2) all other forms required to petition for an order for protection, including forms:
 - (A) necessary for service; and
 - (B) required under IC 31-17-3; and
- (3) clerical assistance in reading or completing the forms and filing the petition.

Clerical assistance provided by the clerk or court personnel under this section does not constitute the practice of law. The clerk of the circuit court may enter into a contract with a person or another entity to provide this assistance. A person, other than a person or other entity with whom the clerk has entered into a contract to provide assistance, who in good faith performs the duties the person is required to perform under this subsection is not liable for civil damages that might otherwise be imposed on the person as a result of the performance of those duties unless the person commits an act or omission that amounts to gross negligence or willful and wanton misconduct.

(e) A petition for an order for protection must be:

- (1) verified or under oath under Trial Rule 11; and
- (2) issued on the forms adopted under subsection (a).

(f) If an order for protection is issued under this chapter, the clerk shall comply with IC 5-2-9.

SECTION 9. IC 34-26-5-6, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The following rules apply to an order for protection issued under this chapter:

- (1) An order for protection is in addition to, and not instead of, another available civil or criminal proceeding.

(2) A petitioner is not barred from seeking an order because of another pending proceeding.

(3) A court may not delay granting relief because of the existence of a pending action between the petitioner and respondent.

(4) If a person who petitions for an ex parte order for protection also has a pending case involving:

(A) the respondent; or

(B) a child of the petitioner and respondent;

the court that has been petitioned for relief shall immediately consider the ex parte petition and then transfer that matter to the court in which the other case is pending.

(5) If a person files a petition for an order of protection requesting relief that:

(A) does not require a hearing under sections 9(b) and 10(a) of this chapter; and

(B) requires a hearing under sections 9(c) and 10(b) of this chapter;

the court may issue an ex parte order for protection providing relief under clause (A) at any time before the required hearing under clause (B).

SECTION 10. IC 34-26-5-7, AS ADDED BY P.L.133-2002, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. A petitioner may omit the petitioner's address from all nonconfidential documents filed with a court. However, a petitioner must provide the court with complete information concerning the protected address on the uniform statewide confidential ~~sheet~~ **form** and on other confidential forms developed by the division of state court administration under section 3 of this chapter. A petitioner shall also provide the clerk with a public mailing address for purposes of serving pleadings, notices, and court orders. The petitioner may use the address confidentiality program under IC 5-26.5. If disclosure of a petitioner's address is necessary to determine jurisdiction or to consider venue, the court may order the disclosure to be made:

(1) after receiving a petitioner's consent;

(2) orally in the judge's chambers and out of the presence of a respondent with a sealed record made; or

(3) after a hearing in which the court considers the safety of a petitioner and finds that disclosure of the address is in the interest

of justice.

SECTION 11. IC 34-26-6-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. This chapter does not apply to a case involving or growing out of a labor dispute covered by IC 22-6-1.**

SECTION 12. IC 34-26-6-3, AS ADDED BY P.L.133-2002, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter, "employee" means:

- (1) **an employee (as defined in IC 22-2-2-3); a person employed or permitted to work or perform a service for remuneration;**
- (2) a member of a board of directors for a private, public, or quasi-public corporation;
- (3) an elected or appointed public officer; and
- (4) a volunteer or an independent contractor who performs services for an employer at the employer's place of work.

SECTION 13. IC 34-26-6-4, AS ADDED BY P.L.133-2002, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this chapter, "employer" means:

- (1) **a person defined as an employer under IC 22-2-2-3; an individual;**
- (2) **a federal agency; partnership;**
- (3) **an association;**
- (4) **a limited liability company;**
- (5) **a corporation;**
- (6) **a business trust;**
- (3) (7) the state;
- (4) a state agency;
- (5) a city;
- (6) a county;
- (7) a private, public, or quasi-public corporation or a public agency; and
- (8) a public agency operating wholly within or as part of a public or quasi-public corporation:
- (8) **a governmental agency; or**
- (9) **a political subdivision;**

that has at least two (2) employees during any work week.

SECTION 14. IC 34-26-6-14, AS ADDED BY P.L.133-2002,

SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. A filing fee may not be charged for a petition that alleges that a person has:

- (1) inflicted or threatened violence against an employee of the ~~petitioner~~; **plaintiff**;
- (2) stalked an employee of the ~~petitioner~~; **plaintiff**; or
- (3) spoken in a manner that has placed an employee in reasonable fear of violence;

and that seeks a temporary restraining order or an injunction to restrain future violence or threats of violence. A filing fee may not be charged for a responsive pleading described under section 8 of this chapter.

SECTION 15. IC 35-33-1-1, AS AMENDED BY P.L.133-2002, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A law enforcement officer may arrest a person when the officer has:

- (1) a warrant commanding that the person be arrested;
- (2) probable cause to believe the person has committed or attempted to commit, or is committing or attempting to commit, a felony;
- (3) probable cause to believe the person has violated the provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;
- (4) probable cause to believe the person is committing or attempting to commit a misdemeanor in the officer's presence;
- (5) probable cause to believe the person has committed a:
 - (A) battery resulting in bodily injury under IC 35-42-2-1; or
 - (B) domestic battery under IC 35-42-2-1.3.

The officer may use an affidavit executed by an individual alleged to have direct knowledge of the incident alleging the elements of the offense of battery to establish probable cause;

- (6) probable cause to believe that the person violated IC 35-46-1-15.1 (invasion of privacy);
- (7) probable cause to believe that the person violated IC 35-47-2-1 (carrying a handgun without a license) or IC 35-47-2-22 (counterfeit handgun license); **or**
- (8) probable cause to believe that the person is violating or has violated an order issued under IC 35-50-7; **or**
- (9) probable cause to believe that the person is:**

(A) violating or has violated IC 35-45-2-5 (interference with the reporting of a crime); and

(B) interfering with or preventing the reporting of a crime involving domestic or family violence (as defined in IC 34-6-2-34.5).

(b) A person who:

- (1) is employed full time as a federal enforcement officer;
- (2) is empowered to effect an arrest with or without warrant for a violation of the United States Code; and
- (3) is authorized to carry firearms in the performance of the person's duties;

may act as an officer for the arrest of offenders against the laws of this state where the person reasonably believes that a felony has been or is about to be committed or attempted in the person's presence.

SECTION 16. IC 35-38-1-7.1, AS AMENDED BY P.L.133-2002, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court shall consider:

- (1) the risk that the person will commit another crime;
- (2) the nature and circumstances of the crime committed;
- (3) the person's:
 - (A) prior criminal record;
 - (B) character; and
 - (C) condition;
- (4) whether the victim of the crime was less than twelve (12) years of age or at least sixty-five (65) years of age;
- (5) whether the person committed the offense in the presence or within hearing of a person who is less than eighteen (18) years of age who was not the victim of the offense;
- (6) whether the person violated a protective order issued against the person under ~~IC 31-15~~, ~~IC 31-16~~, or IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or IC 34-4-5.1 before their repeal), **a workplace violence restraining order issued against the person under IC 34-26-6, or a no contact order issued against the person;** and
- (7) any oral or written statement made by a victim of the crime.

(b) The court may consider the following factors as aggravating circumstances or as favoring imposing consecutive terms of

imprisonment:

- (1) The person has recently violated the conditions of any probation, parole, or pardon granted to the person.
- (2) The person has a history of criminal or delinquent activity.
- (3) The person is in need of correctional or rehabilitative treatment that can best be provided by commitment of the person to a penal facility.
- (4) Imposition of a reduced sentence or suspension of the sentence and imposition of probation would depreciate the seriousness of the crime.
- (5) The victim of the crime was less than twelve (12) years of age or at least sixty-five (65) years of age.
- (6) The victim of the crime was mentally or physically infirm.
- (7) The person committed a forcible felony while wearing a garment designed to resist the penetration of a bullet.
- (8) The person committed a sex crime listed in subsection (e) and:
 - (A) the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) and involved the sex organ of one (1) person and the mouth, anus, or sex organ of another person;
 - (B) the person had knowledge that the person was a carrier of HIV; and
 - (C) the person had received risk counseling as described in subsection (g).
- (9) The person committed an offense related to controlled substances listed in subsection (f) if:
 - (A) the offense involved:
 - (i) the delivery by any person to another person; or
 - (ii) the use by any person on another person;of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact;
 - (B) the person had knowledge that the person was a carrier of the human immunodeficiency virus (HIV); and
 - (C) the person had received risk counseling as described in subsection (g).
- (10) The person committed the offense in an area of a consolidated or second class city that is designated as a public

safety improvement area by the Indiana criminal justice institute under IC 36-8-19.5.

(11) The injury to or death of the victim of the crime was the result of shaken baby syndrome (as defined in IC 16-41-40-2).

(12) Before the commission of the crime, the person administered to the victim of the crime, without the victim's knowledge, a sedating drug or a drug that had a hypnotic effect on the victim, or the person had knowledge that such a drug had been administered to the victim without the victim's knowledge.

(13) The person:

(A) committed trafficking with an inmate under IC 35-44-3-9; and

(B) is an employee of the penal facility.

(14) The person committed the offense in the presence or within hearing of a person who is less than eighteen (18) years of age who was not the victim of the offense.

(c) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

(1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.

(2) The crime was the result of circumstances unlikely to recur.

(3) The victim of the crime induced or facilitated the offense.

(4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.

(5) The person acted under strong provocation.

(6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.

(7) The person is likely to respond affirmatively to probation or short term imprisonment.

(8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.

(9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.

(10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.

(11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.

(d) The criteria listed in subsections (b) and (c) do not limit the matters that the court may consider in determining the sentence.

(e) For the purposes of this article, the following crimes are considered sex crimes:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child seduction (IC 35-42-4-7).
- (5) Prostitution (IC 35-45-4-2).
- (6) Patronizing a prostitute (IC 35-45-4-3).
- (7) Incest (IC 35-46-1-3).
- (8) Sexual misconduct with a minor under IC 35-42-4-9(a).

(f) For the purposes of this article, the following crimes are considered offenses related to controlled substances:

- (1) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
- (2) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (5) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).
- (6) Possession of a controlled substance (IC 35-48-4-7).
- (7) Dealing in paraphernalia (IC 35-48-4-8.5).
- (8) Possession of paraphernalia (IC 35-48-4-8.3).
- (9) Offenses relating to registration (IC 35-48-4-14).

(g) For the purposes of this section, a person received risk counseling if the person had been:

- (1) notified in person or in writing that tests have confirmed the presence of antibodies to the human immunodeficiency virus (HIV) in the person's blood; and
- (2) warned of the behavior that can transmit HIV.

SECTION 17. IC 35-41-1-10.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Sec. 10.6. (a) An individual is a "family or household member" of another person if the individual:

- (1) is a current or former spouse of the other person;**
- (2) is dating or has dated the other person;**
- (3) is or was engaged in a sexual relationship with the other person;**
- (4) is related by blood or adoption to the other person;**
- (5) is or was related by marriage to the other person;**
- (6) has or previously had an established legal relationship:**
 - (A) as a guardian of the other person;**
 - (B) as a ward of the other person;**
 - (C) as a custodian of the other person;**
 - (D) as a foster parent of the other person; or**
 - (E) in a capacity with respect to the other person similar to those listed in clauses (A) through (D); or**
- (7) has a child in common with the other person.**

(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is a minor child of one (1) of the persons.

SECTION 18. IC 35-42-2-1.3, AS AMENDED BY P.L.47-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Sec. 1.3. (a) A person who knowingly or intentionally touches a ~~person~~ **an individual who:**

- (1) is or was a spouse of the other person;**
- (2) is or was living as if a spouse of the other ~~person~~; **person as provided in subsection (b); or****
- (3) has a child in common with the other person;**

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous, unrelated conviction under this section (or IC 35-42-2-1(a)(2)(E) before its repeal).

(b) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

- (1) the duration of the relationship;
- (2) the frequency of contact;
- (3) the financial interdependence;
- (4) whether the two (2) individuals are raising children together;
- (5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and
- (6) other factors the court considers relevant.



P.L.222-2003

[S.519. Approved May 7, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 5-2-12-13, AS AMENDED BY P.L.116-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as provided in subsections (b) and (c), an offender's duty to register **under this chapter** expires ten (10) years after the date the offender:

- (1) is released from a penal facility (as defined in IC 35-41-1-21) or a secure juvenile detention facility of a state or another jurisdiction;
- (2) is placed in a community transition program;
- (3) is placed in a community corrections program;
- (4) is placed on parole; or
- (5) is placed on probation;

whichever occurs last.

(b) An offender who is found to be a sexually violent predator by a court under IC 35-38-1-7.5(b) is required to register for **an indefinite period unless a court, assisted by a board of experts, finds that the offender is no longer a sexually violent predator under IC 35-38-1-7.5(c): life.**

(c) An offender who is convicted of at least one (1) sex and violent offense that the offender committed:

- (1) when the person was at least eighteen (18) years of age; and
- (2) against a victim who was less than twelve (12) years of age at the time of the crime

is required to register for life.

(d) An offender who is convicted of at least one (1) sex and violent offense in which the offender:

- (1) proximately caused serious bodily injury or death to the victim;
- (2) used force or the threat of force against the victim or a member of the victim's family; or
- (3) rendered the victim unconscious or otherwise incapable of giving voluntary consent;

is required to register for life.

(e) An offender who is convicted of at least two (2) unrelated sex and violent offenses is required to register for life.

P.L.223-2003

[S.523. Approved May 7, 2003.]

AN ACT concerning pensions.

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

SECTION 1. [EFFECTIVE JULY 1, 2003] (a) This SECTION applies to a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who:

- (1) first became a member of the 1977 fund after December 31, 1993, and before October 1, 1996;**
- (2) was at least thirty-six (36) years of age at the time the member first became a member of the 1977 fund; and**
- (3) will not accrue twenty (20) years of service credit in the 1977 fund before the member reaches the mandatory retirement age established by the member's employer.**

(b) In addition to the service credit that a member earns through active service, before a member retires the member may purchase the additional amount of service credit needed for the member to retire with a full unreduced benefit by making contributions to the 1977 fund equal to the product of the following:

- (1) The salary of a first class patrolman or firefighter, whichever is applicable, at the time the member makes the contribution.**
- (2) Twenty-seven percent (27%).**
- (3) The number of years of service credit the member intends to purchase.**

(c) The following apply to the purchase of service credit under this SECTION:

(1) The service credit allowed is limited to the amount necessary, when added to the member's active service, for the member to accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the mandatory retirement age established by the member's employer.

(2) The member may pay the amount determined in subsection (b) as:

(A) a lump sum; or

(B) a series of payments determined by the public employees' retirement fund (PERF) board, not to exceed five (5) annual payments, plus interest over the period of the payments at a rate determined by the actuary for the 1977 fund.

(3) A member may not use the service credit unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by IC 36-8-8-18, a member may use:

(A) a rollover distribution; or

(B) a trustee to trustee transfer;

to purchase service credit under this SECTION.

(d) If a member terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit under IC 36-8-8, the PERF board shall return the purchase amount, plus accumulated interest, in accordance with IC 36-8-8-8.

(e) A member's employer may adopt an ordinance to pay all or part of the member's contributions required for the purchase of service under this SECTION.

(f) This SECTION expires December 31, 2007.

P.L.224-2003

[H.1001. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

SECTION 1. [EFFECTIVE JULY 1, 2003]

(a) The following definitions apply throughout this act:

(1) "Augmentation allowed" means the governor and the budget agency are authorized to add to an appropriation in this act from revenues accruing to the fund from which the appropriation was made.

(2) "Biennium" means the period beginning July 1, 2003, and ending June 30, 2005. Appropriations appearing in the biennial column for construction or other permanent improvements may be allotted as provided in IC 4-13-2-19.

(3) "Deficiency appropriation" or "special claim" means an appropriation available during the 2002-2003 fiscal year.

(4) "Equipment" includes machinery, implements, tools, furniture, furnishings, vehicles, and other articles that have a calculable period of service that exceeds twelve (12) calendar months.

(5) "Fee replacement" includes repayment on indebtedness resulting from financing the cost of planning, purchasing, rehabilitation, construction, repair, leasing, lease-purchasing, or otherwise acquiring land, buildings, facilities, and equipment to be used for academic and instructional purposes.

(6) "Other operating expense" includes payments for "services other than personal", "services by contract", "supplies, materials, and parts", "grants, subsidies, refunds, and awards", "in-state travel", "out-of-state travel", and "equipment".

(7) "Pension fund contributions" means the state of Indiana's contributions to a specific retirement fund.

(8) "Personal services" includes payments for salaries and wages to officers and employees of the state (either regular or temporary), payments for compensation awards, and the employer's share of Social Security, health insurance, life insurance, disability and retirement fund contributions.

(9) "SSBG" means the Social Services Block Grant. This was formerly referred to as "Title XX".

(10) "State agency" means:

(A) each office, officer, board, commission, department, division, bureau, committee, fund, agency, authority, council, or other instrumentality of the state;

(B) each hospital, penal institution, and other institutional enterprise of the state;

(C) the judicial department of the state; and

(D) the legislative department of the state.

However, this term does not include cities, towns, townships, school cities, school townships, school districts, other municipal corporations or political subdivisions of the state, or universities and colleges supported in whole or in part by state funds.

(11) "Total operating expense" includes payments for both "personal services" and "other operating expense".

(b) The state board of finance may authorize advances to boards or persons having control of the funds of any institution or department of the state of a sum of money out of any appropriation available at such time for the purpose of establishing working capital to provide for payment of expenses in the case of emergency when immediate payment is necessary or expedient. Advance payments shall be made by warrant by the auditor of state, and properly itemized and receipted bills or invoices shall be filed by the board or persons receiving the advance payments.

(c) All money appropriated by this act shall be considered either a direct appropriation or an appropriation from a rotary or

revolving fund.

(1) Direct appropriations are subject to withdrawal from the state treasury and for expenditure for such purposes, at such time, and in such manner as may be prescribed by law. Direct appropriations are not subject to return and rewithdrawal from the state treasury, except for the correction of an error which may have occurred in any transaction or for reimbursement of expenditures which have occurred in the same fiscal year.

(2) A rotary or revolving fund is any designated part of a fund that is set apart as working capital in a manner prescribed by law and devoted to a specific purpose or purposes. The fund consists of earnings and income only from certain sources or a combination thereof. However derived, the money in the fund shall be used for the purpose designated by law as working capital. The fund at any time consists of the original appropriation thereto, if any, all receipts accrued to the fund, and all money withdrawn from the fund and invested or to be invested. The fund shall be kept intact by separate entries in the auditor of state's office, and no part thereof shall be used for any purpose other than the lawful purpose of the fund or revert to any other fund at any time. However, any unencumbered excess above any prescribed amount shall be transferred to the state general fund at the close of each fiscal year unless otherwise specified in the Indiana Code.

SECTION 2. [EFFECTIVE JULY 1, 2003]

For the conduct of state government, its offices, funds, boards, commissions, departments, societies, associations, services, agencies, and undertakings, and for other appropriations not otherwise provided by statute, the following sums in SECTIONS 3 through 10 are appropriated for the periods of time designated from the general fund of the state of Indiana or other specifically designated funds.

In this act, whenever there is no specific fund or account designated, the appropriation is from the general fund.

SECTION 3. [EFFECTIVE JULY 1, 2003]**GENERAL GOVERNMENT****A. LEGISLATIVE****FOR THE GENERAL ASSEMBLY****LEGISLATORS' SALARIES - HOUSE**

Total Operating Expense	3,550,728	5,512,333
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HOUSE EXPENSES

Total Operating Expense	7,188,733	7,799,322
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LEGISLATORS' SALARIES - SENATE

Total Operating Expense	1,071,285	1,071,285
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SENATE EXPENSES

Total Operating Expense	7,186,750	7,797,170
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Included in the above appropriations for house and senate expenses are funds for a legislative business per diem allowance, meals and other usual and customary expenses associated with legislative affairs. Except as provided below, this allowance is to be paid to each member of the general assembly for every day, including Sundays, during which the general assembly is convened in regular or special session, commencing with the day the session is officially convened and concluding with the day the session is adjourned sine die. However, after five (5) consecutive days of recess, the legislative business per diem allowance is to be made on an individual voucher basis until the recess concludes.

Members of the general assembly are entitled, when authorized by the speaker of the house or the president pro tempore of the senate, to the legislative business per diem allowance for each and every day engaged in official business.

The legislative business per diem allowance that each member of the general assembly is entitled to receive equals the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from

home in travel status in the Indianapolis area. The legislative business per diem changes each time there is a change in that maximum daily amount.

In addition to the legislative business per diem allowance, each member of the general assembly shall receive the mileage allowance in an amount equal to the standard mileage rates for personally owned transportation equipment established by the federal Internal Revenue Service for each mile necessarily traveled from the member's usual place of residence to the state capitol. However, if the member traveled by a means other than by motor vehicle, and the member's usual place of residence is more than one hundred (100) miles from the state capitol, the member is entitled to reimbursement in an amount equal to the lowest air travel cost incurred in traveling from the usual place of residence to the state capitol. During the period the general assembly is convened in regular or special session, the mileage allowance shall be limited to one (1) round trip each week per member.

Any member of the general assembly who is appointed, either by the governor, speaker of the house, president or president pro tempore of the senate, house or senate minority floor leader, or Indiana legislative council to serve on any research, study, or survey committee or commission, or who attends any meetings authorized or convened under the auspices of the Indiana legislative council, including pre-session conferences and federal-state relations conferences, is entitled, when authorized by the legislative council, to receive the legislative business per diem allowance for each day in actual attendance and is also entitled to a mileage allowance, at the rate specified above, for each mile necessarily traveled from the member's usual place of residence to the state capitol, or other in-state site of the committee, commission, or conference. The per diem allowance and the mileage allowance permitted under this paragraph shall be paid from the legislative council appropriation for legislator and lay member travel unless the member is attending an out-of-state

meeting, as authorized by the speaker of the house of representatives or the president pro tempore of the senate, in which case the member is entitled to receive:

- (1) the legislative business per diem allowance for each day the member is engaged in approved out-of-state travel; and
- (2) reimbursement for traveling expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the legislative council.

Notwithstanding the provisions of this or any other statute, the legislative council may adopt, by resolution, travel policies and procedures that apply only to members of the general assembly or to the staffs of the house of representatives, senate, and legislative services agency, or both members and staffs. The legislative council may apply these travel policies and procedures to lay members serving on research, study, or survey committees or commissions that are under the jurisdiction of the legislative council. Notwithstanding any other law, rule, or policy, the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency do not apply to members of the general assembly, to the staffs of the house of representatives, senate, or legislative services agency, or to lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council (if the legislative council applies its travel policies and procedures to lay members under the authority of this SECTION), except that, until the legislative council adopts travel policies and procedures, the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency apply to members of the general assembly, to the staffs of the house of representatives, senate, and legislative services agency, and to lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council. The executive director of the legislative services agency is responsible for the administration of travel policies and procedures adopted

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Appropriation	Appropriation	Appropriation

by the legislative council. The auditor of state shall approve and process claims for reimbursement of travel related expenses under this paragraph based upon the written affirmation of the speaker of the house of representatives, the president pro tempore of the senate, or the executive director of the legislative services agency that those claims comply with the travel policies and procedures adopted by the legislative council. If the funds appropriated for the house and senate expenses and legislative salaries are insufficient to pay all the necessary expenses incurred, including the cost of printing the journals of the house and senate, there is appropriated such further sums as may be necessary to pay such expenses.

LEGISLATORS' SUBSISTENCE

LEGISLATORS' EXPENSES - HOUSE

Total Operating Expense	1,775,765	2,015,396
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LEGISLATORS' EXPENSES - SENATE

Total Operating Expense	922,272	1,046,728
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Each member of the general assembly is entitled to a subsistence allowance of forty percent (40%) of the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status in the Indianapolis area:

- (1) each day that the general assembly is not convened in regular or special session; and
- (2) each day after the first session day held in November and before the first session day held in January.

However, the subsistence allowance under subdivision (2) may not be paid with respect to any day after the first session day held in November and before the first session day held in January with respect to which all members of the general assembly are entitled to a legislative business per diem.

The subsistence allowance is payable from the appropriations for legislators' subsistence.

The officers of the senate are entitled to the following amounts annually in addition to the subsistence allowance: president pro tempore, \$6,500; assistant president pro tempore, \$2,500; majority floor leader, \$5,000; assistant majority floor leader, \$1,000; majority caucus chair, \$5,000; assistant majority caucus chair, \$1,000; finance committee chair, \$5,000; budget subcommittee chair, \$4,000; finance committee ranking majority member, \$2,000; majority whip, \$3,500; assistant majority whip, \$1,000; minority floor leader, \$5,500; minority caucus chair, \$4,500; minority assistant floor leader, \$4,500; finance committee ranking minority member, \$3,500; minority whip, \$2,500; assistant minority whip, \$500; and assistant minority caucus chair, \$500.

Officers of the house of representatives are entitled to the following amounts annually in addition to the subsistence allowance: speaker of the house, \$6,500; speaker pro tempore, \$5,000; deputy speaker pro tempore, \$1,500; majority leader, \$5,000; majority caucus chair, \$5,000; assistant majority caucus chair, \$1,000; ways and means committee chair, \$5,000; ways and means committee ranking majority member, \$3,000; speaker pro tempore emeritus, \$1,500; budget subcommittee chair, \$3,000; majority whip, \$3,500; assistant majority whip, \$1,000; assistant majority leader, \$1,000; minority leader, \$5,500; minority caucus chair, \$4,500; ways and means committee ranking minority member, \$3,500; minority whip, \$2,500; assistant minority leader, \$4,500; second assistant minority leader, \$1,500; and deputy assistant minority leader, \$1,000.

If the funds appropriated for legislators' subsistence are insufficient to pay all the subsistence incurred, there are hereby appropriated such further sums as may be necessary to pay such subsistence.

FOR THE LEGISLATIVE COUNCIL AND THE LEGISLATIVE SERVICES AGENCY

Total Operating Expense	7,887,000	8,122,000
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

LEGISLATOR AND LAY MEMBER TRAVEL

Total Operating Expense	560,000	570,000
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If the funds above appropriated for the legislative council and the legislative services agency and legislator and lay member travel are insufficient to pay all the necessary expenses incurred, there are hereby appropriated such further sums as may be necessary to pay those expenses.

Any person other than a member of the general assembly who is appointed by the governor, speaker of the house, president or president pro tempore of the senate, house or senate minority floor leader, or legislative council to serve on any research, study, or survey committee or commission is entitled, when authorized by the legislative council, to a per diem instead of subsistence of \$75 per day during the 2003-2005 biennium. In addition to the per diem, such a person is entitled to mileage reimbursement, at the rate specified for members of the general assembly, for each mile necessarily traveled from the person's usual place of residence to the state capitol or other in-state site of the committee, commission, or conference. However, reimbursement for any out-of-state travel expenses claimed by lay members serving on research, study, or survey committees or commissions under the jurisdiction of the legislative council shall be based on SECTION 19 of this act, until the legislative council applies those travel policies and procedures that govern legislators and their staffs to such lay members as authorized elsewhere in this SECTION. The allowance and reimbursement permitted in this paragraph shall be paid from the legislative council appropriations for legislative and lay member travel unless otherwise provided for by a specific appropriation.

LEGISLATIVE COUNCIL CONTINGENCY FUND

Total Operating Expense	200,000
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Disbursements from the fund may be made only for purposes approved by the chairman and vice chairman of the legislative

council.

The legislative services agency shall charge the following fees, unless the legislative council sets these or other fees at different rates:

Annual subscription to the session document service for sessions ending in odd-numbered years: \$900

Annual subscription to the session document service for sessions ending in even-numbered years: \$500

Per page charge for copies of legislative documents: \$0.15

Annual charge for interim calendar: \$10

Daily charge for the journal of either house: \$2

PRINTING AND DISTRIBUTION

Total Operating Expense	550,000	580,000
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The above funds are appropriated for the printing and distribution of documents published by the legislative council. These documents include journals, bills, resolutions, enrolled documents, the acts of the first and second regular sessions of the 113th general assembly, the supplements to the Indiana Code for fiscal years 2003-2004 and 2004-2005, and the publication of the Indiana Administrative Code and the Indiana Register. Upon completion of the distribution of the Acts and the supplements to the Indiana Code, as provided in IC 2-6-1.5, remaining copies may be sold at a price or prices periodically determined by the legislative council. If the above appropriations for the printing and distribution of documents published by the legislative council are insufficient to pay all of the necessary expenses incurred, there are hereby appropriated such sums as may be necessary to pay such expenses.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

COUNCIL OF STATE GOVERNMENTS ANNUAL DUES

Other Operating Expense	133,000	138,000
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NATIONAL CONFERENCE OF STATE LEGISLATURES ANNUAL DUES

Other Operating Expense	153,000	159,000
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FOR THE INDIANA LOBBY REGISTRATION COMMISSION

Total Operating Expense	218,285	218,285
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**FOR THE PUBLIC EMPLOYEES' RETIREMENT FUND
LEGISLATORS' RETIREMENT FUND**

Total Operating Expense	205,540	205,540
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B. JUDICIAL**FOR THE SUPREME COURT**

Personal Services	5,709,622	5,619,266
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Other Operating Expense	1,459,198	1,531,450
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The above appropriation for the supreme court personal services includes the subsistence allowance as provided by IC 33-13-12-9.

LOCAL JUDGES' SALARIES

Personal Services	41,247,705	41,247,273
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Other Operating Expense	11,100	11,100
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COUNTY PROSECUTORS' SALARIES

Personal Services	17,256,096	17,256,096
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Other Operating Expense	6,400	6,400
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The above appropriations for county prosecutors' salaries represent the amounts authorized by IC 33-14-7-5 and that are to be paid from the state general fund.

In addition to the appropriations for local judges' salaries and for county prosecutors' salaries, there are hereby appropriated for personal services the amounts that the state is required to pay for salary changes or for additional courts created by the 113th

general assembly.

TRIAL COURT OPERATIONS

Total Operating Expense	353,500	353,500
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INDIANA CONFERENCE FOR LEGAL EDUCATION OPPORTUNITY

Total Operating Expense	625,000	625,000
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The above funds are appropriated to the division of state court administration in compliance with the provisions of IC 33-2.1-12-7.

PUBLIC DEFENDER COMMISSION

Public Defense Fund

Total Operating Expense	4,600,000	4,600,000
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Augmentation allowed.

The above appropriation is made in addition to the distribution authorized by IC 33-19-7-5(c) for the purpose of reimbursing counties for indigent defense services provided to a defendant. The division of state court administration of the supreme court of Indiana shall provide staff support to the commission and shall administer the fund. The administrative costs may come from the fund.

GUARDIAN AD LITEM

Total Operating Expense	800,000	800,000
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The division of state court administration shall use the foregoing appropriation to administer an office of guardian ad litem and court appointed special advocate services and to provide matching funds to counties that are required to implement, in courts with juvenile jurisdiction, a guardian ad litem and court appointed special advocate program for children who are alleged to be victims of child abuse or neglect under IC 31-33 and to administer the program. However, the court may not use more than \$75,000 per state fiscal year for administration of the program. A county

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

may use these matching funds to supplement amounts collected as fees under IC 31-40-3 and used for the operation of guardian ad litem and court appointed special advocate programs. The county fiscal body shall appropriate adequate funds for the county to be eligible for these matching funds.

CIVIL LEGAL AID

Total Operating Expense	1,000,000	1,000,000
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The above funds are appropriated to the division of state court administration in compliance with the provisions of IC 33-2.1-11-7.

SPECIAL JUDGES - COUNTY COURTS

Personal Services	3,000	3,000
Other Operating Expense	120,000	120,000

If the funds appropriated above for special judges of county courts are insufficient to pay all of the necessary expenses that the state is required to pay under IC 34-35-1-4, there are hereby appropriated such further sums as may be necessary to pay these expenses.

COMMISSION ON RACE AND GENDER FAIRNESS

Total Operating Expense	260,996	260,996
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FOR THE CLERK OF THE SUPREME AND APPELLATE COURTS

Personal Services	707,885	707,885
Other Operating Expense	186,205	186,205

FOR THE COURT OF APPEALS

Personal Services	7,788,244	7,521,971
Other Operating Expense	1,148,220	1,152,220

The above appropriations for the court of appeals personal services includes the subsistence allowance provided by

IC 33-13-12-9.**FOR THE TAX COURT**

Personal Services	475,879	465,420
Other Operating Expense	111,146	123,350

FOR THE JUDICIAL CENTER

Personal Services	1,233,026	1,214,495
Other Operating Expense	694,744	736,924

The above appropriations for the judicial center include the appropriations for the judicial conference.

DRUG AND ALCOHOL PROGRAMS FUND

Total Operating Expense	299,010	299,010
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The above funds are appropriated under IC 33-19-7-5 for the purpose of administering, certifying, and supporting alcohol and drug services programs under IC 12-23-14. However, if the receipts are less than the appropriation, the center may not spend more than is collected.

INTERSTATE COMPACT FOR ADULT OFFENDER SUPERVISION

Total Operating Expense	65,707	53,158
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Augmentation allowed from fee increases enacted in 2003 general assembly.

FOR THE PUBLIC DEFENDER

Personal Services	5,110,515	5,092,572
Other Operating Expense	952,820	985,133

FOR THE PUBLIC DEFENDER COUNCIL

Personal Services	840,096	840,096
Other Operating Expense	228,458	228,458

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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FOR THE PROSECUTING ATTORNEYS' COUNCIL

Personal Services	859,204	859,204	
Other Operating Expense	164,489	164,489	

DRUG PROSECUTION

Drug Prosecution Fund (IC 33-14-8-5)			
Total Operating Expense	103,436	103,436	

Augmentation allowed.

**FOR THE PUBLIC EMPLOYEES' RETIREMENT FUND
JUDGES' RETIREMENT FUND**

Other Operating Expense	9,584,871	10,159,964	
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PROSECUTORS' RETIREMENT FUND

Other Operating Expense	933,000	961,000	
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C. EXECUTIVE**FOR THE GOVERNOR'S OFFICE**

Personal Services	2,069,306	2,069,306	
Other Operating Expense	124,352	124,352	

GOVERNOR'S RESIDENCE

Total Operating Expense	166,337	166,337	
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GOVERNOR'S CONTINGENCY FUND

Total Operating Expense			163,488
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Direct disbursements from the above contingency fund are not subject to the provisions of IC 5-22.

MISCELLANEOUS EXPENSES

Total Operating Expense	9,822	9,822	
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GOVERNOR'S FELLOWSHIP PROGRAM

Total Operating Expense	154,906	154,906	
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FOR THE WASHINGTON LIAISON OFFICE

Total Operating Expense	195,037	195,037	
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FOR THE LIEUTENANT GOVERNOR

Personal Services	735,673	735,673	
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	FY 2003-2004	FY 2004-2005	Biennial
	Appropriation	Appropriation	Appropriation

Other Operating Expense	26,833	26,833	
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CONTINGENCY FUND

Total Operating Expense			38,000
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Direct disbursements from the above contingency fund are not subject to the provisions of IC 5-22.

FOR THE SECRETARY OF STATE

ADMINISTRATION

Personal Services	367,569	367,569	
Other Operating Expense	33,415	33,415	

BUSINESS SERVICES

Personal Services	797,251	797,251	
Other Operating Expense	177,700	177,700	

SECURITIES DIVISION

Personal Services	854,140	854,140	
Other Operating Expense	67,545	67,545	

FOR THE ATTORNEY GENERAL

ATTORNEY GENERAL

From the General Fund

12,103,579	12,103,579
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From the Telephone Solicitation Fund

17,260	17,260
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Augmentation allowed.

From the Motor Vehicle Odometer Fund (IC 9-29-1-5)

701,744	701,744
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Augmentation allowed.

From the Medicaid Fraud Control Unit Fund

579,371	579,371
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Augmentation allowed.

From the Abandoned Property Fund (IC 32-34-1-33)

167,583	167,583
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Augmentation allowed.

The amounts specified from the General Fund, Motor Vehicle

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Odometer Fund, Medicaid Fraud Control Unit Fund, and Abandoned Property Fund are for the following purposes:

Personal Services	12,410,304	12,410,304
Other Operating Expense	1,159,233	1,159,233

MEDICAID FRAUD UNIT

Total Operating Expense	846,806	846,806
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The above appropriations to the Medicaid fraud unit are the state's matching share of the state Medicaid fraud control unit under IC 4-6-10 as prescribed by 42 U.S.C. 1396b(q). Augmentation allowed from collections.

VICTIMS' ASSISTANCE ADDRESS CONFIDENTIALITY

Total Operating Expense	13,059	13,059
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UNCLAIMED PROPERTY

Abandoned Property Fund (IC 32-34-1-33)

Personal Services	972,055	972,055
Other Operating Expense	961,100	961,100

Augmentation allowed.

D. FINANCIAL MANAGEMENT

FOR THE AUDITOR OF STATE

Personal Services	4,034,532	4,034,532
Other Operating Expense	1,318,420	1,318,420

GOVERNOR'S AND GOVERNOR'S SURVIVING SPOUSES' PENSIONS

Total Operating Expense	146,900	146,900
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The above appropriations for governors' and governors' surviving spouses' pensions are made under IC 4-3-3.

FOR THE STATE BOARD OF ACCOUNTS

Personal Services	16,919,115	16,919,115
Other Operating Expense	1,325,387	1,325,387

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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GOVERNOR ELECT

Total Operating Expense	0	40,000	
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FOR THE STATE BUDGET COMMITTEE

Total Operating Expense	60,000	60,000	
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Notwithstanding IC 4-12-1-11(b), the salary per diem of the legislative members of the budget committee is an amount equal to one hundred fifty percent (150%) of the legislative business per diem allowance. If the above appropriations are insufficient to carry out the necessary operations of the budget committee, there are hereby appropriated such further sums as may be necessary.

FOR THE STATE BUDGET AGENCY

Personal Services	2,367,509	2,367,509	
Other Operating Expense	393,882	393,882	

BUILD INDIANA FUND ADMINISTRATION**Build Indiana Fund (IC 4-30-17)**

Other Operating Expense	66,014	66,014	
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Augmentation allowed.

MIDWEST HIGHER EDUCATION COMMISSION

Total Operating Expense	82,500	82,500	
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DEPARTMENTAL AND INSTITUTIONAL EMERGENCY CONTINGENCY FUND

Total Operating Expense		9,600,000	
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The foregoing departmental and institutional emergency contingency fund appropriation is subject to allotment to departments, institutions, and all state agencies by the budget agency with the approval of the governor. These allocations may be made upon written request of proper officials, showing that contingencies exist that require additional funds for meeting necessary expenses. The budget committee shall be advised of each transfer request and allotment. With the approval of the

governor and budget agency, the expenses of conducting an audit of a state agency for the following purposes may be paid from the departmental and institutional emergency contingency fund:

- (1) To determine whether the state agency is managing and using its resources (including personnel, property, and office space) economically and efficiently.**
- (2) To determine whether there are any inefficiencies or uneconomical practices in the state agency's operations, and, if so, their causes.**
- (3) To determine whether the state agency has complied with laws and rules concerning matters of economy and efficiency.**

OUTSIDE BILLS CONTINGENCY - 2003

Total Operating Expense	17,200,000
PERSONAL SERVICES/FRINGE BENEFITS CONTINGENCY FUND	
Total Operating Expense	89,000,000

The foregoing personal services/fringe benefits contingency fund appropriation is subject to allotment to departments, institutions, and all state agencies by the budget agency with the approval of the governor.

The foregoing personal services/fringe benefits contingency fund appropriation may only be used for salary increases, fringe benefit increases, and for an employee leave conversion program for state employees in the 2003-2005 biennium and may not be used for any other purpose. The foregoing personal services/fringe benefits contingency fund appropriation does not revert at the end of the biennium but remains in the personal services/fringe benefit contingency fund.

SCHOOL AND LIBRARY INTERNET CONNECTION

Build Indiana Fund (IC 4-30-17)

Other Operating Expense	7,000,000
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Of the foregoing appropriations \$2,300,000 each year shall be for

schools under IC 4-34-3-4 and \$1,200,000 each year shall be used for libraries under IC 4-34-3-2.

INSPIRE (IC 4-34-3-2)

Build Indiana Fund (IC 4-30-17)

Other Operating Expense	2,500,000
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21st CENTURY RESEARCH AND TECHNOLOGY FUND (IC 4-4-5.1-3)

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	37,500,000	37,500,000
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FOR THE ADVISORY COMMISSION ON INTERGOVERNMENTAL AFFAIRS (IC 4-23-24.2-4)

Total Operating Expense	50,000	50,000
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FOR THE TREASURER OF STATE

Personal Services	810,652	810,652
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Other Operating Expense	60,500	60,500
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The treasurer of state, the board for depositories, the Indiana commission for higher education, and the state student assistance commission shall cooperate and provide to the Indiana education savings authority the following:

- (1) Clerical and professional staff and related support.**
- (2) Office space and services.**
- (3) Reasonable financial support for the development of rules, policies, programs, and guidelines, including authority operations and travel.**

E. TAX ADMINISTRATION

FOR THE DEPARTMENT OF REVENUE COLLECTION AND ADMINISTRATION

Personal Services	38,667,713	38,667,713
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Other Operating Expense	12,876,571	12,876,571
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With the approval of the governor and the budget agency, the

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

department shall annually reimburse the state general fund for expenses incurred in support of the collection of dedicated fund revenue according to the department's cost allocation plan.

With the approval of the governor and the budget agency, the foregoing sums for the department of state revenue may be augmented to an amount not exceeding in total, together with the above specific amounts, one and one-tenth percent (1.1%) of the amount of money collected by the department of state revenue from taxes and fees.

OUTSIDE COLLECTIONS

Total Operating Expense	2,923,440	2,923,440
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With the approval of the governor and the budget agency, the foregoing sums for the department of state revenue's outside collections may be augmented to an amount not exceeding in total, together with the above specific amounts, one and one-tenth percent (1.1%) of the amount of money collected by the department from taxes and fees.

MOTOR CARRIER REGULATION

Motor Carrier Regulation Fund (IC 8-2.1-23)

Personal Services	624,082	624,082
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Other Operating Expense	3,160,143	3,160,143
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Augmentation allowed from the Motor Carrier Regulation Fund.

MOTOR FUEL TAX DIVISION

Motor Vehicle Highway Account (IC 8-14-1)

Personal Services	6,020,546	6,020,546
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Other Operating Expense	767,283	767,283
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Augmentation allowed from the Motor Vehicle Highway Account.

In addition to the foregoing appropriations, there is hereby appropriated to the department of revenue motor fuel tax division

an amount sufficient to pay claims for refunds on license-fee-exempt motor vehicle fuel as provided by law. The sums above appropriated from the motor vehicle highway account for the operation of the motor fuel tax division, together with all refunds for license-fee-exempt motor vehicle fuel, shall be paid from the receipts of those license fees before they are distributed as provided by IC 6-6-1.1.

FOR THE INDIANA GAMING COMMISSION

State Gaming Fund (IC 4-33-13-3)

Personal Services	2,111,179	2,111,179
Other Operating Expense	715,830	715,830

INVESTIGATION

State Gaming Fund (IC 4-33-13-3)

Personal Services	925,000	925,000
Other Operating Expense	458,030	458,030

The foregoing appropriations to the Indiana gaming commission are made from revenues accruing to the state gaming fund under IC 4-33-13-3 before any distribution is made under IC 4-33-13-5. Augmentation allowed.

The foregoing appropriations to the Indiana gaming commission are made instead of the appropriation made in IC 4-33-13-4.

The commission may employ or contract for inspectors and agents required under IC 4-33-4-3.5. The licensed owners shall, in the manner prescribed by the rules of the commission, reimburse the commission for the salaries and other expenses of the inspectors and agents who are required to be present during the time gambling operations are conducted on a riverboat.

FOR THE INDIANA HORSE RACING COMMISSION

Indiana Horse Racing Commission Operating Fund (IC 4-31-10)

Personal Services	1,781,448	1,781,448
Other Operating Expense	726,896	726,896

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

The foregoing appropriations to the Indiana horse racing commission are made from revenues accruing to the Indiana horse racing commission before any distribution is made under IC 4-31-9.

Augmentation allowed.

STANDARD BRED BOARD OF REGULATION

Indiana Horse Racing Commission Operating Fund
(IC 4-31-10)

Total Operating Expense	193,500	193,500
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The foregoing appropriations to the standardbred board of regulation are made from revenues accruing to the Indiana horse racing commission before any distribution is made under IC 4-31-9.

Augmentation allowed.

FOR THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Personal Services	3,783,049	3,783,049
Other Operating Expense	588,154	588,154

From the above appropriations for the department of local government finance, travel subsistence and mileage allowances may be paid for members of the local government tax control board created by IC 6-1.1-18.5-11 and the state school property tax control board created by IC 6-1.1-19-4.1, under state travel regulations.

FOR THE INDIANA BOARD OF TAX REVIEW

Personal Services	1,255,075	1,255,075
Other Operating Expense	120,033	120,033

Augmentation allowed from fee increases enacted in 2003 general assembly.

F. ADMINISTRATION

FOR THE DEPARTMENT OF ADMINISTRATION

Personal Services	11,750,289	11,750,289
Other Operating Expense	8,814,825	8,814,825

DIVISION OF INFORMATION TECHNOLOGY

Pay Phone Fund

Total Operating Expense	2,180,000	2,180,000
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Augmentation allowed.

The pay phone fund is established for the procurement of hardware, software, and related equipment and services needed to expand and enhance the state campus backbone and other central information technology initiatives. Such procurements may include, but are not limited to, wiring and rewiring of state offices, Internet services, video conferencing, telecommunications, application software and related services. The fund consists of the net proceeds received from contracts with companies providing phone services at state institutions and other state properties. The fund shall be administered by the division of information technology (DOIT) of the department of administration. Money in the fund may be spent by the division in compliance with a plan approved by the budget agency. Any money remaining in the fund at the end of any fiscal year does not revert to the general fund or any other fund but remains in the pay phone fund.

FOR THE STATE PERSONNEL DEPARTMENT

Personal Services	3,704,290	3,704,290
Other Operating Expense	520,100	520,100

STATE EMPLOYEES' APPEALS COMMISSION

Personal Services	142,482	142,482
Other Operating Expense	6,800	6,800

FOR THE INFORMATION TECHNOLOGY OVERSIGHT COMMISSION

Personal Services	553,778	553,778
Other Operating Expense	109,625	109,625

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

FOR THE COMMISSION ON PUBLIC RECORDS

Personal Services	1,273,099	1,273,099
Other Operating Expense	176,905	176,905

FOR THE OFFICE OF THE PUBLIC ACCESS COUNSELOR

Personal Services	139,524	139,524
Other Operating Expense	12,689	12,689

G. OTHER**FOR THE COMMISSION ON UNIFORM STATE LAWS**

Total Operating Expense	45,400	45,400
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FOR THE STATE ETHICS COMMISSION

Personal Services	224,680	224,680
Other Operating Expense	30,869	30,869

FOR THE SECRETARY OF STATE**ELECTION DIVISION**

Personal Services	538,951	538,951
Other Operating Expense	255,620	186,620

NATIONAL VOTER REGISTRATION PROGRAM

Personal Services	89,208	89,208
Other Operating Expense	227,400	32,400

SECTION 4. [EFFECTIVE JULY 1, 2003]**PUBLIC SAFETY****A. CORRECTION****FOR THE DEPARTMENT OF CORRECTION****CENTRAL OFFICE**

Personal Services	8,832,661	8,832,661
Other Operating Expense	2,371,304	2,371,304

ESCAPEE COUNSEL AND TRIAL EXPENSE

Other Operating Expense	200,000	200,000
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

COUNTY JAIL MISDEMEANANT HOUSING

Total Operating Expense	4,281,101	4,281,101
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ADULT CONTRACT BEDS

Total Operating Expense	10,339,126	10,339,126
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STAFF DEVELOPMENT AND TRAINING

Personal Services	960,160	960,160
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Other Operating Expense	452,912	452,912
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PAROLE DIVISION

Personal Services	5,345,193	5,345,193
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Other Operating Expense	787,873	787,873
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PAROLE BOARD

Personal Services	498,489	498,489
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Other Operating Expense	38,850	38,850
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INFORMATION MANAGEMENT SERVICES

Personal Services	1,960,917	1,960,917
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Other Operating Expense	1,942,040	1,942,040
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JUVENILE TRANSITION

Personal Services	879,168	879,168
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Other Operating Expense	12,491,264	7,227,964
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COMMUNITY CORRECTIONS PROGRAMS

Total Operating Expense		50,650,000
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The above appropriation for community corrections programs is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose by the state board of finance notwithstanding IC 4-9.1-1-7 and IC 4-13-2-23 or by the budget agency notwithstanding IC 4-12-1-12, or any other law.

DRUG PREVENTION AND OFFENDER TRANSITION

Total Operating Expense	1,050,000	1,050,000
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The above appropriation shall be used for minimum security release programs, transition programs, mentoring programs and supervision and assistance to adult and juvenile offenders to assure the successful integration of the offender into the community without incidents of recidivism.

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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CENTRAL EMERGENCY RESPONSE

Personal Services	1,062,944	1,062,944	
Other Operating Expense	460,286	460,286	

MEDICAL SERVICES

Other Operating Expense	27,257,311	27,257,311	
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DRUG ABUSE PREVENTION**Drug Abuse Fund (IC 11-8-2-11)**

Personal Services	36,762	36,762	
Other Operating Expense	72,000	72,000	

Augmentation allowed.

FOR THE STATE BUDGET AGENCY**COUNTY JAIL MAINTENANCE CONTINGENCY FUND**

Other Operating Expense	17,455,600	17,455,600	
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Disbursements from the fund shall be made for the purpose of reimbursing sheriffs for the cost of incarcerating in county jails persons convicted of felonies to the extent that such persons are incarcerated for more than five (5) days after the day of sentencing, at the rate of \$35 per day. In addition to the per diem, the state shall reimburse the sheriffs for any expenses incurred in providing medical care to the convicted persons. However, if the sheriff or county receives money with respect to a convicted person (from a source other than the county), the per diem or medical expense reimbursement with respect to the convicted person shall be reduced by the amount received. A sheriff shall not be required to comply with IC 35-38-3-4(a) or transport convicted persons within five (5) days after the day of sentencing if the department of correction does not have the capacity to receive the convicted person.

Augmentation allowed.

MEDICAL SERVICE PAYMENTS

Total Operating Expense	25,000,000	25,000,000	
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These appropriations for medical service payments are made to

pay for medical services for committed individuals, patients and students of institutions under the jurisdiction of the department of correction, the state department of health, the division of mental health, the school for the blind, the school for the deaf, or the division of disability, aging and rehabilitative services if the services are provided outside these institutions. These appropriations may not be used for payments for medical services that are covered by IC 12-16 unless these services have been approved under IC 12-16. These appropriations shall not be used for payment for medical services which are payable from an appropriation in this act for the state department of health, the division of mental health, the school for the blind, the school for the deaf, the division of disability, aging and rehabilitative services, or the department of correction, or that are reimbursable from funds for medical assistance under IC 12-15. If these appropriations to the budget agency are insufficient to make these medical service payments, there is hereby appropriated such further sums as may be necessary.

Direct disbursements from the above contingency fund are not subject to the provisions of IC 4-13-2.

**FOR THE DEPARTMENT OF ADMINISTRATION
DEPARTMENT OF CORRECTION OMBUDSMAN BUREAU**

Personal Services	100,000	100,000
Other Operating Expense	50,000	50,000

**FOR THE DEPARTMENT OF CORRECTION
INDIANA STATE PRISON**

Personal Services	26,516,485	26,516,485
Other Operating Expense	6,908,959	6,908,959

VOCATIONAL TRAINING PROGRAM

Total Operating Expense	368,977	368,977
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PENDLETON CORRECTIONAL FACILITY

Personal Services	25,497,504	25,497,504
Other Operating Expense	6,979,555	6,979,555

CORRECTIONAL INDUSTRIAL FACILITY

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
Personal Services	19,481,051	19,481,051	
Other Operating Expense	3,318,158	3,318,158	
INDIANA WOMEN'S PRISON			
Personal Services	10,618,287	10,618,287	
Other Operating Expense	1,877,182	1,877,182	
PUTNAMVILLE CORRECTIONAL FACILITY			
Personal Services	26,078,379	26,078,379	
Other Operating Expense	5,450,472	5,450,472	
WABASH VALLEY CORRECTIONAL FACILITY			
Personal Services	33,429,851	33,429,851	
Other Operating Expense	7,919,277	7,919,277	
PLAINFIELD JUVENILE CORRECTIONAL FACILITY			
Personal Services	12,568,959	12,568,959	
Other Operating Expense	1,850,413	1,850,413	
INDIANAPOLIS JUVENILE CORRECTIONAL FACILITY			
Personal Services	8,750,541	14,703,305	
Other Operating Expense	2,185,998	1,727,923	
BRANCHVILLE CORRECTIONAL FACILITY			
Personal Services	16,335,725	16,335,725	
Other Operating Expense	2,974,213	2,974,213	
WESTVILLE CORRECTIONAL FACILITY			
Personal Services	40,052,652	40,052,652	
Other Operating Expense	8,486,632	8,486,632	
WESTVILLE MAXIMUM CONTROL FACILITY			
Personal Services	5,210,507	5,210,507	
Other Operating Expense	598,139	598,139	
ROCKVILLE CORRECTIONAL FACILITY FOR WOMEN			
Personal Services	13,568,859	15,490,111	
Other Operating Expense	2,669,163	2,669,163	
PLAINFIELD CORRECTIONAL FACILITY			
Personal Services	23,243,871	23,243,871	
Other Operating Expense	5,518,732	5,518,732	
RECEPTION AND DIAGNOSTIC CENTER			
Personal Services	10,004,252	10,004,252	
Other Operating Expense	1,189,697	1,189,697	
MIAMI CORRECTIONAL FACILITY			
Personal Services	25,275,951	25,275,951	

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Other Operating Expense	4,261,736	4,261,736
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The foregoing appropriations for the Miami Correctional Facility do not include money to increase bed capacity beyond what was in use on June 30, 2003.

NEW CASTLE CORRECTIONAL FACILITY

Personal Services	12,619,854	12,619,854
Other Operating Expense	2,677,840	2,677,840

The foregoing appropriations for the New Castle Correctional Facility do not include money to increase bed capacity beyond what was in use on June 30, 2003.

SOCIAL SERVICES BLOCK GRANT

General Fund

Total Operating Expense	7,345,005	7,345,005
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Title XX - Department of Correction Fund (IC 11-10-8-6.5)

Total Operating Expense	1,905,450	1,905,450
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Augmentation allowed from Work Release Subsistence Fund and Social Services Block Grant.

HENRYVILLE CORRECTIONAL FACILITY

Personal Services	1,841,762	1,841,762
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Other Operating Expense	363,061	363,061
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CHAIN O' LAKES CORRECTIONAL FACILITY

Personal Services	1,452,400	1,452,400
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Other Operating Expense	353,500	353,500
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MEDARYVILLE CORRECTIONAL FACILITY

Personal Services	1,651,486	1,651,486
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Other Operating Expense	321,007	321,007
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ATTERBURY CORRECTIONAL FACILITY

Personal Services	1,869,441	1,869,441
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Other Operating Expense	353,839	353,839
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MADISON CORRECTIONAL FACILITY

Personal Services	2,892,197	2,892,197
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Other Operating Expense	472,663	472,663
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EDINBURGH CORRECTIONAL FACILITY

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
Personal Services	2,548,527	2,548,527	
Other Operating Expense	367,264	367,264	
LAKESIDE CORRECTIONAL FACILITY			
Personal Services	4,605,091	4,605,091	
Other Operating Expense	739,800	739,800	
FORT WAYNE JUVENILE CORRECTIONAL FACILITY			
Personal Services	1,315,048	1,315,048	
Other Operating Expense	440,588	440,588	
SOUTH BEND JUVENILE CORRECTIONAL FACILITY			
Personal Services	3,854,512	3,854,512	
Other Operating Expense	2,703,437	2,703,437	
LOGANSPORT INTAKE/DIAGNOSTIC FACILITY			
Personal Services	2,555,804	2,555,804	
Other Operating Expense	642,009	642,009	
NORTH CENTRAL JUVENILE CORRECTIONAL FACILITY			
Personal Services	7,340,632	7,340,632	
Other Operating Expense	1,329,548	1,329,548	
CAMP SUMMIT			
Personal Services	2,125,444	2,125,444	
Other Operating Expense	365,606	365,606	
PENDLETON JUVENILE CORRECTIONAL FACILITY			
Personal Services	13,225,534	13,225,534	
Other Operating Expense	2,555,224	2,555,224	

B. LAW ENFORCEMENT

FOR THE INDIANA STATE POLICE AND MOTOR CARRIER INSPECTION

From the General Fund

54,724,078 54,724,078

From the Motor Vehicle Highway Account (IC 8-14-1)

54,724,078 54,724,078

From the Motor Carrier Regulation Fund (IC 8-2.1-23)

6,247,573 6,247,573

Augmentation allowed from the general fund and the motor vehicle highway account.

The amounts specified from the General Fund, the Motor Vehicle Highway Account, and the Motor Carrier Regulation Fund are for the following purposes:

Personal Services	101,006,406	101,006,406
Other Operating Expense	14,689,323	14,689,323

The above appropriations for personal services and other operating expense include funds to continue the state police minority recruiting program. In addition to any funds that may be expended for accident reporting from the "accident report account" under IC 9-29-11-1, there are included in the appropriations for Indiana state police and motor carrier inspection such additional funds as necessary for administering accident reporting as required under IC 9-26-3.

The foregoing appropriations for the Indiana state police and motor carrier inspection include funds for the police security detail to be provided to the Indiana state fair board. However, any amount expended to provide security for the Indiana state fair board may be reimbursed by the Indiana state fair board to such fund from which the expenditure was made, in accordance with reimbursement schedules recommended by the budget committee. Augmentation allowed.

ENFORCEMENT AID FUND

General Fund

Total Operating Expense	81,375	81,375
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Augmentation allowed.

Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense	81,375	81,375
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Augmentation allowed.

The above appropriations to the enforcement aid fund are to meet unforeseen emergencies of a confidential nature. They are to be expended under the direction of the superintendent and to be

accounted for solely on the superintendent's certificate.

PENSION FUND

General Fund

Total Operating Expense 3,771,806 3,771,806

Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense 3,771,806 3,771,806

The above appropriations shall be paid into the state police pension fund provided for in IC 10-12-2 in twelve (12) equal installments on or before July 30 and on or before the 30th of each succeeding month thereafter.

BENEFIT FUND

General Fund

Total Operating Expense 1,472,717 1,472,717

Augmentation allowed.

Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense 1,472,717 1,472,717

Augmentation allowed.

All benefits that accrue to members shall be paid by warrant drawn on the treasurer of state by the auditor of state on the basis of claims filed and approved by the trustees of the state police pension and benefit funds created by IC 10-12-2.

SUPPLEMENTAL PENSION

General Fund

Total Operating Expense 1,650,000 1,650,000

Augmentation allowed.

Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense 1,650,000 1,650,000

Augmentation allowed.

If the above appropriations for supplemental pension for any one

(1) year are greater than the amount actually required under the provisions of IC 10-12-5, then the excess shall be returned proportionately to the funds from which the appropriations were made. If the amount actually required under IC 10-12-5 is greater than the above appropriations, then, with the approval of the governor and the budget agency, those sums may be augmented from the general fund and the motor vehicle highway account.

ACCIDENT REPORTING

Accident Report Account (IC 9-29-11-1)

Other Operating Expense	93,000	93,000
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Augmentation allowed.

DRUG INTERDICTION

Drug Interdiction Fund (IC 10-11-7)

Total Operating Expense	279,000	279,000
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Augmentation allowed.

FOR THE ADJUTANT GENERAL

Personal Services	7,295,411	7,295,411
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Other Operating Expense	3,212,394	3,212,394
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NAVAL FORCES

Personal Services	152,029	152,029
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Other Operating Expense	62,763	62,763
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DISABLED SOLDIERS' PENSION

Other Operating Expense	16,167	16,740
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GOVERNOR'S CIVIL AND MILITARY CONTINGENCY FUND

Total Operating Expense		720,000
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The above appropriations for the adjutant general governor's civil and military contingency fund are made under IC 10-16-11-1.

FOR THE CRIMINAL JUSTICE INSTITUTE

ADMINISTRATIVE MATCH

Total Operating Expense	449,455	449,455
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DRUG ENFORCEMENT MATCH

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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Total Operating Expense	660,609	660,609	
VICTIM AND WITNESS ASSISTANCE FUND			
Victim and Witness Assistance Fund (IC 5-2-6-14)			
Total Operating Expense	603,196	603,196	
Augmentation allowed.			
ALCOHOL AND DRUG COUNTERMEASURES			
Alcohol and Drug Countermeasures Fund (IC 9-27-2-11)			
Total Operating Expense	527,100	527,100	
Augmentation allowed.			
STATE DRUG FREE COMMUNITIES FUND			
State Drug Free Communities Fund (IC 5-2-10-2)			
Total Operating Expense	511,325	511,325	
Augmentation allowed.			
INDIANA SAFE SCHOOLS			
General Fund			
Total Operating Expense	3,749,500	3,749,500	
Indiana Safe Schools Fund (IC 5-2-10.1-2)			
Total Operating Expense	400,500	400,500	
Augmentation allowed from Indiana Safe Schools Fund.			

Of the above appropriations for the Indiana safe schools program, \$3,400,000 is appropriated annually to provide grants to school corporations for school safe haven programs, emergency preparedness programs, and school safety programs, and \$750,000 is appropriated annually for use in providing training to school safety specialists.

OFFICE OF TRAFFIC SAFETY

Motor Vehicle Highway Account (IC 8-14-1)			
Personal Services	2,857,791	2,857,791	
Other Operating Expense	8,323,460	8,323,460	
Augmentation allowed.			

The above appropriation for the office of traffic safety is from the motor vehicle highway account and may be used to fund traffic safety projects that are included in a current highway safety plan approved by the governor and the budget agency.

The department shall apply to the national highway traffic safety administration for reimbursement of all eligible project costs. Any federal reimbursement received by the department for the highway safety plan shall be deposited into the motor vehicle highway account.

PROJECT IMPACT

Total Operating Expense	200,000	200,000
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VICTIMS OF VIOLENT CRIME ADMINISTRATION

Violent Crime Victims Compensation Fund (IC 5-2-6.1-40)

Personal Services	98,365	98,365
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Other Operating Expense	2,361,673	2,361,673
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Augmentation allowed.

FOR THE CORONERS' TRAINING BOARD

Coroners' Training and Continuing Education Fund (IC 4-23-6.5-8)

Personal Services	200,168	200,168
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Other Operating Expense	325,780	325,780
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Augmentation allowed.

FOR THE INDIANA DEPARTMENT OF GAMING RESEARCH

Total Operating Expense	300,000	300,000
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FOR THE LAW ENFORCEMENT TRAINING ACADEMY

From the General Fund

1,595,111	1,595,111
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From the Law Enforcement Academy Training (IC 5-2-1-13)

2,691,261	2,691,261
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Augmentation allowed from Law Enforcement Academy Training.

The amounts specified from the General Fund and the Law Enforcement Academy Training Fund are for the following purposes:

Personal Services	2,881,221	2,881,221
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Other Operating Expense	1,405,151	1,405,151
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C. REGULATORY AND LICENSING

FOR THE BUREAU OF MOTOR VEHICLES

Motor Vehicle Highway Account (IC 8-14-1)

Personal Services	17,497,609	17,497,609
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Other Operating Expense	20,458,559	20,458,559
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Augmentation allowed.

LICENSE PLATES

Motor Vehicle Highway Account (IC 8-14-1)

Total Operating Expense	5,500,000	5,500,000
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Augmentation allowed.

DEALER INVESTIGATOR EXPENSES

Motor Vehicle Odometer Fund (IC 9-29-1-5)

Total Operating Expense	268,600	268,600
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Augmentation allowed.

FINANCIAL RESPONSIBILITY COMPLIANCE VERIFICATION

Financial Responsibility Compliance Verification Fund (IC 9-25-9-7)

Total Operating Expense	9,047,369	9,047,369
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Augmentation allowed.

ABANDONED VEHICLES

Abandoned Vehicle Fund (IC 9-22-1-28)

Total Operating Expense	37,000	37,000
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Augmentation allowed.

STATE MOTOR VEHICLE TECHNOLOGY

State Motor Vehicle Technology Fund (IC 9-29-16)

Total Operating Expense	5,203,029	5,203,029
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Augmentation allowed.

FOR THE DEPARTMENT OF LABOR

Personal Services	962,734	962,734
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Other Operating Expense	90,400	90,400
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INDUSTRIAL HYGIENE

Personal Services	1,214,231	1,214,231
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Other Operating Expense	131,400	131,400
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

BUREAU OF MINES AND MINING

Personal Services	116,646	116,646
Other Operating Expense	19,500	19,500

M.I.S. RESEARCH AND STATISTICS

Personal Services	231,950	231,950
Other Operating Expense	19,450	19,450

The above funds are appropriated to occupational safety and health, industrial hygiene, and to management information services research and statistics to provide the total program cost of the Indiana occupational safety and health plan as approved by the United States Department of Labor. Inasmuch as the state is eligible to receive from the federal government fifty percent (50%) of the state's total Indiana occupational safety and health plan program cost, it is the intention of the general assembly that the department of labor make application to the federal government for the federal share of the total program cost. Federal funds received shall be considered a reimbursement of state expenditures and as such shall be deposited into the state general fund.

OCCUPATIONAL SAFETY AND HEALTH

Personal Services	2,243,377	2,243,377
Other Operating Expense	247,296	247,296

EMPLOYMENT OF YOUTH

Special Fund for Employment of Youth (IC 20-8.1-4-31)

Total Operating Expense	74,400	74,400
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Augmentation allowed.

BUREAU OF SAFETY EDUCATION AND TRAINING

Special Fund for Safety and Health Consultation Services (IC 22-8-1.1-48)

Personal Services	809,908	809,908
Other Operating Expense	211,500	211,500

Augmentation allowed.

Federal cost reimbursements for expenses attributable to the Bureau of Safety Education and Training appropriations shall be

deposited into the special fund for safety and health consultation services.

FOR THE INSURANCE DEPARTMENT

From the General Fund

3,378,116	3,378,116
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From the Department of Insurance Fund (IC 27-1-3-28)

2,400,484	2,400,484
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Augmentation allowed from the Department of Insurance Fund.

The amounts specified from the General Fund and the Department of Insurance Fund are for the following purposes:

Personal Services	4,622,885	4,622,885
Other Operating Expense	1,155,715	1,155,715

BAIL BOND DIVISION

Bail Bond Enforcement and Administration Fund (IC 27-10-5-1)

Personal Services	106,634	106,634
Other Operating Expense	25,425	25,425

Augmentation allowed.

PATIENTS' COMPENSATION AUTHORITY

Patients' Compensation Fund (IC 34-18-6-1)

Personal Services	817,882	817,882
Other Operating Expense	84,012	84,012

Augmentation allowed.

POLITICAL SUBDIVISION RISK MANAGEMENT

Political Subdivision Risk Management Fund (IC 27-1-29-10)

Personal Services	224,030	224,030
Other Operating Expense	858,611	858,611

Augmentation allowed.

MINE SUBSIDENCE INSURANCE

Mine Subsidence Insurance Fund (IC 27-7-9-7)

Personal Services	136,980	136,980
Other Operating Expense	211,353	211,353

Augmentation allowed.

FOR THE ALCOHOL AND TOBACCO COMMISSION

**From the Enforcement and Administration Fund
(IC 7.1-4-10-1)**

Personal Services	4,725,529	4,720,236
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Other Operating Expense	994,935	1,000,635
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Augmentation allowed.

EXCISE OFFICER TRAINING FUND (IC 5-2-8-8)

Total Operating Expense	7,000	7,000
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Augmentation allowed from the Excise Officer Training Fund.

FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS

Financial Institutions Fund (IC 28-11-2-9)

Personal Services	5,301,521	5,301,521
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Other Operating Expense	1,201,155	1,261,155
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Augmentation allowed.

FOR THE PROFESSIONAL LICENSING AGENCY

Personal Services	1,863,216	1,863,216
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Other Operating Expense	638,365	638,365
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Augmentation allowed in amounts not to exceed additional revenue from fee increases enacted after January 1, 2001.

EMBALMERS AND FUNERAL DIRECTORS EDUCATION FUND (IC 25-15-9-13)

Total Operating Expense	5,000	5,000
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Augmentation allowed.

FOR THE HEALTH PROFESSIONS BUREAU

Personal Services	2,394,538	2,394,538
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Other Operating Expense	855,092	855,092
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Augmentation allowed in amounts not to exceed additional revenue from fee increases, penalties, or fines enacted or imposed after January 1, 2001.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

FOR THE DEPARTMENT OF FIRE AND BUILDING SERVICES

Fire and Building Services Fund (IC 22-12-6-1)

Personal Services	7,899,059	7,899,059
Other Operating Expense	1,697,527	1,697,527

Augmentation allowed.

FOR THE PUBLIC SAFETY TRAINING INSTITUTE

Fire and Building Services Fund (IC 22-12-6-1)

Personal Services	910,510	910,510
Other Operating Expense	465,195	465,195

Augmentation allowed.

FOR THE CIVIL RIGHTS COMMISSION

Personal Services	2,093,676	2,093,676
Other Operating Expense	225,482	225,482

It is the intention of the general assembly that the civil rights commission shall apply to the federal government for funding based upon the processing of employment and housing discrimination complaints by the civil rights commission. Such federal funds received by the state shall be considered as a reimbursement of state expenditures and shall be deposited into the state general fund.

FOR THE UTILITY CONSUMER COUNSELOR

Public Utility Fund (IC 8-1-6-1)

Personal Services	3,480,922	3,478,335
Other Operating Expense	518,079	518,079

Augmentation allowed.

EXPERT WITNESS FEES AND AUDIT

Public Utility Fund (IC 8-1-6-1)

Total Operating Expense	1,550,000
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Augmentation allowed.

FOR THE UTILITY REGULATORY COMMISSION

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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Public Utility Fund (IC 8-1-6-1)

Personal Services	4,889,510	4,889,510	
Other Operating Expense	1,827,094	1,827,094	

Augmentation allowed.**FOR THE WORKERS' COMPENSATION BOARD**

Personal Services	1,695,469	1,695,469	
Other Operating Expense	128,141	128,141	

FOR THE STATE BOARD OF ANIMAL HEALTH

Personal Services	3,388,942	3,388,942	
Other Operating Expense	684,468	684,468	

INDEMNITY FUND

Total Operating Expense			49,430
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Augmentation allowed.**MEAT & POULTRY INSPECTION**

Total Operating Expense	1,690,926	1,690,926	
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FOR THE EMERGENCY MANAGEMENT AGENCY

Personal Services	1,348,773	1,348,773	
Other Operating Expense	321,521	321,521	

EMERGENCY MANAGEMENT AGENCY CONTINGENCY FUND

Total Operating Expense	250,000	250,000	
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DIRECTION CONTROL AND WARNING

Total Operating Expense	31,750	31,750	
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HAZARD MITIGATION ASSISTANCE PROGRAM

Total Operating Expense	1	1	
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Augmentation allowed.**INDIVIDUAL AND FAMILY ASSISTANCE**

Total Operating Expense	1	1	
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Augmentation allowed.**PUBLIC ASSISTANCE**

Total Operating Expense	1	1	
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Augmentation allowed.**The above appropriations for the emergency management agency**

represent the total program cost for civil defense and for emergency medical services for each fiscal year. It is the intent of the general assembly that the emergency management agency apply to the Federal Emergency Management Agency for all federal reimbursement funds for which Indiana is eligible. All funds received shall be deposited into the state general fund.

The above appropriations for the emergency management agency contingency fund are made to the contingency fund under IC 10-14-3-28. The above appropriations shall be in addition to any unexpended balances in the fund as of June 30, 2003.

SECTION 5. [EFFECTIVE JULY 1, 2003]

CONSERVATION AND ENVIRONMENT

A. NATURAL RESOURCES

FOR THE DEPARTMENT OF NATURAL RESOURCES - ADMINISTRATION

Personal Services	4,456,981	4,456,981
Other Operating Expense	834,145	834,145

LEGISLATORS' TREES

Total Operating Expense		1
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ENTOMOLOGY AND PLANT PATHOLOGY DIVISION

Personal Services	675,182	675,182
Other Operating Expense	182,947	182,947

ENTOMOLOGY AND PLANT PATHOLOGY FUND (IC 14-24-10-3)

Total Operating Expense		5,760
Augmentation allowed.		

ENGINEERING DIVISION

Personal Services	1,611,070	1,611,070
Other Operating Expense	71,351	71,351

STATE MUSEUM

Personal Services	4,453,135	4,453,135
Other Operating Expense	2,981,338	2,981,338

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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HISTORIC PRESERVATION DIVISION

Personal Services	883,344	883,344	
Other Operating Expense	41,125	41,125	

STATE HISTORIC SITES

Personal Services	2,042,542	2,042,542	
Other Operating Expense	425,515	425,515	

From the above appropriations, \$75,000 in each state fiscal year shall be used for the Grissom Museum.

OUTDOOR RECREATION DIVISION

Personal Services	706,124	706,124	
Other Operating Expense	52,400	52,400	

NATURE PRESERVES DIVISION

Personal Services	786,478	786,478	
Other Operating Expense	52,064	52,064	

DEPARTMENT OF NATURAL RESOURCES FINANCIAL MANAGEMENT

Personal Services	118,256	118,256	
Other Operating Expense	48,168	48,168	

WATER DIVISION

Personal Services	4,601,271	4,601,271	
Other Operating Expense	677,484	677,484	

All revenues accruing from state and local units of government and from private utilities and industrial concerns as a result of water resources study projects, and as a result of topographic and other mapping projects, shall be deposited into the state general fund, and such receipts are hereby appropriated, in addition to the foregoing amounts, for water resources studies.

GREAT LAKES COMMISSION

Other Operating Expense	61,000	61,000	
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DEER RESEARCH AND MANAGEMENT

Deer Research and Management Fund (IC 14-22-5-2)

Total Operating Expense	174,000	174,000	
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Augmentation allowed.

FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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OIL AND GAS DIVISION**From the General Fund**

592,283	592,283
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From the Oil and Gas Fund (IC 6-8-1-27)

614,189	614,189
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Augmentation allowed from Oil and Gas Fund.

The amounts specified from the General Fund and the Oil and Gas Fund are for the following purposes:

Personal Services	919,422	919,422
Other Operating Expense	287,050	287,050

STATE PARKS DIVISION**From the General Fund**

3,845,734	3,845,734
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From the State Parks Special Revenue Fund (IC 14-19-4-2)

14,422,934	14,422,934
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Augmentation allowed from State Parks Special Revenue Fund.

The amounts specified from the General Fund and the State Parks Special Revenue Fund are for the following purposes:

Personal Services	13,860,926	13,860,926
Other Operating Expense	4,407,742	4,407,742

SNOWMOBILE/OFFROAD VEHICLE LICENSING FUND**Snowmobile/Offroad Licensing Fund (IC 14-16-2-8)**

Total Operating Expense	139,908	139,908
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Augmentation allowed.**LAW ENFORCEMENT DIVISION****From the General Fund**

9,259,433	9,351,852
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From the Fish and Wildlife Fund (IC 14-22-3-2)

10,765,810	10,889,931
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Augmentation allowed from the Fish and Wildlife Fund.

The amounts specified from the General Fund and the Fish and Wildlife Fund are for the following purposes:

Personal Services	16,433,728	16,420,482
Other Operating Expense	3,591,515	3,821,301

FISH AND WILDLIFE DIVISION

Fish and Wildlife Fund (IC 14-22-3-2)

Personal Services	11,696,166	11,696,166
Other Operating Expense	4,056,937	4,056,937

Augmentation allowed.

FORESTRY DIVISION

From the General Fund

482,925	482,925
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From the Division of Forestry Fund (IC 14-23-3-2)

8,890,840	8,890,840
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Augmentation allowed from the Division of Forestry Fund.

The amounts specified from the General Fund and the Division of Forestry Fund are for the following purposes:

Personal Services	7,757,173	7,757,173
Other Operating Expense	1,616,592	1,616,592

All money expended by the division of forestry of the department of natural resources for the detention and suppression of forest, grassland, and wasteland fires shall be through the enforcement division of the department, and the employment with such money of all personnel, with the exception of emergency labor, shall be in accordance with IC 14-9-8.

RESERVOIR MANAGEMENT DIVISION

From the General Fund

2,208,808	2,208,808
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From the Reservoir Special Revenue Fund (IC 14-19-5-2)

6,121,343	6,121,343
------------------	------------------

Augmentation allowed from the Reservoir Special Revenue

Fund.

The amounts specified from the General Fund and the Reservoir Special Revenue Fund are for the following purposes:

Personal Services	6,583,687	6,583,687
Other Operating Expense	1,746,464	1,746,464

RECLAMATION DIVISION**From the General Fund**

34,992	34,992
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From the Natural Resources Reclamation Fund (IC 14-34-14-2)

4,930,523	4,930,523
------------------	------------------

Augmentation allowed from the Natural Resources Reclamation Fund.

The amounts specified from the General Fund and the Natural Resources Reclamation Fund are for the following purposes:

Personal Services	4,284,896	4,284,896
Other Operating Expense	680,619	680,619

In addition to any of the foregoing appropriations for the department of natural resources, any federal funds received by the state of Indiana for support of approved outdoor recreation projects for planning, acquisition, and development under the provisions of the federal Land and Water Conservation Fund Act, P.L.88-578, are appropriated for the uses and purposes for which the funds were paid to the state, and shall be distributed by the department of natural resources to state agencies and other governmental units in accordance with the provisions under which the funds were received.

SOIL CONSERVATION DIVISION - T BY 2000**Cigarette Tax Fund (IC 6-7-1-29.1)**

Personal Services	3,652,092	3,652,092
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From the General Fund

4,350,539	4,350,539
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From the State Solid Waste Management Fund (IC 13-20-22-2)

197,971	197,971
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From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

700,306	700,306
----------------	----------------

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

951,633	951,633
----------------	----------------

From the Environmental Management Special Fund (IC 13-14-12-1)

140,553	140,553
----------------	----------------

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

351,937	351,937
----------------	----------------

From the Asbestos Trust Fund (IC 13-17-6-3)

48,579	48,579
---------------	---------------

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

73,591	73,591
---------------	---------------

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

1,396,584	1,396,584
------------------	------------------

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Permit Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Fund.

The amounts specified from the General Fund, the State Solid Waste Management Fund, the Title V Operating Permit Trust Fund, the Environmental Management Permit Operation Fund, Environmental Management Special Fund, the Hazardous Substances Response Trust Fund, the Asbestos Trust Fund, the

Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Fund are for the following purposes:

Personal Services	5,652,772	5,652,772
Other Operating Expense	2,558,921	2,558,921

LABORATORY CONTRACTS

General Fund

830,670 830,670

Environmental Management Special Fund (IC 13-14-12-1)

445,211 445,211

Hazardous Substances Response Trust Fund (IC 13-25-4-1)

1,317,996 1,317,996

Augmentation allowed from the Environmental Management Special Fund and the Hazardous Substances Response Trust Fund.

The amounts specified from the General Fund, Environmental Management Special Fund, and the Hazardous Substance Response Trust Fund are for the following purpose:

Total Operating Expense	2,593,877	2,593,877
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NORTHWEST REGIONAL OFFICE

From the General Fund

479,911 479,911

From the State Solid Waste Management Fund (IC 13-20-22-2)

3,471 3,471

From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

416,713 416,713

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

167,931 167,931

From the Environmental Management Special Fund (IC 13-14-12-1)

36,840 36,840

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

**From the Hazardous Substances Response Trust Fund
(IC 13-25-4-1)**

9,369	9,369
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From the Asbestos Trust Fund (IC 13-17-6-3)

54,257	54,257
--------	--------

**From the Underground Petroleum Storage Tank Trust Fund
(IC 13-23-6-1)**

7,498	7,498
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**From the Underground Petroleum Storage Tank Excess
Liability Trust Fund (IC 13-23-7-1)**

22,450	22,450
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Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	1,060,531	1,060,531
Other Operating Expense	137,909	137,909

NORTHERN REGIONAL OFFICE

From the General Fund

332,772	332,772
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From the State Solid Waste Management Fund (IC 13-20-22-2)

60,474	60,474
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From the Title V Operating Permit Trust Fund (IC 13-17-8-1)		
	321,340	321,340
From the Environmental Management Permit Operation Fund (IC 13-15-11-1)		
	164,656	164,656
From the Environmental Management Special Fund (IC 13-14-12-1)		
	10,054	10,054
From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)		
	18,622	18,622
From the Asbestos Trust Fund (IC 13-17-6-3)		
	2,095	2,095
From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)		
	1,929	1,929
From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)		
	44,361	44,361

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
Personal Services	781,844	781,844	
Other Operating Expense	174,459	174,459	

SOUTHWEST REGIONAL OFFICE**From the General Fund**

348,205	348,205
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From the State Solid Waste Management Fund (IC 13-20-22-2)

102,876	102,876
----------------	----------------

From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

138,058	138,058
----------------	----------------

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

173,892	173,892
----------------	----------------

From the Environmental Management Special Fund (IC 13-14-12-1)

33,991	33,991
---------------	---------------

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

18,731	18,731
---------------	---------------

From the Asbestos Trust Fund (IC 13-17-6-3)

5,439	5,439
--------------	--------------

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

2,297	2,297
--------------	--------------

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

44,759	44,759
---------------	---------------

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste

Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	682,287	682,287
Other Operating Expense	185,961	185,961

LEGAL AFFAIRS

From the General Fund

780,753	780,753
----------------	----------------

From the State Solid Waste Management Fund (IC 13-20-22-2)

3,078	3,078
--------------	--------------

From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

381,854	381,854
----------------	----------------

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

450,629	450,629
----------------	----------------

From the Environmental Management Special Fund (IC 13-14-12-1)

27,476	27,476
---------------	---------------

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

16,159	16,159
---------------	---------------

From the Asbestos Trust Fund (IC 13-17-6-3)

59,392	59,392
---------------	---------------

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

12,664	12,664
---------------	---------------

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

10,249	10,249
---------------	---------------

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund,

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	1,585,645	1,585,645
Other Operating Expense	156,609	156,609

ENFORCEMENT

From the General Fund

1,012,614	1,012,614
------------------	------------------

From the State Solid Waste Management Fund (IC 13-20-22-2)

3,541	3,541
--------------	--------------

From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

336,995	336,995
----------------	----------------

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

416,176	416,176
----------------	----------------

From the Environmental Management Special Fund (IC 13-14-12-1)

31,435	31,435
---------------	---------------

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

18,657	18,657
---------------	---------------

From the Asbestos Trust Fund (IC 13-17-6-3)

67,946	67,946
---------------	---------------

**From the Underground Petroleum Storage Tank Trust Fund
 (IC 13-23-6-1)**

14,489 14,489

**From the Underground Petroleum Storage Tank Excess
 Liability Trust Fund (IC 13-23-7-1)**

11,729 11,729

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	1,825,380	1,825,380
Other Operating Expense	88,202	88,202

INVESTIGATIONS

From the General Fund

216,829 216,829

From the State Solid Waste Management Fund (IC 13-20-22-2)

1,168 1,168

From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

110,936 110,936

**From the Environmental Management Permit Operation Fund
 (IC 13-15-11-1)**

137,006 137,006

**From the Environmental Management Special Fund
(IC 13-14-12-1)**

10,346	10,346
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**From the Hazardous Substances Response Trust Fund
(IC 13-25-4-1)**

6,141	6,141
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From the Asbestos Trust Fund (IC 13-17-6-3)

22,367	22,367
--------	--------

**From the Underground Petroleum Storage Tank Trust Fund
(IC 13-23-6-1)**

4,771	4,771
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**From the Underground Petroleum Storage Tank Excess
Liability Trust Fund (IC 13-23-7-1)**

3,863	3,863
-------	-------

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	326,041	326,041
Other Operating Expense	187,386	187,386

PLANNING AND ASSESSMENT

From the General Fund

492,280	492,280
----------------	----------------

From the State Solid Waste Management Fund (IC 13-20-22-2)

20,840	20,840
---------------	---------------

From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

64,913	64,913
---------------	---------------

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

80,865	80,865
---------------	---------------

From the Environmental Management Special Fund (IC 13-14-12-1)

13,212	13,212
---------------	---------------

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

34,756	34,756
---------------	---------------

From the Asbestos Trust Fund (IC 13-17-6-3)

4,503	4,503
--------------	--------------

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

7,223	7,223
--------------	--------------

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

137,077	137,077
----------------	----------------

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum

Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	834,169	834,169
Other Operating Expense	21,500	21,500

MEDIA AND COMMUNICATIONS

From the General Fund

317,515	317,515
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From the State Solid Waste Management Fund (IC 13-20-22-2)

17,833	17,833
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From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

55,547	55,547
--------	--------

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

69,197	69,197
--------	--------

From the Environmental Management Special Fund (IC 13-14-12-1)

11,305	11,305
--------	--------

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

29,741	29,741
--------	--------

From the Asbestos Trust Fund (IC 13-17-6-3)

3,853	3,853
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From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

6,181	6,181
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From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

117,299	117,299
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Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the

Underground Petroleum Storage Tank Excess Liability Trust Fund.

The amounts specified from the General Fund, State Solid Waste Management Fund, Title V Operating Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Trust Fund are for the following purposes:

Personal Services	576,171	576,171
Other Operating Expense	52,300	52,300

PUBLIC POLICY AND PLANNING

From the General Fund

205,267 205,267

From the State Solid Waste Management Fund (IC 13-20-22-2)

16,536 16,536

From the Title V Operating Permit Trust Fund (IC 13-17-8-1)

51,508 51,508

From the Environmental Management Permit Operation Fund (IC 13-15-11-1)

64,166 64,166

From the Environmental Management Special Fund (IC 13-14-12-1)

10,484 10,484

From the Hazardous Substances Response Trust Fund (IC 13-25-4-1)

27,579 27,579

From the Asbestos Trust Fund (IC 13-17-6-3)

3,573 3,573

From the Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)

5,731 5,731

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

From the Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

108,771	108,771
----------------	----------------

Augmentation allowed from the State Solid Waste Management Fund, Title V Operating Permit Trust Fund, Environmental Management Permit Operation Fund, Environmental Management Special Fund, Hazardous Substances Response Trust Fund, Asbestos Trust Fund, Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Fund.

The amounts specified from the General Fund, the State Solid Waste Management Fund, the Title V Operating Permit Trust Fund, the Environmental Management Permit Operation Fund, Environmental Management Special Fund, the Hazardous Substances Response Trust Fund, the Asbestos Trust Fund, the Underground Petroleum Storage Tank Trust Fund, and the Underground Petroleum Storage Tank Excess Liability Fund are for the following purposes:

Personal Services	444,400	444,400
Other Operating Expense	49,215	49,215

OHIO RIVER VALLEY WATER SANITATION COMMISSION

Environmental Management Special Fund (IC 13-14-12-1)

Total Operating Expense	242,900	242,900
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Augmentation allowed.

OFFICE OF ENVIRONMENTAL RESPONSE

Personal Services	1,986,571	1,986,571
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Other Operating Expense	619,069	619,069
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POLLUTION PREVENTION AND TECHNICAL ASSISTANCE

Personal Services	1,056,692	1,056,692
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Other Operating Expense	298,826	298,826
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PCB INSPECTIONS

**Environmental Management Permit Operation Fund
(IC 13-15-11-1)**

Total Operating Expense	40,000	40,000
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Augmentation allowed.

U.S. GEOLOGICAL SURVEY CONTRACTS

Environmental Management Special Fund (IC 13-14-12-1)

Total Operating Expense	62,890	62,890
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Augmentation allowed.

STATE SOLID WASTE GRANTS MANAGEMENT

State Solid Waste Management Fund (IC 13-20-22-2)

Personal Services	236,987	236,987
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Other Operating Expense	1,372,630	1,372,630
--------------------------------	------------------	------------------

Augmentation allowed.

VOLUNTARY CLEAN-UP PROGRAM

Voluntary Remediation Fund (IC 13-25-5-21)

Personal Services	636,512	636,512
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Other Operating Expense	551,500	551,500
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Augmentation allowed.

TITLE V AIR PERMIT PROGRAM

Title V Operating Permit Trust Fund (IC 13-17-8-1)

Personal Services	5,537,684	5,537,684
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Other Operating Expense	3,592,609	3,174,989
--------------------------------	------------------	------------------

Augmentation allowed.

WATER MANAGEMENT PERMITTING

From the General Fund

1,854,641	1,854,641
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**From the Environmental Management Permit Operation Fund
(IC 13-15-11-1)**

3,950,000	3,950,000
------------------	------------------

Augmentation allowed from the Environmental Management Permit Operation Fund.

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	4,856,814	4,856,814
--------------------------	------------------	------------------

2000

P.L.224—2003

FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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Other Operating Expense	947,827	947,827
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SOLID WASTE MANAGEMENT PERMITTING

From the General Fund

1,990,625	1,990,625
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**From the Environmental Management Permit Operation Fund
(IC 13-15-11-1)**

2,967,769	2,967,769
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**Augmentation allowed from the Environmental Management
Permit Operation Fund.**

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	4,556,623	4,556,623
Other Operating Expense	401,771	401,771

HAZARDOUS WASTE MANAGEMENT PERMITTING

From the General Fund

2,469,511	2,469,511
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**From the Environmental Management Permit Operation Fund
(IC 13-15-11-1)**

2,844,043	2,844,043
------------------	------------------

**Augmentation allowed from the Environmental Management
Permit Operation Fund.**

The amounts specified from the General Fund and the Environmental Management Permit Operation Fund are for the following purposes:

Personal Services	4,172,589	4,172,589
Other Operating Expense	1,140,965	1,140,965

WATERSHED MANAGEMENT

Environmental Management Special Fund (IC 13-14-12-1)

Total Operating Expense	24,038	24,038
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Augmentation allowed.

CLEAN VESSEL PUMPOUT

Environmental Management Special Fund (IC 13-14-12-1)

Total Operating Expense	58,300	58,300
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Augmentation allowed.

GROUNDWATER PROGRAM

Total Operating Expense	274,902	274,902
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UNDERGROUND STORAGE TANK PROGRAM

**Underground Petroleum Storage Tank Trust Fund
(IC 13-23-6-1)**

Total Operating Expense	291,037	291,037
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Augmentation allowed.

AIR MANAGEMENT OPERATING

From the General Fund

923,961	891,310
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**From the Environmental Management Special Fund
(IC 13-14-12-1)**

1,626,039	1,658,690
------------------	------------------

**Augmentation allowed from the Environmental Management
Special Fund.**

**The amounts specified from the General Fund and the
Environmental Management Special Fund are for the following
purposes:**

Personal Services	1,678,608	1,678,608
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Other Operating Expense	871,392	871,392
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WATER MANAGEMENT NON-PERMITTING

Personal Services	3,023,737	3,023,737
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Other Operating Expense	574,209	574,209
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GREAT LAKES INITIATIVE

Environmental Management Special Fund (IC 13-14-12-1)

Total Operating Expense	94,958	94,958
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Augmentation allowed.

OPERATOR TRAINING

2002

P.L.224—2003

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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Total Operating Expense	42,301	42,301	
SAFE DRINKING WATER			
From the General Fund			
541,286	541,286		
From the Environmental Management Special Fund (IC 13-14-12-1)			
44,926	44,926		
Augmentation allowed from the Environmental Management Special Fund.			

The amounts specified from the General Fund and the Environmental Management Special Fund are for the following purposes:

Personal Services	434,183	434,183	
Other Operating Expense	152,029	152,029	

LEAKING UNDERGROUND STORAGE TANKS

**Underground Petroleum Storage Tank Trust Fund
(IC 13-23-6-1)**

Personal Services	117,257	117,257	
Other Operating Expense	44,109	44,109	

Augmentation allowed.

CORE SUPERFUND

Hazardous Substances Response Trust Fund (IC 13-25-4-1)

Total Operating Expense	136,122	136,122	
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Augmentation allowed.

AUTO EMISSIONS TESTING PROGRAM

Personal Services	238,571	238,571	
Other Operating Expense	7,710,705	7,743,356	

HAZARDOUS WASTE SITE - STATE CLEAN-UP

Hazardous Substances Response Trust Fund (IC 13-25-4-1)

Personal Services	893,093	893,093	
Other Operating Expense	1,323,811	1,323,811	

Augmentation allowed.

**HAZARDOUS WASTE SITES - NATURAL RESOURCE
DAMAGES**

Hazardous Substances Response Trust Fund (IC 13-25-4-1)

Personal Services	118,367	118,367
Other Operating Expense	680,991	680,991

Augmentation allowed.

SUPERFUND MATCH

Hazardous Substances Response Trust Fund (IC 13-25-4-1)

Total Operating Expense	354,985	354,985
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Augmentation allowed.

HOUSEHOLD HAZARDOUS WASTE

Hazardous Substances Response Trust Fund (IC 13-25-4-1)

Personal Services	39,693	39,693
Other Operating Expense	443,816	443,816

Augmentation allowed.

ASBESTOS TRUST - OPERATING

Asbestos Trust Fund (IC 13-17-6-3)

Personal Services	523,723	523,723
Other Operating Expense	150,384	150,384

Augmentation allowed.

UNDERGROUND PETROLEUM STORAGE TANK - OPERATING

Underground Petroleum Storage Tank Excess Liability Trust Fund (IC 13-23-7-1)

Personal Services	161,161	161,161
Other Operating Expense	48,026,000	48,026,000

Augmentation allowed.

WASTE TIRE MANAGEMENT

Waste Tire Management Fund (IC 13-20-13-8)

Total Operating Expense	100,000	100,000
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Augmentation allowed.

VOLUNTARY COMPLIANCE

Environmental Management Special Fund (IC 13-14-12-1)

Personal Services	202,929	202,929
Other Operating Expense	217,737	217,737

Augmentation allowed.

ENVIRONMENTAL MANAGEMENT SPECIAL FUND - OPERATING

Environmental Management Special Fund (IC 13-14-12-1)

FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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Total Operating Expense	1,100,000	1,100,000
Augmentation allowed.		
SMALL TOWN COMPLIANCE		
Environmental Management Special Fund (IC 13-14-12-1)		
Total Operating Expense	60,000	60,000
Augmentation allowed.		
WETLANDS PROTECTION		
Environmental Management Special Fund (IC 13-14-12-1)		
Total Operating Expense	50,709	50,709
Augmentation allowed.		
PETROLEUM TRUST - OPERATING		
Underground Petroleum Storage Tank Trust Fund (IC 13-23-6-1)		
Personal Services	226,961	226,961
Other Operating Expense	462,885	462,885
Augmentation allowed.		
LEAD BASED PAINT ACTIVITIES PROGRAM		
Lead Trust Fund (IC 13-17-14-6)		
Total Operating Expense	23,500	23,500
Augmentation allowed.		

Notwithstanding any other law, with the approval of the governor and the budget agency, the above appropriations for water management permitting, hazardous waste management permitting, wetlands protection, watershed management, groundwater program, underground storage tank program, air management operating, lead-based paint activities program, water management non-permitting, coastal management (pollution prevention incentives), and safe drinking water may be used to fund activities incorporated into a performance partnership grant between the United States Environmental Protection Agency and the Department of Environmental Management.

FOR THE OFFICE OF ENVIRONMENTAL ADJUDICATION		
Personal Services	205,722	205,722
Other Operating Expense	100,723	100,723

FOR THE CLEAN MANUFACTURING TECHNOLOGY BOARD

Total Operating Expense	475,000	475,000
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SECTION 6. [EFFECTIVE JULY 1, 2003]

ECONOMIC DEVELOPMENT

A. AGRICULTURE

**FOR THE LIEUTENANT GOVERNOR
OFFICE OF THE COMMISSIONER OF AGRICULTURE**

Personal Services	1,359,749	1,359,749
Other Operating Expense	251,202	251,202

VALUE ADDED RESEARCH FUND (IC 4-4-3.4-4)

General Fund

Total Operating Expense	257,957	257,957
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Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	600,000	600,000
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FARM COUNSELING PROGRAM

Total Operating Expense	279,000	279,000
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LAND RESOURCES COUNCIL

Total Operating Expense		301,266
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FOR THE RURAL DEVELOPMENT COUNCIL

**RURAL DEVELOPMENT ADMINISTRATION FUND
(IC 4-4-9.3-1)**

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	2,400,000	2,400,000
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RURAL DEVELOPMENT COUNCIL FUND (IC 4-4-9.5-4)

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	1,200,000	1,200,000
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B. COMMERCE

**FOR THE DEPARTMENT OF COMMERCE
ADMINISTRATIVE AND FINANCIAL SERVICES**

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

From the General Fund

4,224,726	4,224,726
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From the Skills 2016 Fund

142,073	142,073
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From the Industrial Development Grant Fund

48,124	48,124
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The amounts specified from the General Fund, Skills 2016, and Industrial Development Grant Fund are for the following purposes:

Personal Services	2,852,663	2,852,663
Other Operating Expense	1,562,260	1,562,260
COMMUNITY ECONOMIC DEVELOPMENT		
Personal Services	4,770,872	4,770,872
Other Operating Expense	1,301,531	1,301,531
INTERNATIONAL TRADE		
Total Operating Expense	1,394,676	1,394,676
RECYCLING OPERATING		
Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)		
Personal Services	48,124	48,124
Other Operating Expense	183,358	183,358
Augmentation allowed.		
ENTERPRISE ZONE PROGRAM		
Indiana Enterprise Zone Fund (IC 4-4-6.1-2.3)		
Total Operating Expense	339,118	339,118
Augmentation allowed.		
STATE ENERGY PROGRAM		
Total Operating Expense	96,794	96,794
INDIANA INDIVIDUAL DEVELOPMENT ACCOUNTS		
Total Operating Expense	1,350,000	1,350,000

The department shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR Part 265.

Family and social services administration, division of family and children shall apply all qualifying expenditures for individual development accounts deposits toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

LOCAL ECONOMIC DEVELOPMENT ORGANIZATION/REGIONAL ECONOMIC DEVELOPMENT ORGANIZATION (LEDO/REDO) MATCHING GRANT PROGRAM

Total Operating Expense	1,900,000
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SKILLS 2016

Total Operating Expense	23,137,450
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BUSINESS AND TOURISM PROMOTION FUND

Total Operating Expense	9,747,290
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RECYCLING PROMOTION AND ASSISTANCE PROGRAM

Indiana Recycling Promotion and Assistance Fund (IC 4-23-5.5-14)

Total Operating Expense	1,500,000	1,500,000
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Augmentation allowed.

TRADE PROMOTION FUND

Total Operating Expense	200,000	200,000
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ECONOMIC DEVELOPMENT FUND

Total Operating Expense	1,200,000
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INDUSTRIAL DEVELOPMENT GRANT FUND

Total Operating Expense	6,500,000
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ECONOMIC DEVELOPMENT COUNCIL

Total Operating Expense	309,225	309,225
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INDIANA DEVELOPMENT FINANCE AUTHORITY (IDFA)

CAPITAL ACCESS PROGRAM

Total Operating Expense	1,242,500
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Notwithstanding the provisions of P.L. 273-1999, that portion of the appropriation for the capital access program allocated for licensed child care facilities may be used for other uses permitted under IC 4-4-26.

ENVIRONMENTAL REMEDIATION REVOLVING LOAN FUND

Total Operating Expense	5,000,000
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PROJECT GUARANTY FUND

Total Operating Expense	1,800,000
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Notwithstanding the provisions of P.L. 273-1999, that portion of the appropriation for the project guaranty fund allocated for creation of a debt reserve service fund for the purpose of allowing the authority to issue pooled bonds for the construction or renovation of licensed child care facilities may be used for other uses permitted under IC 4-4-11-16.

BUSINESS DEVELOPMENT LOAN FUND

Total Operating Expense	2,000,000
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TECHNOLOGY DEVELOPMENT GRANT FUND (IC 4-12-11-8)

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	4,500,000	4,500,000
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PUBLICIZING CORPORATE TAX RESTRUCTURING

Total Operating Expense	1,000,000	0
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The above appropriation for publicizing corporate tax restructuring is to be used to publicize the corporate tax restructuring in Indiana to businesses and industries in other states.

C. COMMUNITY SERVICES

FOR THE GOVERNOR'S COMMISSION ON COMMUNITY SERVICE AND VOLUNTEERISM

Personal Services	237,396	237,396
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Other Operating Expense	89,517	89,517
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D. EMPLOYMENT SERVICES

FOR THE DEPARTMENT OF WORKFORCE DEVELOPMENT

ADMINISTRATION

Total Operating Expense	1,144,950	1,144,950
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STATE WORKFORCE DEVELOPMENT FUND

Total Operating Expense	2,547,770	2,547,770
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WOMEN'S COMMISSION

Personal Services	104,616	104,616
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Other Operating Expense	7,724	7,724
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FOR THE COMMISSION ON HISPANIC/LATINO AFFAIRS

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	125,000	125,000
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The above appropriations are in addition to any funding for the commission derived from funds appropriated to the department of workforce development.

SECTION 7. [EFFECTIVE JULY 1, 2003]

TRANSPORTATION

FOR THE DEPARTMENT OF TRANSPORTATION

For the conduct and operation of the department of transportation, the following sums are appropriated for the periods designated, from the state general fund, the public mass transportation fund, the industrial rail service fund, the state highway fund, the motor vehicle highway account, the distressed road fund, the state highway road construction and improvement fund, the motor carrier regulation fund, and the crossroads 2000 fund.

PLANNING AND ADMINISTRATION

From the State Highway Fund (IC 8-23-9-54)

516,673	516,673
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

From the Public Mass Transportation Fund (IC 8-23-3-8)

202,176	202,176
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From the Industrial Rail Fund (IC 8-3-1.7-2)

29,952	29,952
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Augmentation allowed from the Public Mass Transportation Fund, Industrial Rail Service Fund, and State Highway Fund.

The amounts specified from the Public Mass Transportation Fund, Industrial Rail Service Fund, and State Highway Fund are for the following purposes:

Personal Services	571,981	571,981
Other Operating Expense	176,820	176,820

The above appropriations may be used to match federal funds available for planning and administration of transportation in Indiana.

INTERMODAL OPERATING

From the State Highway Fund (IC 8-23-9-54)

491,613	491,613
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From the Public Mass Transportation Fund (IC 8-23-3-8)

339,656	339,656
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From the Industrial Rail Fund (IC 8-3-1.7-2)

339,656	339,656
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Augmentation allowed from the State Highway Fund, Public Mass Transportation Fund and Industrial Rail Service Fund.

The amounts specified from the State Highway Fund, the Public Mass Transportation Fund, and the Industrial Rail Service Fund are for the following purposes:

Personal Services	979,022	979,022
Other Operating Expense	191,903	191,903

INTERMODAL GRANT PROGRAM

Department of Transportation Administration Fund

FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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Total Operating Expense	42,000	42,000
Public Mass Transportation Fund (IC 8-23-3-8)		
Total Operating Expense	37,500	37,500

Augmentation allowed from Public Mass Transportation Fund.

RAILROAD GRADE CROSSING IMPROVEMENT

Total Operating Expense	465,000	465,000
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PUBLIC MASS TRANSPORTATION

Public Mass Transportation Fund (IC 8-23-3-8)		
Matching Funds	29,555,438	30,320,229

Augmentation allowed.

The appropriations are to be used solely for the promotion and development of public transportation. The department of transportation shall allocate funds based on a formula approved by the commissioner of the department of transportation.

The department of transportation may distribute public mass transportation funds to an eligible grantee that provides public transportation in Indiana.

The state funds can be used to match federal funds available under the Federal Transit Act (49 U.S.C. 1601, et seq.), or local funds from a requesting grantee.

Before funds may be disbursed to a grantee, the grantee must submit its request for financial assistance to the department of transportation for approval. Allocations must be approved by the governor and the budget agency after review by the budget committee and shall be made on a reimbursement basis. Only applications for capital and operating assistance may be approved. Only those grantees that have met the reporting requirements under IC 8-23-3 are eligible for assistance under this appropriation.

HIGHWAY OPERATING

State Highway Fund (IC 8-23-9-54)

2012

P.L.224—2003

	FY 2003-2004	FY 2004-2005	Biennial
	Appropriation	Appropriation	Appropriation

Personal Services	206,601,190	206,601,190	
Other Operating Expense	42,446,379	42,446,379	

HIGHWAY BUILDINGS AND GROUNDS

State Highway Fund (IC 8-23-9-54)

Total Operating Expense	27,287,344
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The above appropriations for highway buildings and grounds may be used for land acquisition, site development, construction and equipping of new highway facilities and for maintenance, repair, and rehabilitation of existing state highway facilities.

HIGHWAY VEHICLE AND ROAD MAINTENANCE EQUIPMENT

State Highway Fund (IC 8-23-9-54)

Other Operating Expense	19,500,000	19,500,000
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The above appropriations for highway operating and highway vehicle and road maintenance equipment may be used for personal services, equipment, and other operating expense, including the cost of transportation for the governor.

HIGHWAY MAINTENANCE WORK PROGRAM

State Highway Fund (IC 8-23-9-54)

Other Operating Expense	70,420,000	70,420,000
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The above appropriations for the highway maintenance work program may be used for:

- (1) materials for patching roadways and shoulders;
- (2) repairing and painting bridges;
- (3) installing signs and signals and painting roadways for traffic control;
- (4) mowing, herbicide application, and brush control;
- (5) drainage control;
- (6) maintenance of rest areas, public roads on properties of the department of natural resources, and driveways on the premises of all state facilities;

- (7) materials for snow and ice removal;**
- (8) utility costs for roadway lighting; and**
- (9) other special maintenance and support activities consistent with the highway maintenance work program.**

HIGHWAY CAPITAL IMPROVEMENTS

State Highway Fund (IC 8-23-9-54)

Right of Way Expense	11,340,000	11,660,000
Formal Contracts Expense		
	132,011,379	127,949,840
Consulting Service Expense		
	27,000,000	29,000,000
Institutional Road Construction		
	5,000,000	5,000,000

The above appropriations for the capital improvements program may be used for:

- (1) bridge rehabilitation and replacement;**
- (2) road construction, reconstruction, or replacement;**
- (3) construction, reconstruction, or replacement of travel lanes, intersections, grade separations, rest parks, and weigh stations;**
- (4) relocation and modernization of existing roads;**
- (5) resurfacing;**
- (6) erosion and slide control;**
- (7) construction and improvement of railroad grade crossings, including the use of the appropriations to match federal funds for projects;**
- (8) small structure replacements;**
- (9) safety and spot improvements; and**
- (10) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects.**

The foregoing appropriations for highway operating, highway vehicles and road maintenance equipment, highway buildings and grounds, the highway planning and research program, the highway maintenance work program, and highway capital improvements are appropriated from estimated revenues which

include the following:

- (1) Funds distributed to the state highway fund from the motor vehicle highway account under IC 8-14-1-3(4).**
- (2) Funds distributed to the state highway fund from the highway, road, and street fund under IC 8-14-2-3.**
- (3) All fees and miscellaneous revenues deposited in or accruing to the state highway fund under IC 8-23-9-54.**
- (4) Any unencumbered funds carried forward in the state highway fund from any previous fiscal year.**
- (5) All other funds appropriated or made available to the department by the general assembly.**

If funds from sources set out above for the department exceed appropriations from those sources to the department, the excess amount is hereby appropriated to be used at the discretion of the department with approval of the governor and the budget agency for the conduct and operation of the department.

If there is a change in a statute reducing or increasing revenue for department use, the budget agency shall notify the auditor of state to adjust the above appropriations to reflect the estimated increase or decrease. Upon the request of the department, the budget agency, with the approval of the governor, may allot any increase in appropriations to the department.

If the department of transportation finds that an emergency exists or that an appropriation will be insufficient to cover expenses incurred in the normal operation of the department, the budget agency may, upon request of the department, and with the approval of the governor, transfer funds from revenue sources set out above from one (1) appropriation to the deficient appropriation. No appropriation from the state highway fund may be used to fund any toll road or toll bridge project except as specifically provided for under IC 8-15-2-20.

**HIGHWAY PLANNING AND RESEARCH PROGRAM
State Highway Fund (IC 8-23-9-54)**

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Total Operating Expense	3,250,000	3,250,000
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STATE HIGHWAY ROAD CONSTRUCTION AND IMPROVEMENT PROGRAM

Highway Construction Improvement Fund (IC 8-14-10-5)

Formal Contracts Expense

31,900,000	28,400,000
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Lease Rental Payments Expense

34,400,000	39,000,000
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Augmentation allowed.

The above appropriations for the state highway road construction and improvement program are appropriated from the state highway road construction and improvement fund provided in IC 8-14-10-5 and may include any unencumbered funds carried forward from any previous fiscal year. The funds may be used for:

- (1) road and bridge construction, reconstruction, or replacement;
- (2) construction, reconstruction, or replacement of travel lanes, intersections, grade separations;
- (3) relocation and modernization of existing roads;
- (4) right-of-way, relocation, and engineering and consulting expenses associated with any of the above types of projects; and
- (5) payment of rentals and leases relating to projects under IC 8-14.5.

CROSSROADS 2000 PROGRAM

Crossroads 2000 Fund (IC 8-14-10-9)

Lease Rental Payments Expense

36,800,000	37,200,000
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Augmentation allowed.

FEDERAL APPORTIONMENT

Right-of-Way Expense	45,360,000	46,640,000
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Formal Contracts Expense

309,240,000	314,960,000
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	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
Consulting Engineers Expense			
	47,000,000	45,000,000	
Highway Planning and Research			
	13,000,000	13,000,000	
Local Government Revolving Acct.			
	158,332,000	160,000,000	
Formal Contracts - SHRCIF			
	60,000,000	60,000,000	

The department may establish an account to be known as the "local government revolving account". The account is to be used to administer the federal-local highway construction program. All contracts issued and all funds received for federal-local projects under this program shall be entered into this account.

If the federal apportionments for the fiscal years covered by this act exceed the above estimated appropriations for the department or for local governments, the excess federal apportionment is hereby appropriated for use by the department with the approval of the governor and the budget agency.

The department shall bill, in a timely manner, the federal government for all department payments that are eligible for total or partial reimbursement.

The department may let contracts and enter into agreements for construction and preliminary engineering during each year of the 2003-2005 biennium that obligate not more than one-third (1/3) of the amount of state funds estimated by the department to be available for appropriation in the following year for formal contracts and consulting engineers for the capital improvements program.

Under IC 8-23-5-7(a), the department, with the approval of the governor, may construct and maintain roadside parks and highways where highways will connect any state highway now existing, or hereafter constructed, with any state park, state forest

preserve, state game preserve, or the grounds of any state institution. There is appropriated to the department of transportation an amount sufficient to carry out the provisions of this paragraph. Under IC 8-23-5-7(d), such appropriations shall be made from the motor vehicle highway account before distribution to local units of government.

LOCAL TECHNICAL ASSISTANCE AND RESEARCH

Under IC 8-14-1-3(6), there is appropriated to the department of transportation an amount sufficient for:

- (1) the program of technical assistance under IC 8-23-2-5(6); and
- (2) the research and highway extension program conducted for local government under IC 8-17-7-4.

The department shall develop an annual program of work for research and extension in cooperation with those units being served, listing the types of research and educational programs to be undertaken. The commissioner of the department of transportation may make a grant under this appropriation to the institution or agency selected to conduct the annual work program. Under IC 8-14-1-3(6), appropriations for the program of technical assistance and for the program of research and extension shall be taken from the local share of the motor vehicle highway account.

Under IC 8-14-1-3(7) there is hereby appropriated such sums as are necessary to maintain a sufficient working balance in accounts established to match federal and local money for highway projects. These funds are appropriated from the following sources in the proportion specified:

- (1) one-half (1/2) from the forty-seven percent (47%) set aside of the motor vehicle highway account under IC 8-14-1-3(7); and
- (2) for counties and for those cities and towns with a population greater than five thousand (5,000), one-half (1/2) from the distressed road fund under IC 8-14-8-2.

**OFFICE OF MEDICAID POLICY AND PLANNING -
ADMINISTRATION**

Total Operating Expense 4,124,812 4,124,812

MEDICAID ADMINISTRATION

Total Operating Expense 49,500,000 49,500,000

MEDICAID - CURRENT OBLIGATIONS

General Fund

Total Operating Expense

1,209,600,000 1,209,600,000

Hospital Care for the Indigent Fund (IC 12-16-14-6)

Total Operating Expense 55,200,000 56,900,000

Augmentation allowed.

The foregoing appropriations for Medicaid current obligations and for Medicaid administration are for the purpose of enabling the office of Medicaid policy and planning to carry out all services as provided in IC 12-8-6. In addition to the above appropriations, all money received from the federal government and paid into the state treasury as a grant or allowance is appropriated and shall be expended by the office of Medicaid policy and planning for the respective purposes for which the money was allocated and paid to this state. Subject to the provisions of P.L.46-1995, if the sums herein appropriated for Medicaid current obligations and for Medicaid administration are insufficient to enable the office of Medicaid policy and planning to meet its obligations, then there is appropriated from the state general fund such further sums as may be necessary for that purpose, subject to the approval of the governor and the budget agency.

Subject to the approval of the governor and the budget agency, the foregoing appropriations for Medicaid - Current Obligations may be augmented or reduced based on revenues accruing to the hospital care for the indigent fund.

MEDICAID DISABILITY ELIGIBILITY EXAMS

Total Operating Expense 3,195,000 3,195,000

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

DIVISION OF MENTAL HEALTH ADMINISTRATION

Personal Services	2,308,149	2,308,149
Other Operating Expense	172,416	172,416

SERIOUSLY EMOTIONALLY DISTURBED

Total Operating Expense	16,485,578	16,485,578
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SERIOUSLY MENTALLY ILL

General Fund

Total Operating Expense	93,894,784	93,894,784
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Mental Health Centers Fund (IC 6-7-1)

Total Operating Expense	4,445,000	4,445,000
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Augmentation allowed.

The comprehensive community mental health centers shall submit their proposed annual budgets (including income and operating statements) to the budget agency on or before August 1 of each year. All federal funds shall be applied in augmentation of the foregoing funds rather than in place of any part of the funds.

The above appropriations for comprehensive community mental health services include the intragovernmental transfers necessary to provide the nonfederal share of reimbursement under the Medicaid rehabilitation option.

GAMBLERS ASSISTANCE

Addiction Services Fund (IC 12-23-2)

Total Operating Expense	1,182,056	1,182,056
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SUBSTANCE ABUSE TREATMENT

General Fund

Total Operating Expense	5,006,000	5,006,000
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Addiction Services Fund (IC 12-23-2)

Total Operating Expense	4,946,936	4,946,936
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Augmentation allowed.

QUALITY ASSURANCE/RESEARCH

General Fund

Total Operating Expense	882,976	882,976
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Addiction Services Fund (IC 12-23-2)

Total Operating Expense	92,812	92,812
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PREVENTION SERVICES**Addiction Services Fund (IC 12-23-2)**

Total Operating Expense	975,132	975,132
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MENTAL HEALTH INSTITUTIONS**General Fund**

Total Operating Expense	243,892,654
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Mental Health Fund (IC 12-24-14-4)

Total Operating Expense	41,357,678
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Augmentation allowed.

The foregoing appropriations for the mental health institutions are for the operations of Evansville Psychiatric Treatment Center for Children, Evansville State Hospital, Larue D. Carter Memorial Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital.

Sixty-six percent (66%) of the revenue accruing to the state mental health institutions under IC 12-15 shall be deposited in the mental health fund established by IC 12-24-14, and thirty-four percent (34%) of the revenue accruing to the institutions, under IC 12-15, shall be deposited in the state general fund.

In addition to the above appropriations each institution may qualify for an additional appropriation, or allotment, subject to approval of the governor and the budget agency, from the mental health fund of up to twenty percent (20%), but not to exceed \$50,000 in each fiscal year, of the amount by which actual net collections exceed an amount specified in writing by the division of mental health before July 1 of each year beginning July 1, 2003.

**DIVISION OF FAMILY AND CHILDREN SERVICES
ADMINISTRATION**

Personal Services	3,889,302	3,889,302
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Other Operating Expense	1,498,168	1,498,168
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

**TITLE IV-D OF THE FEDERAL SOCIAL SECURITY ACT
(STATE MATCH)**

Total Operating Expense 3,938,171 3,938,171

The foregoing appropriations for the division of family and children Title IV-D of the federal Social Security Act are made under, and not in addition to, IC 12-17-2-31.

STATE WELFARE - COUNTY ADMINISTRATION

Total Operating Expense 98,281,302 98,281,302

EDUCATION AND TRAINING

Total Operating Expense 8,309,088 8,309,088

TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF)

Total Operating Expense 31,357,943 31,357,943

INFORMATION SYSTEMS/TECHNOLOGY

Total Operating Expense 12,931,228 12,931,228

CHILD CARE SERVICES

Total Operating Expense 33,670,756 33,670,756

The foregoing appropriations for information systems/technology, education and training, temporary assistance to needy families (TANF), and child care services are for the purpose of enabling the division of family and children to carry out all services as provided in IC 12-14. In addition to the above appropriations, all money received from the federal government and paid into the state treasury as a grant or allowance is appropriated and shall be expended by the division of family and children for the respective purposes for which such money was allocated and paid to this state.

TITLE IV-B CHILD WELFARE ADMINISTRATION

Total Operating Expense 569,401 569,401

ADOPTION ASSISTANCE

Total Operating Expense 7,302,930 7,302,930

The foregoing appropriations for Title IV-B child welfare and

adoption assistance represent the maximum state match for Title IV-B, and Title IV-E.

DOMESTIC VIOLENCE PREVENTION AND TREATMENT PROGRAM

General Fund

Total Operating Expense	1,000,000	1,000,000
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Domestic Violence Prevention and Treatment Fund (IC 12-18-4)

Total Operating Expense	1,000,000	1,000,000
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Augmentation allowed.

STEP AHEAD

Total Operating Expense	1,784,493	1,784,493
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FOOD ASSISTANCE PROGRAM

Total Operating Expense	146,000	146,000
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YOUTH SERVICE BUREAU

Total Operating Expense	1,250,000	1,250,000
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The executive director of the division of family and children shall establish standards for youth service bureaus. Any youth service bureau that is not an agency of a unit of local government or is not registered with the Indiana secretary of state as a nonprofit corporation shall not be funded. The division of family and children shall fund all youth service bureaus that meet the standards as established June 30, 1983. However, a grant may not be made without approval by the budget agency after review by the budget committee.

EARLY CHILDHOOD INTERVENTION SERVICES/PROJECT SAFEPLACE

Total Operating Expense	6,583,433	6,583,433
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SOCIAL SERVICES BLOCK GRANT (SSBG)

Total Operating Expense	16,534,000	16,534,000
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The above appropriated funds are allocated in the following manner during the biennium:

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Division of Disability, Aging, and Rehabilitative Services		
1,615,017	1,615,017	
Division of Family and Children, Child Welfare		
12,404,090	12,404,090	
Division of Family and Children, Family Protection Services		
1,475,214	1,475,214	
Department of Health		
228,376	228,376	
Department of Correction		
811,303	811,303	

AGING AND DISABILITY SERVICES

Total Operating Expense	16,941,480	16,941,480
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DIVISION OF DISABILITY, AGING, AND REHABILITATIVE SERVICES ADMINISTRATION

Total Operating Expense	3,080	3,080
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The above appropriations for the division of disability, aging, and rehabilitative services administration are for administrative expenses. Any federal fund reimbursements received for such purposes are to be deposited in the state general fund.

HOME HEALTH PROVIDER SALARIES

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)		
Total Operating Expense	3,000,000	3,000,000

The foregoing appropriations for the division of disability, aging, and rehabilitative services are appropriated for the home health providers to increase the salaries of direct care workers.

C.H.O.I.C.E. IN-HOME SERVICES

Total Operating Expense	48,673,544	48,673,544
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The foregoing appropriations for C.H.O.I.C.E./In-Home Services include intragovernmental transfers to provide the nonfederal share of the Medicaid aged and disabled waiver. In addition to

the Medicaid aged and disabled waivers provided under intragovernmental transfers, an additional \$3,000,000 may be used each year for Medicaid aged and disabled waivers.

If the appropriations for C.H.O.I.C.E./In-Home Services are insufficient to provide services to all eligible persons, the division of disability, aging, and rehabilitative services may give priority for services to persons who are unable to perform three (3) or more activities of daily living (as defined in IC 12-10-10-1.5). The division of disability, aging, and rehabilitative services may discontinue conducting assessments for individuals applying for services under the C.H.O.I.C.E./In-Home Services program if a waiting list for such services exists.

The division of disability, aging, and rehabilitative services shall conduct an annual evaluation of the cost effectiveness of providing home care. Before January of each year, the division shall submit a report to the budget committee, the budget agency, and the legislative council that covers all aspects of the division's evaluation and such other information pertaining thereto as may be requested by the budget committee, the budget agency, or the legislative council, including the following:

- (1) the number and demographic characteristics of the recipients of home care during the preceding fiscal year;**
- (2) the total cost and per recipient cost of providing home care services during the preceding fiscal year;**
- (3) the number of recipients of home care services who would have been placed in long term care facilities had they not received home care services; and**
- (4) the total cost savings during the preceding fiscal year realized by the state due to recipients of home care services (including Medicaid) being diverted from long term care facilities.**

The division shall obtain from providers of services data on their costs and expenditures regarding implementation of the program and report the findings to the budget committee, the budget agency, and the legislative council.

FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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VOCATIONAL REHABILITATION SERVICES

Personal Services	3,555,739	3,555,739
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Other Operating Expense	11,952,631	11,952,631
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AID TO INDEPENDENT LIVING

Total Operating Expense	22,222	22,222
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ATTAIN PROJECT

Total Operating Expense	355,500	355,500
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OFFICE OF DEAF AND HEARING IMPAIRED

Personal Services	278,202	278,202
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Other Operating Expense	219,519	219,519
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BLIND VENDING OPERATIONS

Total Operating Expense	130,137	130,137
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DEVELOPMENTALLY DISABLED CLIENT SERVICES**From the General Fund****169,038,450****From the Tobacco Master Settlement Agreement Fund
(IC 4-12-1-14.3)****42,600,000**

Total Operating Expense	211,638,450
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With the approval of the governor and the budget agency, an amount up to \$1,250,000 for each year of the biennium may be transferred from the above appropriations for client services to early childhood intervention services.

The above appropriations for client services include the intragovernmental transfers necessary to provide the nonfederal share of reimbursement under the Medicaid program for day services provided to residents of group homes and nursing facilities.

In the development of new community residential settings for persons with developmental disabilities, the division of disability, aging, and rehabilitative services must give priority to the appropriate placement of such persons who are eligible for Medicaid and currently residing in intermediate care or skilled nursing facilities and, to the extent permitted by law, such persons

who reside with aged parents or guardians or families in crisis.

QUALITY ASSURANCE SERVICES

**From the Community Services Quality Assurance Fund
(IC 12-11-1.1-10)**

Total Operating Expense 10,000,000 10,000,000

Augmentation allowed.

STATE DEVELOPMENTAL CENTERS

From the General Fund

Total Operating Expense 90,541,100

From the Mental Health Fund (IC 12-24-14-4)

Total Operating Expense 82,181,216

From the MSDC Vocational

Total Operating Expense 17,920

Augmentation allowed.

The foregoing appropriations for the state developmental centers are for the operations of the Fort Wayne state developmental center and the Muscatatuck state developmental center.

Sixty-six percent (66%) of the revenue accruing to the above named state developmental centers under IC 12-15 shall be deposited in the mental health fund established under IC 12-24-14, and thirty-four percent (34%) of the revenue accruing to the above named institutions under IC 12-15 shall be deposited in the state general fund.

In addition to the above appropriations, each institution may qualify for an additional appropriation, or allotment, subject to approval of the governor and the budget agency, from the mental health fund of up to twenty percent (20%) but not to exceed \$50,000, of the amount in which actual net collections exceed an amount specified in writing by the division of disability, aging, and rehabilitative services before July 1 of each year beginning July 1, 2003.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

B. PUBLIC HEALTH

FOR THE STATE DEPARTMENT OF HEALTH

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Personal Services	18,694,664	18,694,664
Other Operating Expense	7,054,223	7,054,223

All receipts to the state department of health from licenses or permit fees shall be deposited in the state general fund. Augmentation allowed in amounts not to exceed additional revenue from penalties or fees enacted or implemented for collection by the state department of health after January 1, 2003.

CANCER REGISTRY

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	237,224	237,224
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MINORITY HEALTH INITIATIVE

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	2,092,500	2,092,500
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The foregoing appropriations shall be allocated to the Indiana Minority Health Coalition to work with the state department on the implementation of IC 16-46-11.

SICKLE CELL

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	232,500	232,500
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AID TO COUNTY TUBERCULOSIS HOSPITALS

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Other Operating Expense	107,397	107,397
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These funds shall be used for eligible expenses according to IC 16-21-7-3 for tuberculosis patients for whom there are no other sources of reimbursement, including patient resources, health insurance, medical assistance payments, and hospital care for the indigent.

MEDICARE-MEDICAID CERTIFICATION

Total Operating Expense	4,429,886	4,429,886
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Personal services augmentation allowed in amounts not to exceed additional revenue from health facilities license fee increases or from health care providers (as defined in IC 16-18-2-163) fee increases enacted after January 1, 2003 or adopted by the Executive Board of the Indiana State Department of Health pursuant to IC 16-19-3.

AIDS EDUCATION

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Personal Services	315,208	315,208
Other Operating Expense	359,594	359,594

HIV/AIDS SERVICES

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	2,325,004	2,325,004
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TEST FOR DRUG AFFLICTED BABIES

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	62,496	62,496
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The above appropriations for drug afflicted babies shall be used for the following purposes:

- (1) All newborn infants shall be tested for the presence of a controlled substance in the infant's meconium if they meet the criteria established by the state department of health. These criteria will, at a minimum, include all newborns, if at birth:**
 - (A) the infant's weight is less than two thousand five hundred (2,500) grams;**
 - (B) the infant's head is smaller than the third percentile for the infant's gestational age; and**
 - (C) there is no medical explanation for the conditions described in clauses (A) and (B).**
- (2) If a meconium test determines the presence of a controlled substance in the infant's meconium, the infant may be declared a child in need of services as provided in IC 31-34-1-10 through**

IC 31-34-1-13. However, the child's mother may not be prosecuted in connection with the results of the test.

(3) The state department of health shall provide forms on which the results of a meconium test performed on an infant under subdivision (1) must be reported to the state department of health by physicians and hospitals.

(4) The state department of health shall, at least semi-annually:

(A) ascertain the extent of testing under this chapter; and

(B) report its findings under subdivision (1) to:

(i) all hospitals;

(ii) physicians who specialize in obstetrics and gynecology or work with infants and young children; and

(iii) any other group interested in child welfare that requests a copy of the report from the state department of health.

(5) The state department of health shall designate at least one (1) laboratory to perform the meconium test required under subdivisions (1) through (8). The designated laboratories shall perform a meconium test on each infant described in subdivision (1) to detect the presence of a controlled substance.

(6) Subdivisions (1) through (7) do not prevent other facilities from conducting tests on infants to detect the presence of a controlled substance.

(7) Each hospital and physician shall:

(A) take or cause to be taken a meconium sample from every infant born under the hospital's and physician's care who meets the description under subdivision (1); and

(B) transport or cause to be transported each meconium sample described in clause (A) to a laboratory designated under subdivision (5) to test for the presence of a controlled substance as required under subdivisions (1) through (7).

(8) The state department of health shall continue to evaluate the program established under subdivisions (1) through (7). The state department of health shall report the results of the evaluation to the general assembly not later than January 30, 2002, and January 30, 2003. The general assembly shall use the results of the evaluation to determine whether to continue the testing program established under subdivisions (1) through (7).

(9) The state department of health shall establish guidelines to carry out this program, including guidance to physicians, medical schools, and birthing centers as to the following:

(A) Proper and timely sample collection and transportation under subdivision (7) of this appropriation.

(B) Quality testing procedures at the laboratories designated under subdivision 5 of this appropriation.

(C) Uniform reporting procedures.

(D) Appropriate diagnosis and management of affected newborns and counseling and support programs for newborns' families.

(10) A medically appropriate discharge of an infant may not be delayed due to the results of the test described in subdivision (1) or due to the pendency of the results of the test described in subdivision (1).

STATE CHRONIC DISEASES

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Personal Services	91,741	91,741
Other Operating Expense	444,775	444,775

At least \$82,560 of the above appropriations shall be for grants to community groups and organizations as provided in IC 16-46-7-8.

WOMEN, INFANTS, AND CHILDREN SUPPLEMENT

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	176,700	176,700
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MATERNAL AND CHILD HEALTH SUPPLEMENT

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	176,700	176,700
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Notwithstanding IC 6-7-1-30.2, the above appropriations for the women, infants, and children supplement and maternal and child health supplement are the total appropriations provided for this purpose.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

**CANCER EDUCATION AND DIAGNOSIS - BREAST
CANCER**

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	93,000	93,000
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**CANCER EDUCATION AND DIAGNOSIS - PROSTATE
CANCER**

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Total Operating Expense	93,000	93,000
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ADOPTION HISTORY

Adoption History Fund (IC 31-19-18)

Total Operating Expense	172,170	172,170
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Augmentation allowed.

CHILDREN WITH SPECIAL HEALTH CARE NEEDS

Total Operating Expense	5,848,119	5,848,119
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NEWBORN SCREENING PROGRAM

Newborn Screening Fund (IC 16-41-17)

Personal Services	117,823	117,823
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Other Operating Expense	1,093,914	1,093,914
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Augmentation allowed.

**INDIANA HEALTH CARE PROFESSIONAL
RECRUITMENT AND RETENTION**

Indiana Medical and Nursing Grant Fund (IC 16-46-5)

Total Operating Expense	40,000	40,000
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Augmentation allowed.

RADON GAS TRUST FUND

Radon Gas Trust Fund (IC 16-41-38-8)

Total Operating Expense	15,000	15,000
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Augmentation allowed.

BIRTH PROBLEMS REGISTRY

Birth Problems Registry Fund (IC 16-38-4)

Personal Services	29,976	29,976
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Other Operating Expense	10,661	10,661
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Augmentation allowed.

MOTOR FUEL INSPECTION PROGRAM

Motor Fuel Inspection Fund (IC 16-44-3-10)

Total Operating Expense	80,313	80,313
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Augmentation allowed.

PROJECT RESPECT

Total Operating Expense	597,787	597,787
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DONATED DENTAL SERVICES

Total Operating Expense	46,500	46,500
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The above appropriation shall be used by the Indiana foundation for dentistry for the handicapped.

OFFICE OF WOMEN'S HEALTH

Total Operating Expense	162,749	162,749
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SILVERCREST CHILDREN'S DEVELOPMENT CENTER

Personal Services	6,774,075	6,774,075
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Other Operating Expense	660,595	660,595
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SOLDIERS' AND SAILORS' CHILDREN'S HOME

Personal Services	8,854,535	8,854,535
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Other Operating Expense	1,152,667	1,152,667
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INDIANA VETERANS' HOME

From the General Fund

12,515,923	12,736,091
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From the Comfort - Welfare Fund

9,292,152	9,292,152
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The amounts specified from the General Fund and the Comfort-Welfare Fund are for the following purposes:

Personal Services	17,530,659	17,555,659
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Other Operating Expense	4,277,416	4,472,584
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Subject to approval of the budget agency, any revenue accruing to the Silvercrest Children's Development Center and Soldiers' and Sailors' Children's Home from the receipt of Medicaid reimbursement may be used to augment the above appropriations. Any revenues not used for augmentation shall be deposited in the state general fund.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

MINORITY EPIDEMIOLOGY**Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)**

Total Operating Expense	500,000	500,000
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COMMUNITY HEALTH CENTERS**Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)**

Total Operating Expense	15,000,000	15,000,000
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LOCAL HEALTH MAINTENANCE FUND**Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)**

Total Operating Expense	3,860,000	3,860,000
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The above appropriations for the local health maintenance fund from the tobacco master settlement agreement fund is in lieu of the appropriation provided for this purpose in IC 6-7-1-30.5 or any other law. Of the above appropriations for the local health maintenance fund, \$60,000 each year shall be used to provide additional funding to adjust funding through the formula in IC 16-46-10 to reflect population increases in various counties.

LOCAL HEALTH DEPARTMENT ACCOUNT**Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)**

Total Operating Expense	3,000,000	3,000,000
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The foregoing appropriations for the local health department account are statutory distributions pursuant to IC 4-12-7.

FOR THE TOBACCO USE PREVENTION AND CESSATION BOARD**TOBACCO USE PREVENTION AND CESSATION PROGRAM****Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)**

Total Operating Expense	10,800,000	10,800,000
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FOR THE INDIANA SCHOOL FOR THE BLIND

Personal Services	9,635,103	9,635,103
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Other Operating Expense	728,554	728,554
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

FOR THE INDIANA SCHOOL FOR THE DEAF

Personal Services	15,748,129	15,748,129
Other Operating Expense	1,439,925	1,439,925

C. VETERANS' AFFAIRS**FOR THE INDIANA DEPARTMENT OF VETERANS' AFFAIRS**

Personal Services	620,693	620,693
Other Operating Expense	216,564	216,564

The foregoing appropriations for the Indiana department of veterans' affairs include operating funds for the veterans' cemetery. Notwithstanding IC 10-17-1-6, staff employed for the operation and maintenance of the veterans' cemetery shall be selected as are all other state employees.

DISABLED AMERICAN VETERANS OF WORLD WARS

Total Operating Expense	40,000	40,000
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AMERICAN VETERANS OF WORLD WAR II, KOREA, AND VIETNAM

Total Operating Expense	30,000	30,000
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VETERANS OF FOREIGN WARS

Total Operating Expense	30,000	30,000
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VIETNAM VETERANS OF AMERICA

Total Operating Expense		20,000
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SECTION 9. [EFFECTIVE JULY 1, 2003]**EDUCATION****A. HIGHER EDUCATION****FOR INDIANA UNIVERSITY****BLOOMINGTON CAMPUS**

Total Operating Expense	189,312,508	191,651,210
Informatics	2,500,000	3,600,000

	FY 2003-2004 Appropriation	FY 2004-2005 Appropriation	Biennial Appropriation
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Fee Replacement	16,146,719	16,303,973	
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FOR INDIANA UNIVERSITY REGIONAL CAMPUSES**EAST**

Total Operating Expense	7,343,242	7,598,569	
Fee Replacement	1,804,606	1,812,830	

KOKOMO

Total Operating Expense	9,968,950	10,099,818	
Fee Replacement	2,022,724	2,031,944	

NORTHWEST

Total Operating Expense	17,178,540	17,173,419	
Fee Replacement	3,557,707	3,573,923	

SOUTH BEND

Total Operating Expense	22,061,845	22,586,919	
Informatics	427,500	427,500	
Fee Replacement	5,427,781	5,452,521	

SOUTHEAST

Total Operating Expense	18,634,905	19,186,666	
Fee Replacement	4,924,139	4,946,583	

TOTAL APPROPRIATION - INDIANA UNIVERSITY REGIONAL CAMPUSES

93,351,939	94,890,692		
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FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT INDIANAPOLIS (IUPUI)**HEALTH DIVISIONS**

Total Operating Expense	87,221,750	88,938,286	
Fee Replacement	3,462,881	3,482,543	

FOR INDIANA UNIVERSITY - REGIONAL MEDICAL CENTERS**EVANSVILLE REGIONAL MEDICAL CENTER**

Total Operating Expense	1,472,768	1,501,752	
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FORT WAYNE REGIONAL MEDICAL CENTER

Total Operating Expense	1,354,853	1,381,517	
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NORTHWEST REGIONAL MEDICAL CENTER		
Total Operating Expense	1,924,755	1,962,634
LAFAYETTE REGIONAL MEDICAL CENTER		
Total Operating Expense	1,718,115	1,751,927
MUNCIE REGIONAL MEDICAL CENTER		
Total Operating Expense	1,544,864	1,575,268
SOUTH BEND REGIONAL MEDICAL CENTER		
Total Operating Expense	1,432,678	1,460,873
TERRE HAUTE REGIONAL MEDICAL CENTER		
Total Operating Expense	1,708,061	1,741,676

The Indiana University school of medicine shall submit to the Indiana commission for higher education before May 15 of each year an accountability report containing data on the number of medical school graduates who entered primary care physician residencies in Indiana from the school's most recent graduating class.

FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY AT INDIANAPOLIS (IUPUI)

GENERAL ACADEMIC DIVISIONS

Total Operating Expense	84,742,881	86,643,396
Informatics	2,500,000	3,700,000
Fee Replacement	16,208,181	16,300,205

TOTAL APPROPRIATIONS - IUPUI

205,291,787 210,440,077

Transfers of allocations between campuses to correct for errors in allocation among the campuses of Indiana University can be made by the institution with the approval of the commission for higher education and the budget agency. Indiana University shall maintain current operations at all statewide medical education sites.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

FOR INDIANA UNIVERSITY**ABILENE NETWORK OPERATIONS CENTER**

Total Operating Expense	817,502	817,502
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SPINAL CORD AND HEAD INJURY RESEARCH CENTER

Total Operating Expense	509,630	514,726
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DIVISION OF LABOR STUDIES IN CONTINUING EDUCATION

Total Operating Expense	358,368	358,368
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OPTOMETRY BOARD EDUCATION FUND

Total Operating Expense	29,000	1,500
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CHEMICAL TEST TRAINING

Total Operating Expense	644,058	644,058
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INSTITUTE FOR THE STUDY OF DEVELOPMENTAL DISABILITIES

Total Operating Expense	2,432,526	2,432,526
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GEOLOGICAL SURVEY

Total Operating Expense	3,046,002	3,046,002
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INDUSTRIAL RESEARCH LIAISON PROGRAM

Total Operating Expense	249,964	249,964
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LOCAL GOVERNMENT ADVISORY COMMISSION

Total Operating Expense	55,518	55,518
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FOR PURDUE UNIVERSITY**WEST LAFAYETTE**

Total Operating Expense	230,510,461	235,172,228
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Biomedical Engineering	2,500,000	5,000,000
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Fee Replacement	21,271,920	17,632,498
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FOR PURDUE UNIVERSITY - REGIONAL CAMPUSES**CALUMET**

Total Operating Expense	26,412,712	26,547,810
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Fee Replacement	1,935,321	1,935,778
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NORTH CENTRAL

Total Operating Expense	9,985,054	10,255,208
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Fee Replacement	1,468,004	0
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**TOTAL APPROPRIATION - PURDUE UNIVERSITY
REGIONAL CAMPUSES**
39,801,091 38,738,796

**FOR INDIANA UNIVERSITY - PURDUE UNIVERSITY
AT FORT WAYNE (IUPUFW)**

Total Operating Expense	31,883,338	33,152,780
Northeast Indiana Innovation Center		
	500,000	1,000,000
Fee Replacement	3,683,717	3,331,188

Transfers of allocations between campuses to correct for errors in allocation among the campuses of Purdue University can be made by the institution with the approval of the commission for higher education and the budget agency.

**FOR PURDUE UNIVERSITY
ANIMAL DISEASE DIAGNOSTIC LABORATORY SYSTEM**

Total Operating Expense	3,353,629	3,387,165
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The above appropriations shall be used to fund the animal disease diagnostic laboratory system (ADDL), which consists of the main ADDL at West Lafayette, the bangs disease testing service at West Lafayette, and the southern branch of ADDL Southern Indiana Purdue Agricultural Center (SIPAC) in Dubois County. The above appropriations are in addition to any user charges that may be established and collected under IC 15-2.1-5-6. Notwithstanding IC 15-2.1-5-5, the trustees of Purdue University may approve reasonable charges for testing for pseudorabies.

STATEWIDE TECHNOLOGY

Total Operating Expense	5,468,959	5,468,959
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COUNTY AGRICULTURAL EXTENSION EDUCATORS

Total Operating Expense	7,103,447	7,103,447
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**AGRICULTURAL RESEARCH AND EXTENSION -
CROSSROADS**

Total Operating Expense	7,107,724	7,107,724
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	FY 2003-2004	FY 2004-2005	Biennial
	Appropriation	Appropriation	Appropriation

CENTER FOR PARALYSIS RESEARCH

Total Operating Expense	508,005	513,085
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UNIVERSITY-BASED BUSINESS ASSISTANCE

Total Operating Expense	1,100,715	1,100,715
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NORTH CENTRAL - VALPO NURSING PARTNERSHIP

Total Operating Expense	98,662	98,662
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FOR INDIANA STATE UNIVERSITY

Total Operating Expense	77,389,241	77,929,474
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Expanding Info. Tech. Expertise		
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	500,000	1,000,000
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Fee Replacement	6,549,325	6,549,470
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FOR UNIVERSITY OF SOUTHERN INDIANA

Total Operating Expense	32,440,043	33,096,185
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Engineering Equip./ Program Needs		
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	250,000	600,000
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Fee Replacement	5,862,166	5,859,415
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HISTORIC NEW HARMONY

Total Operating Expense	356,216	356,216
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YOUNG ABE LINCOLN

Total Operating Expense	238,562	238,562
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FOR BALL STATE UNIVERSITY

Total Operating Expense	121,165,738	123,174,106
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Entrepreneurship/Comm.Dev.Pl.Inst.		
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	750,000	1,700,000
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Fee Replacement	8,093,255	8,094,555
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ACADEMY FOR SCIENCE, MATHEMATICS, AND HUMANITIES

Total Operating Expense	4,196,355	4,196,355
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FOR VINCENNES UNIVERSITY

Total Operating Expense	33,222,987	34,866,027
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Digital Comm./Information Technology		
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	525,000	1,065,000
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Fee Replacement	2,666,455	2,669,550
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

FOR IVY TECH STATE COLLEGE

Total Operating Expense	116,718,755	127,032,337
Statewide Access-AS Nursing Prog	800,000	1,500,000
Fee Replacement	8,997,210	10,262,578

Of the above appropriations for IVY TECH total operating expense, \$135,000 each year shall be used for the Community Learning Center in Portage.

FOR THE INDIANA HIGHER EDUCATION TELECOMMUNICATIONS SYSTEM (IHETS)

Total Operating Expense	6,661,610	6,661,610
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The sums herein appropriated to Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, Ivy Tech State College, and the Indiana Higher Education Telecommunications System (IHETS) are in addition to all income of said institutions and IHETS, respectively, from all permanent fees and endowments and from all land grants, fees, earnings, and receipts, including gifts, grants, bequests, and devises, and receipts from any miscellaneous sales from whatever source derived.

All such income and all such fees, earnings, and receipts on hand June 30, 2003, and all such income and fees, earnings, and receipts accruing thereafter are hereby appropriated to the boards of trustees or directors of the aforementioned institutions and IHETS and may be expended for any necessary expenses of the respective institutions and IHETS, including university hospitals, schools of medicine, nurses' training schools, schools of dentistry, and agricultural extension and experimental stations. However, such income, fees, earnings, and receipts may be used for land and structures only if approved by the governor and the budget agency.

The foregoing appropriations and allocations for fee replacement are for replacement of student fees deducted during the 2003-2005 biennium to cover bond or lease-purchase principal, interest, and other obligations of debt costs of facility construction and acquisition for those projects authorized by the general assembly. These fee replacement appropriations and allocations shall be allotted by the budget agency after receipt of verification of payment of such debt cost expense.

The foregoing appropriations to Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, Ivy Tech State College, and IHETS include the employers' share of Social Security payments for university and IHETS employees under the public employees' retirement fund, or institutions covered by the Indiana state teachers' retirement fund. The funds appropriated also include funding for the employers' share of payments to the public employees' retirement fund and to the Indiana state teachers' retirement fund at a rate to be established by the retirement funds for both fiscal years for each institution and for IHETS employees covered by these retirement plans.

The treasurers of Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, and Ivy Tech State College shall, at the end of each three (3) month period, prepare and file with the auditor of state a financial statement that shall show in total all revenues received from any source, together with a consolidated statement of disbursements for the same period. The budget director shall establish the requirements for the form and substance of the reports.

The reports of the treasurer also shall contain in such form and in such detail as the governor and the budget agency may specify, complete information concerning receipts from all sources, together with any contracts, agreements, or arrangements with any federal agency, private foundation, corporation, or other

entity from which such receipts accrue.

All such treasurers' reports are matters of public record and shall include without limitation a record of the purposes of any and all gifts and trusts with the sole exception of the names of those donors who request to remain anonymous.

Notwithstanding IC 4-10-11, the auditor of state shall draw warrants to the treasurers of Indiana University, Purdue University, Indiana State University, University of Southern Indiana, Ball State University, Vincennes University, and Ivy Tech State College on the basis of vouchers stating the total amount claimed against each fund and/or account, but not to exceed the legally made appropriations.

Notwithstanding IC 4-12-1-14, for universities and colleges supported in whole or in part by state funds, grant applications and lists of applications need only be submitted upon request to the budget agency for review and approval or disapproval and, unless disapproved by the budget agency, federal grant funds may be requested and spent without approval by the budget agency. Each institution shall retain the applications for a reasonable period of time and submit a list of all grant applications, at least monthly, to the commission for higher education for informational purposes.

For all university special appropriations, an itemized list of intended expenditures, in such form as the governor and the budget agency may specify, shall be submitted to support the allotment request. All budget requests for university special appropriations shall be furnished in a like manner and as a part of the operating budgets of the state universities.

The trustees of Indiana University, the trustees of Purdue University, the trustees of Indiana State University, the trustees of University of Southern Indiana, the trustees of Ball State University, the trustees of Vincennes University, the trustees of

FY 2003-2004	FY 2004-2005	Biennial
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Ivy Tech State College, and the directors of IHETS are hereby authorized to accept federal grants, subject to IC 4-12-1.

Fee replacement funds are to be distributed as requested by each institution, on payment due dates, subject to available appropriations.

FOR THE MEDICAL EDUCATION BOARD

FAMILY PRACTICE RESIDENCY FUND

Total Operating Expense	2,249,791	2,249,791
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Of the foregoing appropriations for the medical education board-family practice residency fund, \$1,000,000 each year shall be used for grants for the purpose of improving family practice residency programs serving medically underserved areas.

MEDICAL EDUCATION - INTERN RESIDENCY PROGRAM

Total Operating Expense	1	1
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FOR THE COMMISSION FOR HIGHER EDUCATION

Total Operating Expense	1,478,533	1,478,533
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**INDIANA CAREER AND POSTSECONDARY
ADVANCEMENT CENTER**

Total Operating Expense	866,094	866,094
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FOR THE DEPARTMENT OF ADMINISTRATION

**ANIMAL DISEASE DIAGNOSTIC LABORATORY LEASE
RENTAL**

Total Operating Expense	1,045,975	1,044,934
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FOR THE STATE BUDGET AGENCY

GIGAPOP PROJECT

Total Operating Expense	727,638	727,638
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SOUTH CENTRAL EDUCATIONAL ALLIANCE

BEDFORD SERVICE AREA

Total Operating Expense	280,710	280,710
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SOUTHEAST INDIANA EDUCATION SERVICES

Total Operating Expense	742,468	742,468
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The above appropriation for southeast Indiana education services may be expended with the approval of the budget agency after review by the commission for higher education and the budget committee.

DEGREE LINK

Total Operating Expense	500,375	500,375
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The above appropriations shall be used for the delivery of Indiana State University baccalaureate degree programs at Ivy Tech State College and Vincennes University locations through Degree Link. Distributions shall be made upon the recommendation of the Indiana commission for higher education and with approval by the budget agency after review by the budget committee.

WORKFORCE CENTERS

Total Operating Expense	837,000	837,000
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The distribution of total university operating and line item appropriations for the 2003-2004 fiscal year to Indiana University, Purdue University, Indiana State University, Ball State University, the University of Southern Indiana, Vincennes University, Ivy Tech State College, the Indiana Higher Education Telecommunications System (IHETS), the Indiana commission for higher education (ICHE), and the budget agency includes one-twelfth (1/12) of the calculated amounts appropriated for fiscal year 2002-2003 by P.L. 291-2001, as adjusted by P.L. 178-2002 and budget agency implementation of the deficit management plan, and eleven-twelfths (11/12) of the appropriations for fiscal year 2003-04.

The distribution of total university operating and line item appropriations for the 2004-2005 fiscal year to Indiana University, Purdue University, Indiana State University, Ball

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

State University, the University of Southern Indiana, Vincennes University, Ivy Tech State College, IHETS, ICHE, and the budget agency includes one-twelfth (1/12) of the amount appropriated for fiscal year 2003-2004 and eleven-twelfths (11/12) of the amount appropriated for fiscal year 2004-2005.

FOR THE STATE STUDENT ASSISTANCE COMMISSION

Total Operating Expense	1,266,044	1,266,044
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FREEDOM OF CHOICE GRANTS

Total Operating Expense	36,428,485	38,041,495
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HIGHER EDUCATION AWARD PROGRAM

Total Operating Expense	87,851,595	98,811,021
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NURSING SCHOLARSHIP PROGRAM

Total Operating Expense	402,142	402,142
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HOOSIER SCHOLAR PROGRAM

Total Operating Expense	400,000	400,000
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For the higher education awards and freedom of choice grants made for the 2003-2005 biennium, the following guidelines shall be used, notwithstanding current administrative rule or practice:

(1) Financial Need: For purposes of these awards, financial need shall be limited to actual undergraduate tuition and fees for the prior academic year as established by the commission.

(2) Maximum Base Award: The maximum award shall not exceed the lesser of:

(A) eighty percent (80%) of actual prior academic year undergraduate tuition and fees; or

(B) eighty percent (80%) of the sum of the highest prior academic year undergraduate tuition and fees at any public institution of higher education and the lowest appropriation per full-time equivalent (FTE) undergraduate student at any public institution of higher education.

(3) Minimum Award: No actual award shall be less than \$200.

(4) Award Size: A student's maximum award shall be reduced one (1) time:

(A) for dependent students, by the expected contribution from parents based upon information submitted on the financial aid

application form; and

(B) for independent students, by the expected contribution derived from information submitted on the financial aid application form.

(5) Award Adjustment: The maximum base award may be adjusted by the commission, for any eligible recipient who fulfills college preparation requirements defined by the commission.

(6) Adjustment: If the dollar amounts of eligible awards exceed appropriations and program reserves, all awards may be adjusted by the commission by reducing the maximum award under subdivision (2)(A) or (2)(B).

For the Hoosier scholar program for the 2003-2005 biennium, each award shall not exceed five hundred dollars (\$500) and shall be made available for one (1) year only. Receipt of this award shall not reduce any other award received under any state funded student assistance program.

STATUTORY FEE REMISSION

Total Operating Expense	13,859,865	16,741,402
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PART-TIME GRANT PROGRAM

Total Operating Expense	5,250,000	5,250,000
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Priority for awards made from the above appropriation shall be given first to eligible students meeting TANF income eligibility guidelines as determined by the family and social services administration and second to eligible students who received awards from the part time grant fund during the 2002-2003 school year. Funds remaining shall be distributed according to procedures established by the commission. The maximum grant that an applicant may receive for a particular academic term shall be established by the commission but shall in no case be greater than a grant for which an applicant would be eligible under IC 20-12-21 if the applicant were a full-time student. The commission shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR Part 265.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

The Family and social services administration, division of family and children shall apply all qualifying expenditures for the part time grant program toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.).

CONTRACT FOR INSTRUCTIONAL OPPORTUNITIES IN SOUTHEASTERN INDIANA

Total Operating Expense	603,407	603,407
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MINORITY TEACHER SCHOLARSHIP FUND

Total Operating Expense	399,768	399,768
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COLLEGE WORK STUDY PROGRAM

Total Operating Expense	805,189	805,189
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21ST CENTURY ADMINISTRATION

Total Operating Expense	2,586,443	4,086,443
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21ST CENTURY SCHOLAR AWARDS

Total Operating Expense	15,996,500	18,402,449
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Augmentation for 21st Century Scholar Awards allowed from the General Fund.

The commission shall collect and report to the family and social services administration (FSSA) all data required for FSSA to meet the data collection and reporting requirements in 45 CFR Part 265.

Family and social services, division of family and children shall apply all qualifying expenditures for the 21st century scholars program toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.)

NATIONAL GUARD SCHOLARSHIP

Total Operating Expense	2,714,478	3,033,730
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The above appropriations for national guard scholarship and any program reserves existing on June 30, 2003, shall be the total allowable state expenditure for the program in the 2003-2005

biennium. If the dollar amounts of eligible awards exceed appropriations and program reserves, the state student assistance commission shall develop a plan to insure that the total dollar amount does not exceed the above appropriations and any program reserves.

B. ELEMENTARY AND SECONDARY EDUCATION

**FOR THE DEPARTMENT OF EDUCATION
STATE BOARD OF EDUCATION**

Total Operating Expense	3,152,112	3,152,112
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The foregoing appropriations for the Indiana state board of education are for the education roundtable established by IC 20-1-20.5-3; for the academic standards project to distribute copies of the academic standards and provide teachers with curriculum frameworks; for special evaluation and research projects including national and international assessments; and for state board and roundtable administrative expenses.

SUPERINTENDENT'S OFFICE

Personal Services	678,154	678,154
Other Operating Expense	1,518,002	1,518,002

PUBLIC TELEVISION DISTRIBUTION

Total Operating Expense	2,357,563	2,357,563
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These appropriations are for grants for public television. The Indiana Public Broadcasting Stations, Inc. shall submit a distribution plan for the 9 Indiana public education television stations that shall be approved by the budget agency and reviewed by the budget committee. The above appropriation includes the costs of transmission for the "GED-on-TV" program. Of the above appropriations, \$100,000 each year shall be distributed equally among the eight radio stations.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

RESEARCH AND DEVELOPMENT PROGRAMS

Personal Services	88,499	88,499
Other Operating Expense	275,615	275,615

Of the foregoing appropriations for Research and Development Programs, \$100,000 each year shall be used for the Indiana University Education Policy Center.

DEPUTY SUPERINTENDENT'S OFFICE

Personal Services	415,649	415,649
Other Operating Expense	145,716	145,716

RILEY HOSPITAL

Total Operating Expense	27,900	27,900
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ADMINISTRATION AND FINANCIAL MANAGEMENT

Personal Services	2,132,994	2,132,994
Other Operating Expense	313,816	313,816

MOTORCYCLE OPERATOR SAFETY EDUCATION FUND**Safety Education Fund (IC 20-10.1-7-14)**

Personal Services	119,353	119,353
Other Operating Expense	901,708	901,708

The foregoing appropriations for the motorcycle operator safety education fund are from the motorcycle operator safety education fund created by IC 20-10.1-7-14.

SCHOOL TRAFFIC SAFETY**Motor Vehicle Highway Account (IC 8-14-1)**

Personal Services	216,678	216,678
Other Operating Expense	42,311	42,311

Augmentation allowed.

CENTER FOR SCHOOL ASSESSMENT

Personal Services	295,106	295,106
Other Operating Expense	759,136	759,136

ACCREDITATION SYSTEM

Personal Services	461,992	461,992
Other Operating Expense	512,010	512,010

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

SPECIAL EDUCATION (S-5)

Total Operating Expense	30,000,000	30,000,000
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The foregoing appropriations for special education are made under IC 20-1-6-19.

CENTER FOR COMMUNITY RELATIONS AND SPECIAL POPULATIONS

Personal Services	258,099	258,099
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Other Operating Expense	61,805	61,805
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SPECIAL EDUCATION EXCISE

Alcoholic Beverage Excise Tax Funds (IC 20-1-6-10)

Personal Services	330,332	330,332
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Augmentation allowed.

GED-ON-TV PROGRAM

Other Operating Expense	229,500	229,500
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The foregoing appropriation is for grants to provide GED-ON-TV programming. The GED-ON-TV Program shall submit for review by the budget committee an annual report on utilization of this appropriation.

VOCATIONAL EDUCATION

Personal Services	1,303,194	1,303,194
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Other Operating Expense	78,783	78,783
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ADVANCED PLACEMENT PROGRAM

Other Operating Expense	930,000	930,000
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The above appropriations for the Advanced Placement program are to provide funding for students of accredited public and nonpublic schools.

PSAT PROGRAM

Other Operating Expense	744,000	744,000
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The above appropriations for the PSAT program are to provide funding for students of accredited public and nonpublic schools.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

CENTER FOR SCHOOL IMPROVEMENT AND PERFORMANCE

Personal Services	1,728,746	1,728,746
Other Operating Expense	992,586	992,586

PRINCIPAL LEADERSHIP ACADEMY

Personal Services	326,637	326,637
Other Operating Expense	151,224	151,224

EDUCATION SERVICE CENTERS

Total Operating Expense	1,721,287	1,721,287
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No appropriation made for an education service center shall be distributed to the administering school corporation of the center unless each participating school corporation of the center contracts to pay to the center at least three dollars (\$3) per student for fiscal year 2003-2004 based on the school corporation's ADM count as reported for school aid distribution in the fall of 2002, and at least three dollars (\$3) per student for fiscal year 2004-2005, based on the school corporation's ADM count as reported for school aid distribution beginning in the fall of 2003. Before notification of education service centers of the formula and components of the formula for distributing funds for education service centers, review and approval of the formula and components must be made by the budget agency.

TRANSFER TUITION (STATE EMPLOYEES' CHILDREN AND ELIGIBLE CHILDREN IN MENTAL HEALTH FACILITIES)

Total Operating Expense	199,950	199,950
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The foregoing appropriations for transfer tuition (state employees' children and eligible children in mental health facilities) are made under IC 20-8.1-6.1-6 and IC 20-8.1-6.1-5.

TEACHERS' SOCIAL SECURITY AND RETIREMENT DISTRIBUTION

Total Operating Expense	2,403,792	2,403,792
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The foregoing appropriations shall be distributed by the department of education on a monthly basis and in approximately equal payments to special education cooperatives, area vocational schools, and other governmental entities that received state teachers' Social Security distributions for certified education personnel (excluding the certified education personnel funded through federal grants) during the fiscal year beginning July 1, 1992, and ending June 30, 1993, and for the units under the Indiana state teacher's retirement fund, the amount they received during the 2002-2003 state fiscal year for teachers' retirement. If the total amount to be distributed is greater than the total appropriation, the department of education shall reduce each entity's distribution proportionately.

DISTRIBUTION FOR TUITION SUPPORT

General Fund

Total Operating Expense

2,053,342,946	2,074,488,779
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Property Tax Replacement Fund (IC 6-1.1-21)

Total Operating Expense

1,603,407,054	1,624,011,221
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The foregoing appropriations for distribution for tuition support are to be distributed for tuition support, special education programs, vocational education programs, at-risk programs, honors grants, and the primetime program in accordance with a statute enacted for this purpose during the 2003 session of the general assembly.

If the above appropriations for distribution for tuition support are more than are required under this SECTION, one-half (1/2) of any excess shall revert to the state general fund and one-half (1/2) of any excess shall revert to the property tax replacement fund.

The above appropriations for tuition support shall be made each calendar year under a schedule set by the budget agency and

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

approved by the governor. However, the schedule shall provide for at least twelve (12) payments, that one (1) payment shall be made at least every forty (40) days, and the aggregate of the payments in each calendar year shall equal the amount required under the statute enacted for the purpose referred to above.

DISTRIBUTION FOR TRANSPORTATION

Total Operating Expense	11,997,909	0
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The distributions for transportation shall be made to each local school corporation in accordance with IC 21-3-3.1 and any pertinent rules.

ADA FLAT GRANT DISTRIBUTION

Total Operating Expense	17,927,299	0
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Distribution to local school corporations shall be based on average daily attendance. The foregoing appropriations for the ADA flat grant distribution account include the appropriation of the common school fund interest balance. The remainder of the above appropriations are provided from the state general fund.

DISTRIBUTION FOR SUMMER SCHOOL

Other Operating Expense	18,360,000	18,360,000
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It is the intent of the 2003 general assembly that the above appropriations for summer school shall be the total allowable state expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for that state fiscal year, then the department of education shall reduce the distributions proportionately.

EARLY INTERVENTION PROGRAM

Personal Services	13,000	13,000
Other Operating Expense	3,707,000	3,707,000

The above appropriations for the early intervention program are

for grants to local school corporations for grant proposals for early intervention programs, including reading recovery and the Waterford method.

READING DIAGNOSTIC ASSESSMENT

Total Operating Expense 1,000,000 1,000,000

The foregoing appropriations shall be used by the department for the reading diagnostic assessment and subsequent remedial programs or activities. The reading diagnostic assessment program, as approved by the board, is to be made available on a voluntary basis to all Indiana public and non-public school first and second grade students upon the approval of the governing body of school corporations. The board shall determine how the funds will be distributed for the assessment and related remediation. The department or its representative shall provide progress reports on the assessment as requested by the board and the education roundtable.

ADULT EDUCATION DISTRIBUTION

Total Operating Expense 14,000,000 14,000,000

It is the intent of the 2003 general assembly that the above appropriations for adult education shall be the total allowable state expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for a state fiscal year, the department of education shall reduce the distributions proportionately.

NATIONAL SCHOOL LUNCH PROGRAM

Total Operating Expense 5,168,289 5,400,000

MARION COUNTY DESEGREGATION COURT ORDER

Total Operating Expense 18,200,000 18,200,000

The foregoing appropriations for court ordered desegregation costs are made pursuant to order No. IP 68-C-225-S of the United

States District Court for the Southern District of Indiana. If the sums herein appropriated are insufficient to enable the state to meet its obligations, then there are hereby appropriated from the state general fund such further sums as may be necessary for such purpose.

TEXTBOOK REIMBURSEMENT

Total Operating Expense 19,900,000 19,900,000

Before a school corporation or an accredited non-public school may receive a distribution under the textbook reimbursement program, the school corporation or accredited non-public school shall provide to the department the requirements established in IC 20-8.1-9-2. The department shall provide to the family and social services administration (FSSA) all data required for FSSA to meet the data collection reporting requirement in 45 CFR Part 265. Family and social services, division of family and children, shall apply all qualifying expenditures for the textbook reimbursement program toward Indiana's maintenance of effort under the federal Temporary Assistance to Needy Families (TANF) program (45 CFR 260 et seq.)

TRANSPORTATION FOR SPECIAL AND VOCATIONAL EDUCATION

Total Operating Expense 4,450,050 0

The distribution of these appropriations shall be made in accordance with IC 21-3-3.1.

FULL DAY KINDERGARTEN

Total Operating Expense 8,500,000 8,500,000

The above appropriations for full-day kindergarten are available to a school corporation that applies to the department of education for funding of full day kindergarten. The amount available to a school corporation equals the amount appropriated divided by the statewide total ADM (as defined in IC 21-3-1.6-1.1)

for the current year, and then multiplied by school corporation's ADM (as defined in IC 21-3-1.6-1.1) for the current year. A school corporation that is awarded a grant must provide to the department of education a financial report stating how the funds were spent. Any unspent funds at the end of the biennium must be returned to the state by the school corporation.

TESTING/REMEDICATION

Other Operating Expense 31,410,450 31,410,450

Prior to notification of local school corporations of the formula and components of the formula for distributing funds for remediation, review and approval of the formula and components shall be made by the budget agency. With the approval of the governor and the budget agency, the above appropriations for school assessment testing/remediation may be augmented from revenues accruing to the secondary market sale fund established by IC 20-12-21.2-10.

The above appropriation for Testing/Remediation shall be used by school corporations to provide remediation programs for students who attend public and nonpublic schools. For purposes of tuition support, these students are not to be counted in the average daily membership.

GRADUATION EXAM REMEDIATION

Other Operating Expense 4,958,910 4,958,910

Prior to notification of local school corporations of the formula and components of the formula for distributing funds for graduation exam remediation, review and approval of the formula and components shall be made by the budget agency. With the approval of the governor and the budget agency, the above appropriations for school assessment testing/remediation may be augmented from revenues accruing to the secondary market sale fund established by IC 20-12-21.2-10.

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

SPECIAL EDUCATION PRESCHOOL

Total Operating Expense	27,173,300	27,173,300
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The above appropriations shall be distributed to guarantee a minimum of \$2,750 per child enrolled in special education preschool programs from state and local sources in school corporations that levy a \$0.01 per \$100 assessed valuation tax rate for this purpose. It is the intent of the 2003 general assembly that the above appropriations for special education preschool shall be the total allowable expenditure for such program. Therefore, if the expected disbursements are anticipated to exceed the total appropriation for that state fiscal year, then the department of education shall reduce the distributions proportionately.

NON-ENGLISH SPEAKING PROGRAM

Other Operating Expense	700,000	700,000
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The above appropriations for the non-English speaking program are for pupils who have a primary language other than English and limited English proficiency, as determined by using a standard proficiency examination that has been approved by the department of education.

The grant amount is seventy-five dollars (\$75) per pupil. It is the intent of the 2003 general assembly that the above appropriations for the non-English speaking program shall be the total allowable state expenditure for the program. If the expected distributions are anticipated to exceed the total appropriations for the state fiscal year, the department of education shall reduce each school corporation's distribution proportionately.

GIFTED AND TALENTED EDUCATION PROGRAM

Personal Services	180,906	180,906
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Other Operating Expense	5,649,354	5,649,354
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DISTRIBUTION FOR ADULT VOCATIONAL EDUCATION

Total Operating Expense	250,000	250,000
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The distribution for adult vocational education programs shall be made in accordance with the state plan for vocational education.

PRIMETIME

Personal Services	169,291	169,291
Other Operating Expense	34,467	34,467

DRUG FREE SCHOOLS

Personal Services	51,137	51,137
Other Operating Expense	20,093	20,093

PROFESSIONAL DEVELOPMENT DISTRIBUTION

Other Operating Expense	13,812,500	13,812,500
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The foregoing appropriations for professional development distributions include schools defined under IC 20-10.2-2-11.

ALTERNATIVE SCHOOLS

Total Operating Expense	6,375,000	6,375,000
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The board is to submit recommendations to the budget committee for review before May 1, 2004, for implementation in state fiscal year 2004-2005.

**EDUCATIONAL TECHNOLOGY PROGRAM AND FUND
(INCLUDING 4R'S TECHNOLOGY GRANT PROGRAM)**

Total Operating Expense	2,100,000	2,100,000
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Of the foregoing appropriations, \$825,000 shall be allocated to the buddy system each state fiscal year during the biennium. Of the foregoing appropriations, \$800,000 shall be allocated to the Web Academy during each state fiscal year of the biennium. The remaining amounts shall be allocated for technology programs and resources for kindergarten through twelfth grade, and the operation of the office of the special assistant to the superintendent of public instruction for technology.

TECHNOLOGY PLAN GRANT PROGRAM (IC 20-10.1-25.3)

Total Operating Expense	5,000,000
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Notwithstanding IC 20-10.1-25.3-9, the department of education may adjust the grant amount to reflect available funding.

FOR THE INDIANA STATE TEACHERS' RETIREMENT FUND

POSTRETIREMENT PENSION INCREASES

Other Operating Expense 39,229,000 36,532,000

The appropriations for postretirement pension increases are made for those benefits and adjustments provided in IC 21-6.1-6 and IC 5-10.2-5.

TEACHERS' RETIREMENT FUND DISTRIBUTION

General Fund

Other Operating Expense

266,300,000 310,300,000

Augmentation allowed.

If the amount actually required under the pre-1996 account of the teachers' retirement fund for actual benefit payments is greater than the above appropriations plus the transfer from the pension stabilization fund for pension fund contributions, after notice to the governor and the budget agency of the deficiency, the above appropriations shall be augmented from the pension stabilization fund established by IC 21-6.1-2-8. If the amount actually required under the pre-1996 account of the teachers' retirement fund for actual benefit payments for a year is less than the above appropriations plus the transfer from the pension stabilization fund for pension fund contributions for the year, the excess shall be transferred to the general fund.

The board of the teachers' retirement fund shall transfer \$190,000,000 in each of fiscal year 2003-2004 and fiscal year 2004-2005 from the pension stabilization fund (IC 21-6.1-2) to the teachers' retirement fund (IC 21-6.1-2).

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

**FOR THE PROFESSIONAL STANDARDS BOARD -
ADMINISTRATION**

Personal Services	2,172,556	2,168,448
Other Operating Expense	4,633,968	4,638,076

Each mentor teacher is entitled to a maximum annual stipend of \$600 to be paid from the foregoing appropriations.

There is created the professional standards board licensing fund to be administered by the professional standards board. The fund shall consist of fee revenues collected under the provisions of IC 20-1-1.4-7. Money in the fund does not revert at the end of the state fiscal year. Money in the fund is continuously appropriated for use by the board for administrative expenses in relation to carrying out its duties under the provisions of IC 20-1-1.4-7.

The above appropriations for professional standards board administration are in addition to the appropriation made to the professional standards licensing fund established in this SECTION.

C. OTHER EDUCATION

FOR THE EDUCATION EMPLOYMENT RELATIONS BOARD

Personal Services	682,944	682,944
Other Operating Expense	41,838	41,838

PUBLIC EMPLOYEE RELATIONS BOARD

Total Operating Expense	32,550	32,550
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FOR THE STATE LIBRARY

Personal Services	2,690,045	2,690,045
Other Operating Expense	752,550	752,550

DISTRIBUTION TO PUBLIC LIBRARIES

Other Operating Expense	607,936	607,936
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The foregoing appropriations for distribution to public libraries shall be distributed among the public libraries of the state of

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Indiana under IC 4-23-7.1. However, a public library district that does not provide for the issuance of library cards free of charge or for a fee to all individuals who reside in the county in which that public library district is located shall not be considered an eligible public library district in determining the amounts to be distributed under IC 4-23-7.1 and is not entitled to a distribution under IC 4-23-7.1.

**INDIANA COOPERATIVE LIBRARY SERVICES
AUTHORITY**

Total Operating Expense	2,408,848	2,408,848
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ACADEMY OF SCIENCE

Total Operating Expense	8,811	8,811
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FOR THE ARTS COMMISSION

Personal Services	320,866	320,866
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Other Operating Expense	3,296,471	3,296,471
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FOR THE HISTORICAL BUREAU

Personal Services	364,618	364,618
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Other Operating Expense	16,902	16,902
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HISTORICAL MARKER PROGRAM

Total Operating Expense		35,000
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FOR THE COMMISSION ON PROPRIETARY EDUCATION

Personal Services	389,349	389,349
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Other Operating Expense	37,175	37,175
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SECTION 10. [EFFECTIVE JULY 1, 2003]

DISTRIBUTIONS

FOR THE PROPERTY TAX REPLACEMENT FUND BOARD

Property Tax Replacement Fund (IC 6-1.1-21)

Total Operating Expense

1,933,744,068	2,048,400,451
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Adjustments may be made to this appropriation under IC 6-1.1-21-4.

FOR THE FAMILY AND SOCIAL SERVICES ADMINISTRATION

WELFARE TAX LEVY REPLACEMENT FUND

From the General Fund

Total Operating Expense 27,522,204 27,522,204

From Excise and Financial Institution Taxes

Total Operating Expense 6,063,529 6,063,529

Augmentation allowed.

From Child Support Collections

Total Operating Expense 2,000,000 2,000,000

Augmentation allowed.

SECTION 11. [EFFECTIVE JULY 1, 2003]

The following allocations of federal funds are available for vocational and technical education under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301, et seq. for Vocational and Technical Education) (20 U.S.C. 2371 for Tech Prep Education). These funds shall be received by the department of workforce development, commission on vocational and technical education, and shall be allocated by the budget agency after consultation with the commission on vocational and technical education, the department of education, the commission for higher education, and the department of correction. Funds shall be allocated to these agencies in accordance with the allocations specified below:

ADMINISTRATION

494,923 494,923

STATE PROGRAMS AND LEADERSHIP

2,664,322 2,664,322

SECONDARY VOCATIONAL PROGRAMS

14,931,111 14,931,111

POSTSECONDARY VOCATIONAL PROGRAMS

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

8,552,863	8,552,863
TECHNOLOGY - PREPARATION EDUCATION	
2,499,812	2,499,812
CAREER RESOURCE NETWORK STATE GRANTS	
150,963	150,963

SECTION 12. [EFFECTIVE JULY 1, 2003]

In accordance with IC 20-1-18.3, the budget agency, with the advice of the commission on vocational and technical education and the budget committee, may augment or reduce an allocation of federal funds made under SECTION 11 of this act.

SECTION 13. [EFFECTIVE JULY 1, 2003]

Utility bills for the month of June, travel claims covering the period June 16 to June 30, payroll for the period of the last half of June, any interdepartmental bills for supplies or services for the month of June, and any other miscellaneous expenses incurred during the period June 16 to June 30 shall be charged to the appropriation for the succeeding year. No interdepartmental bill shall be recorded as a refund of expenditure to any current year allotment account for supplies or services rendered or delivered at any time during the preceding June period.

SECTION 14. [EFFECTIVE JULY 1, 2003]

The budget agency, under IC 4-10-11, IC 4-12-1-13, and IC 4-13-1, in cooperation with the Indiana department of administration, may fix the amount of reimbursement for traveling expenses (other than transportation) for travel within the limits of Indiana. This amount may not exceed actual lodging and miscellaneous expenses incurred. A person in travel status, as defined by the state travel policies and procedures established by the Indiana department of administration and the budget agency, is entitled to a meal allowance not to exceed during any twenty-four (24) hour period the standard meal allowances

established by the federal Internal Revenue Service.

All appropriations provided by this act or any other statute, for traveling and hotel expenses for any department, officer, agent, employee, person, trustee, or commissioner, are to be used only for travel within the state of Indiana, unless those expenses are incurred in traveling outside the state of Indiana on trips that previously have received approval as required by the state travel policies and procedures established by the Indiana department of administration and the budget agency. With the required approval, a reimbursement for out-of-state travel expenses may be granted in an amount not to exceed actual lodging and miscellaneous expenses incurred. A person in travel status is entitled to a meal allowance not to exceed during any twenty-four (24) hour period the standard meal allowances established by the federal Internal Revenue Service for properly approved travel within the continental United States and a minimum of \$50 during any twenty-four (24) hour period for properly approved travel outside the continental United States. However, while traveling in Japan, the minimum meal allowance shall not be less than \$90 for any twenty-four (24) hour period. While traveling in Korea and Taiwan, the minimum meal allowance shall not be less than \$85 for any twenty-four (24) hour period; while traveling in Singapore, China, Great Britain, Germany, the Netherlands, and France, the minimum meal allowance shall not be less than \$65 for any twenty-four (24) hour period.

In the case of the state supported institutions of postsecondary education, approval for out-of-state travel may be given by the chief executive officer of the institution, or the chief executive officer's authorized designee, for the chief executive officer's respective personnel.

Before reimbursing overnight travel expenses, the auditor of state shall require documentation as prescribed in the state travel policies and procedures established by the Indiana department of administration and the budget agency. No appropriation from any

fund may be construed as authorizing the payment of any sum in excess of the standard mileage rates for personally owned transportation equipment established by the federal Internal Revenue Service when used in the discharge of state business. The Indiana department of administration and the budget agency may adopt policies and procedures relative to the reimbursement of travel and moving expenses of new state employees and the reimbursement of travel expenses of prospective employees who are invited to interview with the state.

SECTION 15. [EFFECTIVE JULY 1, 2003]

Notwithstanding IC 4-10-11-2.1, the salary per diem of members of boards, commissions, and councils who are entitled to a salary per diem is \$50 per day. However, members of boards, commissions, or councils who receive an annual or a monthly salary paid by the state are not entitled to the salary per diem provided in IC 4-10-11-2.1.

SECTION 16. [EFFECTIVE JULY 1, 2003]

No payment for personal services shall be made by the auditor of state unless the payment has been approved by the budget agency or the designee of the budget agency.

SECTION 17. [EFFECTIVE JULY 1, 2003]

No warrant for operating expenses, capital outlay, or fixed charges shall be issued to any department or an institution unless the receipts of the department or institution have been deposited into the state treasury for the month. However, if a department or an institution has more than \$10,000 in daily receipts, the receipts shall be deposited into the state treasury daily.

SECTION 18. [EFFECTIVE JULY 1, 2003]

In case of loss by fire or any other cause involving any state

institution or department, the proceeds derived from the settlement of any claim for the loss shall be deposited in the state treasury, and the amount deposited is hereby reappropriated to the institution or department for the purpose of replacing the loss. If it is determined that the loss shall not be replaced, any funds received from the settlement of a claim shall be deposited into the state general fund.

SECTION 19. [EFFECTIVE JULY 1, 2003]

If an agency has computer equipment in excess of the needs of that agency, then the excess computer equipment may be sold under the provisions of surplus property sales, and the proceeds of the sale or sales shall be deposited in the state treasury. The amount so deposited is hereby reappropriated to that agency for other operating expenses of the then current year, if approved by the director of the budget agency.

SECTION 20. [EFFECTIVE JULY 1, 2003]

If any state penal or benevolent institution other than the Indiana state prison, Pendleton correctional facility, or Putnamville correctional facility shall, in the operation of its farms, produce products, or commodities in excess of the needs of the institution, the surplus may be sold through the division of industries and farms, the director of the supply division of the Indiana department of administration, or both. The proceeds of any such sale or sales shall be deposited in the state treasury. The amount deposited is hereby reappropriated to the institution for expenses of the then current year if approved by the director of the budget agency. The exchange between state penal and benevolent institutions of livestock for breeding purposes only is hereby authorized at valuations agreed upon between the superintendents or wardens of the institutions. Capital outlay expenditures may be made from the institutional industries and farms revolving fund if approved by the budget agency and the governor.

SECTION 21. [EFFECTIVE JULY 1, 2003]

This act does not authorize any rehabilitation and repairs to any state buildings, nor does it allow that any obligations be incurred for lands and structures, without the prior approval of the budget director or the director's designee. This SECTION does not apply to contracts for the construction or maintenance of roads and bridges, to the acquisition of rights-of-way for roads or bridges, or to the state universities supported in whole or in part by state funds.

SECTION 22. [EFFECTIVE JULY 1, 2003]

If an agency has an annual appropriation fixed by law, and if the agency also receives an appropriation in this act for the same function or program, the appropriation in this act supersedes any other appropriations and is the total appropriation for the agency for that program or function.

SECTION 23. [EFFECTIVE JULY 1, 2003]

The balance of any appropriation or funds heretofore placed or remaining to the credit of any division of the state of Indiana, and any appropriation or funds provided in this act placed to the credit of any division of the state of Indiana, the powers, duties, and functions whereof are assigned and transferred to any department for salaries, maintenance, operation, construction, or other expenses in the exercise of such powers, duties, and functions, shall be transferred to the credit of the department to which such assignment and transfer is made, and the same shall be available for the objects and purposes for which appropriated originally.

SECTION 24. [EFFECTIVE JULY 1, 2003]

The director of the division of procurement of the Indiana department of administration, or any other person or agency

authorized to make purchases of equipment, shall not honor any requisition for the purchase of an automobile that is to be paid for from any appropriation made by this act or any other act, unless the following facts are shown to the satisfaction of the commissioner of the department of administration or the commissioner's designee.

(1) In the case of an elected state officer, it shall be shown that the duties of the office require driving about the state of Indiana in the performance of official duty.

(2) In the case of department or commission heads, it shall be shown that the statutory duties imposed in the discharge of the office require traveling a greater distance than one thousand (1,000) miles each month or that they are subject to official duty call at all times.

(3) In the case of employees, it shall be shown that the major portion of the duties assigned to the employee require travel on state business in excess of one thousand (1,000) miles each month, or that the vehicle is identified by the agency as an integral part of the job assignment. In computing the number of miles required to be driven by a department head or an employee, the distance between the individual's home and office or designated official station is not to be considered as a part of the total.

Department heads shall annually submit justification for the continued assignment of each vehicle in their department, which shall be reviewed by the commissioner of the Indiana department of administration, or the commissioner's designee. There shall be an insignia permanently affixed on each side of all state owned cars, designating the cars as being state owned. However, this requirement does not apply to state owned cars driven by elected state officials or to cases where the commissioner of the Indiana department of administration or the commissioner's designee determines that affixing insignia on state owned cars would hinder or handicap the persons driving the cars in the performance of their official duties.

SECTION 25. [EFFECTIVE JULY 1, 2003]

When budget agency approval or review is required under this act, the budget agency may refer to the budget committee any budgetary or fiscal matter for an advisory recommendation. The budget committee may hold hearings and take any actions authorized by IC 4-12-1-11, and may make an advisory recommendation to the budget agency.

SECTION 26. [EFFECTIVE JULY 1, 2003]

The governor of the state of Indiana is solely authorized to accept on behalf of the state any and all federal funds available to the state of Indiana. Federal funds received under this SECTION are appropriated for purposes specified by the federal government, subject to allotment by the budget agency. The provisions of this SECTION and all other SECTIONS concerning the acceptance, disbursement, review, and approval of any grant, loan, or gift made by the federal government or any other source to the state or its agencies and political subdivisions shall apply, notwithstanding any other law.

SECTION 27. [EFFECTIVE JULY 1, 2003]

Federal funds received as revenue by a state agency or department are not available to the agency or department for expenditure until allotment has been made by the budget agency under IC 4-12-1-12(d).

SECTION 28. [EFFECTIVE JULY 1, 2003]

A contract or an agreement for personal services or other services may not be entered into by any agency or department of state government without the approval of the budget agency or the designee of the budget director. Each demand for payment submitted by the agency or department to the auditor of state by claim voucher under such contracts or agreements shall be

accompanied by a copy of the budget agency approval, or approval of any agency to whom the budget agency delegated signature authority, and no payment shall be made by the auditor of state without such approval. This SECTION does not apply to any contract entered into by an agency or department of state government that is the result of a public works project contract under IC 4-13.6.

SECTION 29. [EFFECTIVE JULY 1, 2003]

Except in those cases where a specific appropriation has been made to cover the payments for any of the following, the auditor of state shall transfer, from the personal services appropriations for each of the various agencies and departments, necessary payments for Social Security, public employees' retirement, health insurance, life insurance, and any other similar payments directed by the budget agency.

SECTION 30. [EFFECTIVE JULY 1, 2003]

Subject to SECTION 25 of this act as it relates to the budget committee, the budget agency with the approval of the governor may withhold allotments of any or all appropriations contained in this act for the 2003-2005 biennium, if it is considered necessary to do so in order to prevent a deficit financial situation.

SECTION 31. [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]

The following appropriation is made for FY 2002-2003 in addition to those found in P.L. 291-2001:

From the General Fund

Distribution for Tuition Support \$19,400,000

SECTION 32. [EFFECTIVE JULY 1, 2003]

CONSTRUCTION

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

For the 2003-2005 biennium, the following amounts, from the funds listed as follows, are hereby appropriated to provide for the construction, reconstruction, rehabilitation, repair, purchase, rental, and sale of state properties, capital lease rentals and the purchase and sale of land, including equipment for such properties.

State General Fund - Lease Rentals

237,980,875

State General Fund - Construction

162,463,891

State Police Building Commission Fund (IC 9-1-2-1.5)

3,000,000

Law Enforcement Academy Building Fund (IC 5-2-1-13)

841,000

Cigarette Tax Fund (IC 6-7-1-29.1)

3,700,000

Soldiers' and Sailors' Children's Home Construction Fund (IC 16-33-4-10)

1,000,000

Veterans' Home Construction Fund (IC 10-17-9-9)

4,382,331

Post War Construction Fund (IC 7.1-4-8-1)

38,100,341

Industry and Farm Products Revolving Fund (IC 11-10-6-6)

3,252,207

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Regional Health Care Construction Account (IC 4-12-8.5)

2,900,000

TOTAL

457,620,644

The allocations provided under this SECTION are made from the state general fund, unless specifically authorized from other designated funds by this act. The budget agency, with the approval of the governor, in approving the allocation of funds

pursuant to this SECTION, shall consider, as funds are available, allocations for the following specific uses, purposes, and projects:

A. GENERAL GOVERNMENT

FOR THE INDIANA SENATE

Senate Renovations	250,000
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FOR THE STATE BUDGET AGENCY

Health and Safety Contingency Fund	1,600,000
Indiana University-Purdue University at Fort Wayne - Northeast Indiana Innovation Center	5,000,000
Qualitech Lease Payment	5,717,877
Heartland Steel Lease Payment	2,386,515

Tobacco Master Settlement Agreement Fund (IC 4-12-1-14.3)

Regional Health Care Construction Account (IC 4-12-8.5) State Operated Health Facilities	2,900,000
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DEPARTMENT OF ADMINISTRATION - PROJECTS

Preventive Maintenance	4,811,020
Repair and Rehabilitation	4,000,000

DEPARTMENT OF ADMINISTRATION - LEASES

IDOA Parking Facilities Capital Lease	13,222,641
Indiana Government Center North	32,486,999
Indiana Government Center South	33,882,357
Indiana State Museum	12,566,639
Wabash Valley Correctional Facility	28,251,175
Rockville Correctional Facility	8,665,153
Miami Correctional Facility	30,434,507
Pendleton Juvenile Correctional Facility	9,416,207
New Castle Correctional Facility	18,466,230

B. PUBLIC SAFETY

(1) LAW ENFORCEMENT

INDIANA STATE POLICE**State Police Building Commission Fund (IC 9-1-2-1.5)**

Preventive Maintenance	1,080,050
Repair and Rehabilitation	1,919,950

LAW ENFORCEMENT TRAINING BOARD**Law Enforcement Academy Building Fund (IC 5-2-1-13)**

Preventive Maintenance	353,000
Repair and Rehabilitation	488,000

ADJUTANT GENERAL

Preventive Maintenance	250,000
Repair and Rehabilitation	1,637,900

(2) CORRECTIONS**DEPARTMENT OF CORRECTION - PROJECTS**

Repair and Rehabilitation	516,735
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	1,350,000
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CORRECTIONAL UNITS

Preventive Maintenance	420,000
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	10,526,935
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STATE PRISON

Preventive Maintenance	1,161,322
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	5,008,595
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PENDLETON CORRECTIONAL FACILITY

Preventive Maintenance	996,396
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	2,710,103
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WOMEN'S PRISON

Preventive Maintenance	273,000
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	3,375,000
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NEW CASTLE CORRECTIONAL FACILITY

Preventive Maintenance	660,660
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PUTNAMVILLE CORRECTIONAL FACILITY	
Preventive Maintenance	843,022
Repair and Rehabilitation	295,713
Post War Construction Fund (IC 7.1-4-8-1)	
Repair and Rehabilitation	1,896,230
PLAINFIELD JUVENILE CORRECTIONAL FACILITY	
Preventive Maintenance	543,947
Repair and Rehabilitation	5,136,800
Post War Construction Fund (IC 7.1-4-8-1)	
Repair and Rehabilitation	979,788
INDIANAPOLIS JUVENILE CORRECTIONAL FACILITY	
Preventive Maintenance	325,146
Post War Construction Fund (IC 7.1-4-8-1)	
Repair and Rehabilitation	1,544,500
BRANCHVILLE CORRECTIONAL FACILITY	
Preventive Maintenance	344,870
Post War Construction Fund (IC 7.1-4-8-1)	
Repair and Rehabilitation	394,650
WESTVILLE CORRECTIONAL FACILITY	
Preventive Maintenance	1,191,891
Post War Construction Fund (IC 7.1-4-8-1)	
Repair and Rehabilitation	2,878,365
ROCKVILLE CORRECTIONAL FACILITY	
Preventive Maintenance	344,870
PLAINFIELD CORRECTIONAL FACILITY	
Preventive Maintenance	575,751
Post War Construction Fund (IC 7.1-4-8-1)	
Repair and Rehabilitation	2,321,800
RECEPTION-DIAGNOSTIC CENTER	
Preventive Maintenance	216,472
Post War Construction Fund (IC 7.1-4-8-1)	
Preventive Maintenance	814,280
PEN PRODUCTS	
Industry and Farm Products Revolving Fund (IC 11-10-6-6)	
Preventive Maintenance	110,292
Modification of CIF Food Processing Plt.	3,141,915

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

CORRECTIONAL INDUSTRIAL FACILITY

Preventive Maintenance	520,023
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	1,057,700
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WORK RELEASE CENTERS

Preventive Maintenance	100,732
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	70,480
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WABASH VALLEY CORRECTIONAL FACILITY

Preventive Maintenance	833,560
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Post War Construction Fund (IC 7.1-4-8-1)

Repair and Rehabilitation	3,171,915
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MIAMI CORRECTIONAL FACILITY

Preventive Maintenance	521,400
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PENDLETON JUVENILE CORRECTIONAL FACILITY

Preventive Maintenance	364,000
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C. CONSERVATION AND ENVIRONMENT**DEPARTMENT OF NATURAL RESOURCES - GENERAL ADMINISTRATION**

Repair and Rehabilitation	1,000,000
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FISH AND WILDLIFE

Preventive Maintenance	1,810,863
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Repair and Rehabilitation	3,372,000
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FORESTRY

Preventive Maintenance	1,884,200
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Repair and Rehabilitation	5,119,650
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HISTORIC SITES

Preventive Maintenance	331,586
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Repair and Rehabilitation	2,000,000
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NATURE PRESERVES

Preventive Maintenance	109,200
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Repair and Rehabilitation	1,093,000
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OUTDOOR RECREATION

Preventive Maintenance	33,306
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Repair and Rehabilitation	575,000
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STATE PARKS AND RESERVOIR MANAGEMENT

Preventive Maintenance	1,562,774
Repair and Rehabilitation	29,400,000
Land Acquisition for Prophetstown State Park	1,000,000
Cigarette Tax Fund (IC 6-7-1-29.1)	
Preventive Maintenance	3,700,000

DIVISION OF WATER

Preventive Maintenance	315,000
Lake Shafer Dredging	400,000
Repair and Rehabilitation	925,000

ENFORCEMENT

Preventive Maintenance	207,480
Repair and Rehabilitation	500,000

STATE MUSEUM

Preventive Maintenance	600,000
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OIL AND GAS

Oil&Gas - Partnership Programs	200,000
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ENTOMOLOGY

Repair and Rehabilitation	200,000
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WAR MEMORIALS COMMISSION

Preventive Maintenance	1,421,494
Repair and Rehabilitation	2,754,503

LITTLE CALUMET RIVER BASIN COMMISSION

Match for Federal Earmarks	7,000,000
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D. ECONOMIC DEVELOPMENT**DEPARTMENT OF COMMERCE**

Airport Facilities Lease	40,513,245
Aviation Technology	1,971,330

E. TRANSPORTATION**AIRPORT DEVELOPMENT**

Airport Development	1,200,000
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The foregoing allocation for the Indiana department of

transportation is for airport development and shall be used for the purpose of assisting local airport authorities and local units of government in matching available federal funds under the airport improvement program and for matching federal grants for airport planning and for the other airport studies. Matching grants of aid shall be made in accordance with the approved annual capital improvements program of the Indiana department of transportation and with the approval of the governor and the budget agency.

GARY/CHICAGO AIRPORT

Infrastructure Upgrades	2,000,000
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F. FAMILY AND SOCIAL SERVICES, HEALTH, AND VETERANS' AFFAIRS

(1) FAMILY AND SOCIAL SERVICES ADMINISTRATION

FSSA CONSTRUCTION

Repair and Rehabilitation	4,904,468
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EVANSVILLE PSYCHIATRIC CHILDREN'S CENTER

Preventive Maintenance	45,632
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Repair and Rehabilitation	50,000
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EVANSVILLE STATE HOSPITAL

Preventive Maintenance	756,756
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Repair and Rehabilitation	1,629,450
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MADISON STATE HOSPITAL

Preventive Maintenance	971,409
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Repair and Rehabilitation	1,049,110
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LOGANSPOUT STATE HOSPITAL

Preventive Maintenance	963,144
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Repair and Rehabilitation	4,697,361
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RICHMOND STATE HOSPITAL

Preventive Maintenance	1,210,724
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Repair and Rehabilitation	1,050,400
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LARUE CARTER MEMORIAL HOSPITAL

Preventive Maintenance	1,484,134
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FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

Repair and Rehabilitation	1,500,000
FORT WAYNE STATE DEVELOPMENTAL CENTER	
Preventive Maintenance	1,424,803
Repair and Rehabilitation	3,000,000
MUSCATATUCK STATE DEVELOPMENTAL CENTER	
Preventive Maintenance	1,257,449
Repair and Rehabilitation	1,000,000

(2) PUBLIC HEALTH

DEPARTMENT OF HEALTH	
Preventive Maintenance	130,000
SILVERCREST CHILDREN'S DEVELOPMENT CENTER	
Preventive Maintenance	161,140
SCHOOL FOR THE BLIND	
Preventive Maintenance	565,714
Repair and Rehabilitation	2,750,000
SCHOOL FOR THE DEAF	
Preventive Maintenance	553,120
Repair and Rehabilitation	2,881,907
SOLDIERS' AND SAILORS' CHILDREN'S HOME	
Preventive Maintenance	350,446
Repair and Rehabilitation	1,730,000
Soldiers' and Sailors' Children's Home Construction Fund (IC 16-33-4-10)	
Repair and Rehabilitation	1,000,000

(3) VETERANS' AFFAIRS

INDIANA VETERANS' HOME	
Veterans' Home Construction Fund (IC 10-6-1-9)	
Preventive Maintenance	697,331
Repair and Rehabilitation	3,685,000

G. EDUCATION**HIGHER EDUCATION**

FY 2003-2004	FY 2004-2005	Biennial
Appropriation	Appropriation	Appropriation

INDIANA UNIVERSITY - TOTAL SYSTEM	
General Repair and Rehab	10,466,860
PURDUE UNIVERSITY - TOTAL SYSTEM	
General Repair and Rehab	8,305,775
INDIANA STATE UNIVERSITY	
General Repair and Rehab	2,061,338
UNIVERSITY OF SOUTHERN INDIANA	
General Repair and Rehab	400,414
BALL STATE UNIVERSITY	
General Repair and Rehab	2,621,019
VINCENNES UNIVERSITY	
General Repair and Rehab	1,004,205
IVY TECH STATE COLLEGE	
General Repair and Rehab	736,826

SECTION 33. [EFFECTIVE JULY 1, 2003]

(a) There is appropriated to the budget agency the following sums from the state general fund for the purpose of improving high speed data access and communications capability statewide by linking fiber optic infrastructure to eleven (11) areas around the state (I-Light Fiber Optic System) in the following periods:

- (1) For FY 2003-2004, five million dollars (\$5,000,000).
- (2) For FY 2004-2005, five million dollars (\$5,000,000).

(b) In selecting contractors to implement and operate the I-Light Fiber Optic System, the budget agency shall use a competitive procedure that ensures that the appropriated funds are used in the most efficient and effective manner.

(c) This SECTION expires July 1, 2006.

SECTION 34. [EFFECTIVE UPON PASSAGE]

Notwithstanding the provisions of P.L. 291-2001, any part of the appropriations for the 2001-2003 biennium for the personal services/fringe benefits contingency fund or the employee recruitment and retention fund in excess of \$30,000,000 that remains on June 30, 2003 does not revert to the state general fund,

but remains available for expenditure.

SECTION 35. [EFFECTIVE JULY 1, 2003]

The budget agency may employ one (1) or more architects or engineers to inspect construction, rehabilitation, and repair projects covered by the appropriations in this act or previous acts designated in this act.

SECTION 36. [EFFECTIVE JULY 1, 2003]

If any part of a construction or rehabilitation and repair appropriation made by this act or any previous acts has not been allotted or encumbered before the expiration of two (2) biennia, the budget agency may determine that the balance of the appropriation is not available for allotment. The appropriation may be terminated and the balance may revert to the fund from which the original appropriation was made.

SECTION 37. [EFFECTIVE UPON PASSAGE]

The budget agency may retain balances in the mental health fund at the end of any fiscal year to ensure there are sufficient funds to meet appropriations for state developmental centers in any subsequent year.

SECTION 38. [EFFECTIVE JULY 1, 2003]

If the budget director makes a determination at any time during either fiscal year of the biennium that the executive branch of state government cannot meet its statutory obligations due to insufficient funds in the state general fund, then notwithstanding IC 4-10-18, the budget agency, with the approval of the governor and after review by the budget committee, may transfer from the counter-cyclical revenue and economic stabilization fund to the state general fund an amount necessary to maintain a positive balance in the state general fund.

SECTION 39. IC 4-15-1.8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The department shall do the following:

- (1) Develop personnel policies, methods, procedures, and standards for all state agencies.
- (2) Formulate, establish, and administer position classification plans and salary and wage schedules, all subject to final approval by the governor.
- (3) Allocate positions in the state agencies to their proper classifications.
- (4) Approve employees for transfer, demotion, promotion, suspension, layoff, and dismissal.
- (5) Rate employees' service.
- (6) Arrange with state agency heads for employee training.
- (7) Investigate the need for positions in the state agencies.
- (8) Promulgate and enforce personnel rules.
- (9) Make and administer examinations for employment and for promotions.
- (10) Maintain personnel records and a roster of the personnel of all state agencies.
- (11) Render personnel services to the political subdivisions of Indiana.
- (12) Investigate the operation of personnel policies in all state agencies.
- (13) Assist state agencies in the improvement of their personnel procedures.
- (14) Conduct a vigorous program of recruitment of qualified and able persons for the state agencies.
- (15) Advise the governor and the general assembly of legislation needed to improve the personnel system of this state.
- (16) Furnish any information and counsel requested by the governor or the general assembly.
- (17) Establish and administer an employee training and career advancement program.
- (18) Administer the state personnel law, IC 4-15-2.
- (19) Institute an employee awards system designed to encourage all state employees to submit suggestions that will reduce the costs or improve the quality of state agencies.

(20) Survey the administrative organization and procedures, including personnel procedures, of all state agencies, and submit to the governor measures to secure greater efficiency and economy, to minimize the duplication of activities, and to effect better organization and procedures among state agencies.

(b) Salary and wage schedules established by the department under subsection (a) must provide for the establishment of overtime policies, which must include the following:

- (1) Definition of overtime.
- (2) Determination of employees or classes eligible for overtime pay.
- (3) Procedures for authorization.
- (4) Methods of computation.
- (5) Procedures for payment.
- (6) A provision that there shall be no mandatory adjustments to an employee's established work schedule in order to avoid the payment of overtime.

(c) The state personnel advisory board shall advise the director and cooperate in the improvement of all the personnel policies of the state.

(d) By January 1, 1984, the department shall establish programs of temporary appointment for employees of state agencies. A program established under this subsection must contain at least the following provisions:

- (1) A temporary appointment may not exceed one hundred eighty (180) working days in any twelve (12) month period.
- (2) The department may allow exceptions to the prohibition in subdivision (1) with the approval of the state budget agency.
- (3) A temporary appointment in an agency covered by IC 4-15-2 is governed by the procedures of that chapter.
- (4) A temporary appointment does not constitute creditable service for purposes of the public employees' retirement program under IC 5-10.2 and IC 5-10.3. However, an employee who served in an intermittent form of temporary employment after June 30, 1986, and before July 1, 2003, shall receive creditable service for the period of temporary employment.**

SECTION 40. IC 4-15-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **Except as**

provided in IC 4-15-1.8-7(d), all persons covered on January 1, 1966, by this chapter or coming under the provisions of this chapter after January 1, 1966, shall be eligible for, shall participate in, and shall receive the benefits of the public employees retirement program as provided by IC 5-10.2 and IC 5-10.3.

SECTION 41. IC 4-30-16-3, AS AMENDED BY P.L.273-1999, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The commission shall transfer the surplus revenue in the administrative trust fund as follows:

(1) Before the last business day of January, April, July, and October, the commission shall transfer to the treasurer of state, for deposit in the Indiana state teachers' retirement fund (IC 21-6.1-2), **before July 1, 2005, seven million five hundred thousand dollars (\$7,500,000) and after June 30, 2005**, an amount equal to the lesser of:

(A) seven million five hundred thousand dollars (\$7,500,000);

or

(B) the additional quarterly contribution needed so that the ratio of the unfunded liability of the Indiana state teachers' retirement fund compared to total active teacher payroll is as close as possible to but not greater than the ratio that existed on the preceding July 1.

After June 30, 2003, and before July 1, 2005, the amount deposited in a state fiscal year under this subdivision in the Indiana state teachers' retirement fund (IC 21-6.1-2) shall only be used by the board to reduce the employer contribution rate that school corporations would otherwise pay after June 30, 2003, and before July 1, 2005, to the Indiana state teachers' retirement fund (IC 21-6.1-2), as computed under IC 5-10.2-2 and certified under IC 21-6.1-7-12, for teachers covered by the 1996 account, including a proportionate share of administration expenses for the 1996 account. On or before June 15, 2005, and June 15 of each year thereafter, the board of trustees of the Indiana state teachers' retirement fund shall submit to the treasurer of state, each member of the pension management oversight commission, and the auditor of state its estimate of the quarterly amount needed to freeze the unfunded accrued liability of the pre-1996 account (as defined in IC 21-6.1-1-6.9) as a

percent of payroll. The estimate shall be based on the most recent actuarial valuation of the fund. Notwithstanding any other law, including any appropriations law resulting from a budget bill (as defined in IC 4-12-1-2), **after June 30, 2005**, the money transferred under this subdivision shall be set aside in a special account to be used as a credit against the unfunded accrued liability of the pre-1996 account (as defined in IC 21-6.1-1-6.9) of the Indiana state teachers' retirement fund. The money transferred is in addition to the appropriation needed to pay benefits for the state fiscal year.

(2) Before the last business day of January, April, July, and October, the commission shall transfer:

(A) two million five hundred thousand dollars (\$2,500,000) of the surplus revenue to the treasurer of state for deposit in the "k" portion of the pension relief fund (IC 5-10.3-11); and

(B) five million dollars (\$5,000,000) of the surplus revenue to the treasurer of state for deposit in the "m" portion of the pension relief fund (IC 5-10.3-11).

(3) The surplus revenue remaining in the fund on the last day of January, April, July, and October after the transfers under subdivisions (1) and (2) shall be transferred by the commission to the treasurer of state for deposit on that day in the build Indiana fund.

(b) The commission may make transfers to the treasurer of state more frequently than required by subsection (a). However, the number of transfers does not affect the amount that is required to be transferred for the purposes listed in subsection (a)(1) and (a)(2). Any amount transferred during the month in excess of the amount required to be transferred for the purposes listed in subsection (a)(1) and (a)(2) shall be transferred to the build Indiana fund.

SECTION 42. IC 4-33-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) A licensed owner or any other person must apply for and receive the commission's approval before:

(1) an owner's license is:

(A) transferred;

(B) sold; or

(C) purchased; or

(2) a voting trust agreement or other similar agreement is established with respect to the owner's license.

(b) The commission shall adopt rules governing the procedure a licensed owner or other person must follow to take an action under subsection (a). The rules must specify that a person who obtains an ownership interest in a license must meet the criteria of this article and any rules adopted by the commission. A licensed owner may transfer an owner's license only in accordance with this article and rules adopted by the commission.

(c) A licensed owner or any other person may not:

- (1) lease;
- (2) hypothecate; or
- (3) borrow or loan money against;

an owner's license.

(d) A transfer fee is imposed on a licensed owner who purchases or otherwise acquires a controlling interest, as determined under the rules of the commission, in a second owner's license. The fee is equal to two million dollars (\$2,000,000). The commission shall collect and deposit a fee imposed under this subsection in the state general fund.

SECTION 43. IC 4-33-4-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 22. (a) The commission may not adopt a rule or resolution limiting the ordinary business hours in which a licensed owner that has implemented flexible scheduling under IC 4-33-6-21 may conduct gambling operations.**

(b) This section may not be construed to limit the commission's power to enforce this article:

- (1) under IC 4-33-4-1(a)(6), IC 4-33-4-1(a)(7), or IC 4-33-4-8;**
or
- (2) respond to an emergency, as determined by the commission.**

SECTION 44. IC 4-33-6-21, AS ADDED BY P.L.192-2002(ss), SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21. (a) A licensed owner may submit a plan for flexible scheduling to the commission by a date designated by the commission. Upon receipt of an appropriate plan, the commission shall authorize flexible scheduling and the licensed owner shall implement**

the flexible scheduling plan by the date designated by the commission.

(b) A licensed owner that:

(1) submits a plan for flexible scheduling to the commission may include provisions; or

(2) has implemented a flexible scheduling plan may amend the plan to include provisions;

to conduct gambling operations for up to twenty-four (24) hours a day. Upon receipt of a plan or an amendment to a plan concerning operating hours, the commission shall authorize the licensed owner to implement the plan or amendment for the days and hours specified in the plan or amendment. The licensed owner shall implement the provisions related to operating days and hours by the date designated by the commission. If the licensed owner fails or ceases to operate in accordance with the authorized provisions concerning operating days and hours, the commission may rescind the authorization.

SECTION 45. IC 4-33-13-1, AS AMENDED BY P.L.192-2002(ss), SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: Sec. 1. (a) This section does not apply to a riverboat that has implemented flexible scheduling under IC 4-33-6-21.

(b) **Subject to section 1.5(h) of this chapter**, a tax is imposed on the adjusted gross receipts received from gambling games authorized under this article at the rate of twenty-two and five-tenths percent (22.5%) of the amount of the adjusted gross receipts.

(c) The licensed owner shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(e)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

SECTION 46. IC 4-33-13-1.5, AS ADDED BY P.L.192-2002(ss), SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2002 (RETROACTIVE)]: Sec. 1.5. (a) This section applies only to a riverboat that has implemented flexible scheduling under IC 4-33-6-21.

(b) A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) Fifteen percent (15%) of the first twenty-five million dollars (\$25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.

(2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars (\$25,000,000) but not exceeding fifty million dollars (\$50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars (\$50,000,000) but not exceeding seventy-five million dollars (\$75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars (\$75,000,000) but not exceeding one hundred fifty million dollars (\$150,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.

(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars (\$150,000,000).

~~The tax rates imposed under this section apply to adjusted gross receipts received beginning the date flexible scheduling is implemented under IC 4-33-6-21.~~

(c) The licensed owner shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

(g) If a riverboat implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year, the tax rate imposed on the adjusted gross receipts received while the riverboat implements flexible scheduling shall be computed as if the riverboat had engaged in flexible scheduling during the entire period beginning July 1 of each year and ending June 30 of the following year.

(h) If a riverboat:

(1) implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year; and

(2) before the end of that period ceases to operate the riverboat with flexible scheduling;

the riverboat shall continue to pay a wagering tax at the tax rates imposed under subsection (b) until the end of that period as if the riverboat had not ceased to conduct flexible scheduling.

SECTION 47. IC 4-33-13-5, AS AMENDED BY HEA 1902-2003, SECTION 55 AND AS AMENDED BY HEA 1519-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars (\$33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven

hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund. **In each state fiscal year beginning after June 30, 2003, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the property tax replacement fund in the immediately following month.**

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one-half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars (\$20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's

tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less

than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

- (1) exceeds a particular city or county's base year revenue; and
- (2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars (\$250,000,000):

- (1) Surplus lottery revenues under IC 4-30-17-3.
- (2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.
- (3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing

under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas or debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the

preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

(h) This section applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (d) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

SECTION 48. [EFFECTIVE JULY 1, 2002 (RETROACTIVE)] (a) This SECTION applies to the calculation and collection of wagering taxes on the adjusted gross receipts of a riverboat received:

(1) on or after the date that the riverboat implemented flexible scheduling under IC 4-33-6-21; and

(2) before July 1, 2003.

(b) The definitions in IC 4-33-2 apply throughout this SECTION.

(c) The general assembly does not acquiesce in any interpretation of IC 4-33-13-1.5 and P.L.292-2002(ss), SECTION 205 that excludes adjusted gross receipts of a riverboat received after June 30, 2002, and before the date that the riverboat implemented flexible scheduling under IC 4-33-6-21 from the determination of which wagering tax rate to apply to adjusted gross receipts of the riverboat received on or after the riverboat implemented flexible scheduling under IC 4-33-6-21.

(d) Wagering taxes imposed under IC 4-33-13-1.5 on adjusted gross receipts received on or after the date that the riverboat

implemented flexible scheduling under IC 4-33-6-21 must be calculated and deposited using a graduated wagering tax rate selected (as stated in IC 4-33-13-1.5) through a calculation that includes "adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year".

(e) All penalties and interest otherwise due from a riverboat that underpaid the amount of wagering tax due after June 30, 2002, and before May 1, 2003, as a result of a failure to include adjusted gross receipts received by the riverboat after June 30, 2002, and before the date that the riverboat implemented flexible scheduling under IC 4-33-6-21 in the determination of which wagering tax rate to apply to adjusted gross receipts received after the riverboat implemented flexible scheduling under IC 4-33-6-21 are waived if the riverboat pays the unpaid balance due in two (2) equal installments on the following dates:

(1) July 1, 2003.

(2) July 1, 2004.

SECTION 49. IC 6-2.5-4-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) A person is a retail merchant making a retail transaction when the person furnishes rooms or lodgings to another person on a complimentary basis if:

(1) the rooms or lodgings are furnished for periods of less than thirty (30) days; and

(2) the rooms or lodgings are furnished for periods of less than thirty (30) days; and

(2) the rooms or lodgings are located in a hotel, motel, inn, tourist camp, tourist cabin, or other place where rooms or lodgings are regularly furnished for consideration.

(b) The state gross retail tax applicable to a retail transaction described in subsection (a) is measured by the amount of gross retail income attributed to the transaction under this subsection. The amount of gross retail income attributed to a retail transaction described in subsection (a) is equal to the amount of gross retail income received by the retail merchant from renting a comparable room or lodging on the date the complimentary room or lodging is provided. The state gross retail tax imposed on a retail transaction described in subsection (a) is six percent (6%) of the gross retail income attributed to the transaction.

SECTION 50. IC 6-2.5-6-15 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 15. A retail merchant described in IC 6-2.5-4-4.5 shall file with each return required under this chapter a report for the reporting period covered by the return. The report must contain the following information:**

(1) The number of rooms or lodgings rented during the reporting period and the total amount of state gross retail taxes remitted with respect to the rooms or lodgings.

(2) The number of complimentary rooms or lodgings provided during the reporting period and the total amount of state gross retail taxes remitted with respect to those rooms or lodgings.

SECTION 51. IC 9-29-3-4, AS AMENDED BY P.L.176-2001, SECTION 18, AND AS AMENDED BY P.L.291-2001, SECTION 182, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. (a) The service charge for each of the first twelve thousand (12,000) vehicle registrations at a license branch each year is**

~~(1) one dollar and seventy-five cents (\$1.75). during 2002 and 2003; and~~

~~(2) one dollar and twenty-five cents (\$1.25) during 2004 and thereafter.~~

(b) The service charge for each of the next thirty-eight thousand (38,000) vehicle registrations at that license branch each year is

~~(1) one dollar and fifty cents (\$1.50). during 2002 and 2003; and~~

~~(2) one dollar (\$1) during 2004 and thereafter.~~

(c) The service charge for each additional vehicle registration at that license branch each year is

~~(1) one dollar and twenty-five cents (\$1.25). during 2002 and 2003; and~~

~~(2) seventy-five cents (\$0.75) during 2004 and thereafter.~~

~~(d) Fifty cents (\$0.50) of each service charge collected under this section during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.~~

SECTION 52. IC 9-29-3-6, AS AMENDED BY P.L.176-2001, SECTION 19, AND AS AMENDED BY P.L.291-2001, SECTION 183, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. (a) The service charge for each**

delinquent title is

~~(1) two dollars and fifty cents (\$2.50). during 2002 and 2003; and
(2) two dollars (\$2) during 2004 and thereafter.~~

~~(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.~~

SECTION 53. IC 9-29-3-7, AS AMENDED BY P.L.176-2001, SECTION 20, AND AS AMENDED BY P.L.291-2001, SECTION 184, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The service charge for each transfer of title is

~~(1) one dollar and fifty cents (\$1.50). during 2002 and 2003; and
(2) one dollar (\$1) during 2004 and thereafter.~~

~~(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.~~

SECTION 54. IC 9-29-3-8, AS AMENDED BY P.L.176-2001, SECTION 21, AND AS AMENDED BY P.L.291-2001, SECTION 185, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The service charge for each of the first two thousand (2,000) operator's licenses, including motorcycle operator's licenses, issued at a license branch each year is

~~(1) two dollars (\$2). during 2002 and 2003; and
(2) one dollar and fifty cents (\$1.50) during 2004 and thereafter.~~

(b) The service charge for each additional operator's license or motorcycle operator's license issued at that license branch each year is
~~(1) one dollar and fifty cents (\$1.50). during 2002 and 2003; and
(2) one dollar (\$1) during 2004 and thereafter.~~

~~(c) Fifty cents (\$0.50) of each service charge collected under this section during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.~~

SECTION 55. IC 9-29-3-9, AS AMENDED BY P.L.176-2001, SECTION 22, AND AS AMENDED BY P.L.291-2001, SECTION 186, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The service charge for each learner's permit, chauffeur's license, or public passenger chauffeur's license is

~~(1) two dollars (\$2). during 2002 and 2003; and
(2) one dollar and fifty cents (\$1.50) during 2004 and thereafter.~~

(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 56. IC 9-29-3-10, AS AMENDED BY P.L.176-2001, SECTION 23, AND AS AMENDED BY P.L.291-2001, SECTION 187, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The service charge for each temporary motorcycle learner's permit, motorcycle learner's permit, or motorcycle endorsement of an operator's license is

- ~~(1) one dollar and fifty cents (\$1.50). during 2002 and 2003; and~~
- ~~(2) one dollar (\$1) during 2004 and thereafter.~~

(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 57. IC 9-29-3-11, AS AMENDED BY P.L.176-2001, SECTION 24, AND AS AMENDED BY P.L.291-2001, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) The service charge for each motorcycle operator endorsement of a chauffeur's license or a public passenger chauffeur's license is

- ~~(1) one dollar (\$1). during 2002 and 2003; and~~
- ~~(2) fifty cents (\$0.50) during 2004 and thereafter.~~

(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 58. IC 9-29-3-12, AS AMENDED BY P.L.176-2001, SECTION 25, AND AS AMENDED BY P.L.291-2001, SECTION 189, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The service charge for each replacement license or permit is

- ~~(1) one dollar and fifty cents (\$1.50). during 2002 and 2003; and~~
- ~~(2) one dollar (\$1) during 2004 and thereafter.~~

(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 59. IC 9-29-3-14, AS AMENDED BY P.L.176-2001, SECTION 27, AND AS AMENDED BY P.L.291-2001, SECTION 190, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The service charge for an identification card issued under IC 9-24 is

~~(1) fifty cents (\$0.50) and one-half (1/2) of each fee collected as set forth in IC 9-29-9-15. plus fifty cents (\$0.50) during 2002 and 2003; and~~

~~(2) one-half (1/2) of each fee collected as set forth in IC 9-29-9-15 during 2004 and thereafter.~~

(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 60. IC 9-29-3-18, AS AMENDED BY P.L.176-2001, SECTION 28, AND AS AMENDED BY P.L.291-2001, SECTION 191, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) The service charge for each duplicate registration card issued under IC 9-18 is

~~(1) one dollar and fifty cents (\$1.50). during 2002 and 2003; and~~

~~(2) one dollar (\$1) during 2004 and thereafter.~~

(b) Fifty cents (\$0.50) of each service charge collected under subsection (a) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 61. IC 9-29-15-1, AS AMENDED BY P.L.176-2001, SECTION 30, AND AS AMENDED BY P.L.291-2001, SECTION 193, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The fee for a certificate of title or a duplicate certificate of title under IC 9-31-2 is

~~(1) nine dollars and fifty cents (\$9.50). during 2002 and 2003; and~~

~~(2) nine dollars (\$9) during 2004 and thereafter.~~

(b) The fee is distributed as follows:

(1) Seven dollars (\$7) to the department of natural resources.

(2) Two dollars and fifty cents (\$2.50) to the bureau. ~~during 2002 and 2003; and two dollars (\$2) to the bureau during 2004 and thereafter.~~

(c) Fifty cents (\$0.50) of each fee distributed under subsection (b)(2) during 2002 and 2003 shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 62. IC 9-29-15-4, AS AMENDED BY P.L.176-2001, SECTION 31, AND AS AMENDED BY P.L.291-2001, SECTION

182, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The fees to register a motorboat under IC 9-31-3 are as follows:

(1) Twelve dollars and fifty cents (\$12.50) for a Class 1 motorboat. *during 2002 and 2003, and twelve dollars (\$12) for a Class 1 motorboat during 2004 and thereafter.*

(2) Fourteen dollars and fifty cents (\$14.50) for a Class 2, Class 3, or Class 4 motorboat. *during 2002 and 2003, and fourteen dollars (\$14) for a Class 2, Class 3, or Class 4 motorboat during 2004 and thereafter.*

(3) Seventeen dollars and fifty cents (\$17.50) for a Class 5 motorboat. *during 2002 and 2003, and seventeen dollars (\$17) for a Class 5 motorboat during 2004 and thereafter.*

(4) Twenty-two dollars and fifty cents (\$22.50) for a Class 6 or Class 7 motorboat. *during 2002 and 2003, and twenty-two dollars (\$22) for a Class 6 or Class 7 motorboat during 2004 and thereafter.*

(b) The department of natural resources receives:

(1) twelve dollars (\$12) for a Class 1 motorboat;

(2) fourteen dollars (\$14) for a Class 2, Class 3, or Class 4 motorboat;

(3) seventeen dollars (\$17) for a Class 5 motorboat; and

(4) twenty-two dollars (\$22) for a Class 6 or Class 7 motorboat;

of the fee collected under subsection (a).

(c) Fifty cents (\$0.50) of each fee collected under subsection (a) ~~during 2002 and 2003~~ shall be deposited in the state motor vehicle technology fund established by IC 9-29-16-1.

SECTION 63. IC 9-29-16-5, AS ADDED BY P.L.176-2001, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The fund consists of the following:

(1) Fifty cents (\$0.50) of each service charge or fee collected by license branches ~~during 2002 and 2003~~ under the following:

(A) IC 9-29-3-4.

(B) IC 9-29-3-6

(C) IC 9-29-3-7

(D) IC 9-29-3-8

(E) IC 9-29-3-9

(F) IC 9-29-3-10

(G) IC 9-29-3-11

(H) IC 9-29-3-12

(I) IC 9-29-3-14

(J) IC 9-29-3-18

(K) IC 9-29-15-1

(L) IC 9-29-15-4

(2) Money deposited with the approval of the budget agency in the fund from any part of:

(A) a service fee established under IC 9-29-3-19; or

(B) an increase of a service fee increased under IC 9-29-3-19.

(3) Money received from any other source, including appropriations.

SECTION 64. IC 12-15-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Each:

(1) school corporation; or

(2) school corporation's employed, licensed, or qualified provider; must enroll in a program to use federal funds under the Medicaid program (IC 12-15-1 et seq.) with the intent to share the costs of services that are reimbursable under the Medicaid program and that are provided to eligible children by the school corporation. However, a school corporation or a school corporation's employed, licensed, or qualified provider is not required to file any claims or participate in the program developed under this section.

(b) The office of Medicaid policy and planning and the department of education may develop policies and adopt rules to administer the program developed under this section.

(c) ~~The federal reimbursement for paid claims that are submitted by the school corporations under the program required under this section must be distributed to the school corporations. **Three percent (3%) of the federal reimbursement for paid claims that are submitted by the school corporation under the program required under this section must be:**~~

(1) distributed to the state general fund for administration of the program; and

(2) used for consulting to encourage participation in the program.

The remainder of the federal reimbursement for services provided under this section must be distributed to the school corporation.

The state shall retain the nonfederal share of the reimbursement for Medicaid services provided under this section.

(d) The office of Medicaid policy and planning, with the approval of the budget agency and after consultation with the department of education, shall establish procedures for the timely distribution of federal reimbursement due to the school corporations. The distribution procedures may provide for offsetting reductions to distributions of state tuition support or other state funds to school corporations in the amount of the nonfederal reimbursements required to be retained by the state under subsection (c).

SECTION 65. [EFFECTIVE UPON PASSAGE] The office of Medicaid policy and planning shall adopt emergency rules under IC 4-22-2-37.1 to achieve the reductions needed to avoid expenditures exceeding the Medicaid appropriation made by this act in the line item appropriation to the FAMILY AND SOCIAL SERVICES ADMINISTRATION, MEDICAID - CURRENT OBLIGATIONS. To the extent that reductions are made to optional Medicaid services as set forth in 42 U.S.C. 1396 et seq., the reductions may be accomplished on a pro-rata basis with each optional service being reduced by a proportionate amount. However, the reductions may not be made in a manner that results in the elimination of any optional Medicaid service.

SECTION 66. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) As used in this SECTION, "optional Medicaid services" means those services that are set forth in 42 U.S.C. 1396 et seq. as optional and that are included in the state Medicaid plan.

(c) Before August 1, 2003, the office shall apply to the United States Department of Health and Human Services for approval to amend the state Medicaid plan to achieve the reductions in optional Medicaid services that are needed to comply with this act.

(d) The office may not implement the amendment to the state Medicaid plan until the office files an affidavit with the governor attesting that the amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than three (3) days after the office is notified that the amendment is approved.

(e) If the office receives approval under this SECTION from the United States Department of Health and Human Services to amend the state Medicaid plan and the governor receives the affidavit filed under subsection (d), the office shall implement the amendment not more than five (5) days after the governor receives the affidavit.

(f) This SECTION expires December 31, 2007.

SECTION 67. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) With the approval of the governor and the budget agency after review by the budget committee, the office may apply to the United States Department of Health and Human Services for an amendment to the Pharmacy Plus Section 115 Demonstration waiver for Phase II of the Indiana prescription drug program established under IC 12-10-16 that would amend the waiver to allow the program to provide services to an individual whose family income does not exceed one hundred eighty-five percent (185%) of the federal income poverty level for the same size family.

(c) The office may not implement the amendment to the waiver until the office files an affidavit with the governor attesting that the amendment to the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the amendment to the waiver is approved.

(d) If the office receives approval to amend the waiver as set forth in subsection (b) from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (c), the office shall implement the amendment to the waiver not more than thirty (30) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2008.

SECTION 68. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to any provider that is reimbursed by the office for goods or services provided to Medicaid recipients.

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) A provider described in subsection (a) shall report to the office all rebates, discounts, and other price concessions that the provider receives from a supplier of goods or services to the provider for goods or services provided to Medicaid recipients.

(d) A provider described in subsection (a) shall submit the information required under this SECTION to the office:

- (1) on a quarterly basis, beginning not later than thirty (30) days after the effective date of this SECTION; and
- (2) upon request by the office, within forty-five (45) days after the request from the office.

(e) A provider described in subsection (a) shall submit the information required under subsection (d) in the format requested by the office.

(f) The office shall use the information received under this SECTION to determine the appropriate reimbursement for the drug ingredient cost and professional services fee for drugs dispensed by a provider described in subsection (a) to Medicaid recipients.

SECTION 69. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established under IC 12-8-6-1.

(b) The office may apply to the United States Department of Health and Human Services for a state Medicaid waiver that would require specified Medicaid recipients of a county to enroll in the Medicaid risk-based managed care program. The office may apply for a waiver under this SECTION for any county that the office determines that required Medicaid recipient participation in the risk-based managed care program would be feasible and cost effective.

(c) The office may not implement a waiver applied for under this SECTION and that is approved by the United States Department of Health and Human Services until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that a waiver is approved.

(d) If the office receives approval from the United States Department of Health and Human Services for a waiver applied for under this SECTION and the governor receives the affidavit

filed under subsection (c), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(e) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(f) This SECTION expires December 31, 2008.

SECTION 70. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "high Medicaid utilization nursing facility" means the smallest number of those nursing facilities with the greatest number of Medicaid patient days for which it is necessary to assess a lower quality assessment to satisfy the statistical test set forth in 42 CFR 433.68(e)(2)(ii).

(b) As used in this SECTION, "nursing facility" means a health facility that is:

- (1) licensed under IC 16-28 as a comprehensive care facility; and
- (2) certified for participation in the federal Medicaid program under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.).

(c) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(d) As used in this SECTION, "total annual revenue" does not include revenue from Medicare services provided under Title XVIII of the federal Social Security Act (42 U.S.C. 1395 et seq.).

(e) Effective August 1, 2003, the office shall collect a quality assessment from each nursing facility that has:

- (1) a Medicaid utilization rate of at least twenty-five percent (25%); and
- (2) at least seven hundred thousand dollars (\$700,000) in annual Medicaid revenue, adjusted annually by the average annual percentage increase in Medicaid rates.

(f) The money collected from the quality assessment may be used only to pay the state's share of the costs for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.) as follows:

- (1) Twenty percent (20%) as determined by the office.
- (2) Eighty percent (80%) to nursing facilities.

(g) The office may not begin collection of the quality assessment set under this SECTION before the office calculates and begins paying enhanced reimbursement rates set forth in this SECTION.

(h) If federal financial participation becomes unavailable to match money collected from the quality assessments for the purpose of enhancing reimbursement to nursing facilities for Medicaid services provided under Title XIX of the federal Social Security Act (42 U.S.C. 1396 et seq.), the office shall cease collection of the quality assessment under the SECTION.

(i) The office shall adopt rules under IC 4-22-2 to implement this act.

(j) Not later than July 1, 2003, the office shall do the following:

(1) Request the United States Department of Health and Human Services under 42 CFR 433.72 to approve waivers of 42 CFR 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance with 42 CFR 433.68(e)(2)(ii).

(2) Submit any state Medicaid plan amendments to the United States Department of Health and Human Services that are necessary to implement this SECTION.

(k) After approval of the waivers and state Medicaid plan amendment applied for under subsection (j), the office shall implement this SECTION effective July 1, 2003.

(l) The select joint commission on Medicaid oversight, established by IC 2-5-26-3, shall review the implementation of this SECTION. The office may not make any change to the reimbursement for nursing facilities unless the select joint commission on Medicaid oversight recommends the reimbursement change.

(m) A nursing facility may not charge the nursing facility's residents for the amount of the quality assessment that the nursing facility pays under this SECTION.

(n) This SECTION expires August 1, 2004.

SECTION 71. IC 12-15-8.5-2, AS ADDED BY P.L.178-2002, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** Subject to section 10 of this chapter, when the office, in accordance with 42 U.S.C. 1396p, determines that a Medicaid recipient who resides in a medical institution cannot reasonably be expected to be discharged from a medical institution and return home, the office may obtain a lien on the Medicaid recipient's real property for the cost of all Medicaid expenditures made on behalf of the recipient.

(b) The office shall conduct a look back (as described in 42

U.S.C. 1396p(c) of a Medicaid recipient's property of at least three (3) years.

(c) A lien obtained under this chapter is subordinate to the security interest of a financial institution that loans money to be used as operating capital for the operation of a farm, a business, or income producing real property.

SECTION 72. IC 12-15-8.5-3, AS ADDED BY P.L.178-2002, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The office may not obtain a lien under this chapter if any of the following persons lawfully reside in the home of the Medicaid recipient who resides in the medical institution:

- (1) The Medicaid recipient's spouse.
- (2) The Medicaid recipient's child who is:
 - (A) less than twenty-one (21) years of age; or
 - (B) disabled as defined by the federal Supplemental Security Income program.
- (3) The Medicaid recipient's sibling who has an ownership interest in the home and who has lived in the home continuously beginning at least twelve (12) months before the recipient was admitted to the medical institution.
- (4) The Medicaid recipient's parent.
- (5) ~~An individual, other than a paid caregiver, who:~~
 - ~~(A) was continuously residing in the recipient's home for a period of at least two (2) years immediately prior to the date of the recipient's admission to the nursing facility; and~~
 - ~~(B) establishes to the satisfaction of the office that the person provided care to the recipient enabling the recipient to reside in the recipient's home rather than in a medical institution.~~

SECTION 73. IC 12-15-8.5-6, AS ADDED BY P.L.178-2002, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Beginning on the date on which a notice of lien is recorded in the office of the county recorder under section 5 of this chapter, the notice of lien:

- (1) constitutes due notice of a lien against the Medicaid recipient's real property for any amount then recoverable and any amount that becomes recoverable under this article; and
- (2) gives a specific lien in favor of the office on the Medicaid recipient's interest in the real property.

(b) The lien continues from the date of filing the lien until the lien:

(1) is satisfied; **or**

(2) is released. ~~or~~

~~(3) expires:~~

SECTION 74. IC 12-15-8.5-7, AS ADDED BY P.L.178-2002, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The office may bring proceedings in foreclosure on a lien arising under this chapter:

(1) during the lifetime of the Medicaid recipient if the Medicaid recipient or a person acting on behalf of the Medicaid recipient sells the property; or

(2) upon the death of the Medicaid recipient.

The lien automatically expires unless the office commences a foreclosure action not later than ~~nine (9) months~~ **two (2) years** after the Medicaid recipient's death.

SECTION 75. IC 12-15-8.5-8, AS ADDED BY P.L.178-2002, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~(a) The office may not enforce a lien under this chapter if the Medicaid recipient is survived by any of the following:~~

~~(1) The recipient's spouse:~~

~~(2) The recipient's child who is:~~

~~(A) less than twenty-one (21) years of age; or~~

~~(B) disabled as defined by the federal Supplemental Security Income program:~~

~~(3) The recipient's parent:~~

~~(b) The office may not enforce a lien **against a Medicaid recipient's home** under this chapter as long as any of the following individuals reside in the home:~~

~~(1) The recipient's child of any age if the child:~~

~~(A) resided in the home for at least twenty-four (24) months before the Medicaid recipient was admitted to the medical institution;~~

~~(B) provided care to the Medicaid recipient that delayed the Medicaid recipient's admission to the medical institution; and~~

~~(C) has resided in the home on a continuous basis since the date of the individual's admission to the medical institution.~~

~~(2) The Medicaid recipient's sibling who has an ownership interest in the home and who has lived in the home continuously~~

beginning at least twelve (12) months before the Medicaid recipient was admitted to the medical institution.

SECTION 76. IC 12-15-8.5-9, AS ADDED BY P.L.178-2002, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The office shall release a lien imposed under this chapter within ten (10) business days after the county office of family and children receives notice that the Medicaid recipient:

- (1) is no longer living in the medical institution; and
- (2) ~~is living in the~~ **has returned home to live.**

(b) The county recorder shall waive the filing fee for the filing of a release made under this section.

(c) If the property subject to the lien is sold, the office shall release its lien at the closing, and the lien shall attach to the net proceeds of the sale.

SECTION 77. IC 12-15-8.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) A lien under this chapter is void if both of the following occur:**

- (1) The owner of property subject to a lien under this chapter or any person or corporation having an interest in the property, including a mortgagee or a lienholder, provides written notice to the office to file an action to foreclose the lien.**
- (2) The office fails to file an action to foreclose the lien in the county where the property is located not later than thirty (30) days after receiving the notice.**

However, this section does not prevent the claim from being collected as other claims are collected by law.

(b) A person who gives notice under subsection (a)(1) by registered or certified mail to the office at the address given in the recorded statement and notice of intention to hold a lien may file an affidavit of service of the notice to file an action to foreclose the lien with the recorder of the county in which the property is located. The affidavit must state the following:

- (1) The facts of the notice.**
- (2) That more than thirty (30) days have passed since the notice was received by the office.**
- (3) That no action for foreclosure of the lien is pending.**

(4) That no unsatisfied judgment has been rendered on the lien.

(c) The recorder shall:

- (1) record the affidavit of service in the miscellaneous record book of the recorder's office; and**
- (2) certify on the face of the record any lien that is fully released.**

When the recorder records the affidavit and certifies the record under this subsection, the real estate described in the lien is released from the lien.

SECTION 78. IC 12-15-9-0.5, AS AMENDED BY P.L.178-2002, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 0.5. (a) As used in this chapter, "estate" includes:

- (1) all real and personal property and other assets included within an individual's probate estate;
- (2) any interest in real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship, if the joint tenancy was created after June 30, 2002; and
- (3) any real or personal property conveyed through a nonprobate transfer.

(b) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

- (1) whose last domicile was in Indiana; and
- (2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:
 - (A) use the property for the benefit of the transferor; or
 - (B) apply the property to discharge claims against the transferor's probate estate.

The term does not include transfer of a survivorship interest in a tenancy by the entireties real estate ~~transfer of a life insurance policy or annuity~~, or payment of the death proceeds of a life insurance policy. ~~or annuity~~.

SECTION 79. IC 12-15-9-0.7, AS ADDED BY P.L.178-2002, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 0.7. (a) This section applies only to real property owned by the individual at the time of death that was conveyed to the individual's survivor through joint tenancy with right of survivorship.

(b) The office may enforce its claim against **any** property described in subsection (a) only to the extent that the value of the recipient's combined total interest in all real property described in subsection (a) subject to the claim exceeds ~~one hundred twenty-five thousand dollars (\$125,000)~~: **seventy-five thousand dollars (\$75,000)**.

(c) This section expires January 1, 2008.

SECTION 80. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 12-15-8.5-10; IC 12-15-8.5-11.

SECTION 81. IC 12-15-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The office shall pay attorney's fees in the amount of one (1) of the following:

(1) ~~Twenty-five~~ **Seven and five-tenths percent (25%) (7.5%)** of the office's recovery under the lien if the claim was collected without initiating legal proceedings.

(2) ~~Thirty-three and one-third~~ **Ten percent (33 1/3%) (10%)** of the office's recovery under the lien if the claim was collected by initiating legal proceedings.

SECTION 82. IC 12-15-37-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 7. The office and the state department of health may collaborate with the American Heart Association to reduce the cost of stroke treatment and improve the outcome of stroke patients in the state. The collaboration may include the following:**

(1) **The development and implementation of a comprehensive statewide public education program on stroke prevention that is targeted at high-risk populations and at geographical areas that have a high incidence of stroke.**

(2) **The recommendation and dissemination of guidelines on the treatment of stroke patients, including emergency stroke care.**

(3) **The development of a program that would ensure that the public and health care providers are informed concerning the most effective stroke prevention strategies.**

(4) **The dissemination of information concerning public and private grant opportunities available for hospitals and providers of emergency medical services for the purposes of improving stroke patient care.**

SECTION 83. IC 12-15-14.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 14.5. Supplemental Payments to Ambulance Transportation Service Providers

Sec. 1. This chapter applies to a Medicaid provider that receives reimbursement from the office during a state fiscal year for providing ambulance transportation services.

Sec. 2. (a) Subject to section 6 of this chapter, for each state fiscal year beginning July 1, 2003, an ambulance transportation service provider may receive reimbursement under this chapter that is in addition to the following reimbursement:

- (1) Reimbursement under this article.
- (2) The state plan for medical assistance.
- (3) Rules and policies adopted by the office to provide ambulance transportation services.

(b) Any additional reimbursement allowed under subsection (a) is subject to the approval by the United States Department of Health and Human Services to an amendment of the state Medicaid plan.

Sec. 3. The office shall:

- (1) develop a schedule for payments made under this chapter; and
- (2) make a payment under this chapter in accordance with the schedule.

Sec. 4. (a) Except as provided in subsection (b), the office shall calculate and make a payment under this chapter in an amount equal to the amount calculated in STEP SIX of the following formula:

STEP ONE: The office shall identify a Medicaid provider described in section 1 of this chapter that received reimbursement for ambulance transportation services during a time frame determined by the office.

STEP TWO: For each Medicaid provider described in STEP ONE, the office shall identify the ambulance transportation services for which the Medicaid provider was reimbursed.

STEP THREE: For each Medicaid provider described in STEP ONE, the office shall calculate the reimbursement paid to the Medicaid provider for the ambulance transportation

services identified under STEP TWO.

STEP FOUR: For each Medicaid provider described in STEP ONE, the office shall calculate the Medicaid provider's usual and customary charges for each of the Medicaid provider's services identified under STEP TWO.

STEP FIVE: For each Medicaid provider described in STEP ONE, the office shall subtract an amount equal to the reimbursement calculation for each of the ambulance transportation services under STEP THREE from an amount equal to the amount calculated for each of the ambulance transportation services under STEP FOUR.

STEP SIX: For each Medicaid provider described in STEP ONE, the office shall calculate the sum of each of the amounts calculated for each ambulance transportation services under STEP FIVE.

(b) For any Medicaid provider described in STEP ONE of subsection (a), the office may decline to base the calculations under STEP FOUR of subsection (a) on the Medicaid provider's usual and customary charges if the office determines a formula or criteria that will increase the amount calculated for the provider under STEP SIX of subsection (a).

Sec. 5. The office shall establish a methodology for calculating a provider's usual and customary charges for purpose of STEP FOUR of the formula in section 4(a) of this chapter.

Sec. 6. (a) A Medicaid provider that receives reimbursement from the office during a state fiscal year for ambulance transportation services is eligible for payment under this chapter only if an intergovernmental transfer under this section is made by the provider or on behalf of the provider to the office.

(b) The amount of the intergovernmental transfer under subsection (a) must be an amount of at least eighty-five percent (85%) of the amount calculated for the provider under STEP SIX of section 4 of this chapter.

Sec. 7. A Medicaid provider that receives reimbursement from the office during a state fiscal year for ambulance transportation services may appeal under IC 4-21.5 the amount determined by the office to be paid to the Medicaid provider under STEP SIX of section 4 of this chapter.

Sec. 8. The office shall determine the services to be considered

ambulance transportation services under this chapter. The services must at least include the following:

- (1) Air.**
- (2) Basic life support services.**
- (3) Advanced life support services.**

SECTION 84. IC 6-1.1-18-3, AS AMENDED BY P.L.90-2002, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b), the sum of all tax rates for all political subdivisions imposed on tangible property within a political subdivision may not exceed:

- (1) forty-one and sixty-seven hundredths cents (\$0.4167) on each one hundred dollars (\$100) of assessed valuation in territory outside the corporate limits of a city or town; or
- (2) sixty-six and sixty-seven hundredths cents (\$0.6667) on each one hundred dollars (\$100) of assessed valuation in territory inside the corporate limits of a city or town.

(b) The proper officers of a political subdivision shall fix tax rates which are sufficient to provide funds for the purposes itemized in this subsection. The portion of a tax rate fixed by a political subdivision shall not be considered in computing the tax rate limits prescribed in subsection (a) if that portion is to be used for one (1) of the following purposes:

- (1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of the political subdivision.
- (2) To pay the principal or interest on an outstanding obligation issued by the political subdivision if notice of the sale of the obligation was published before March 9, 1937.
- (3) To pay the principal or interest upon:
 - (A) an obligation issued by the political subdivision to meet an emergency which results from a flood, fire, pestilence, war, or any other major disaster; or
 - (B) a note issued under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 to enable a city, town, or county to acquire necessary equipment or facilities for municipal or county government.
- (4) To pay the principal or interest upon an obligation issued in the manner provided in IC 6-1.1-20-3 (before its repeal) or

IC 6-1.1-20-3.1 through IC 6-1.1-20-3.2.

(5) To pay a judgment rendered against the political subdivision.

(6) To meet the requirements of the family and children's fund for child services (as defined in IC 12-19-7-1).

(7) To meet the requirements of the county hospital care for the indigent fund.

(8) To meet the requirements of the children's psychiatric residential treatment services fund for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1).

(c) Except as otherwise provided in IC 6-1.1-19 or IC 6-1.1-18.5, a county board of tax adjustment, a county auditor, or the department of local government finance may review the portion of a tax rate described in subsection (b) only to determine if it exceeds the portion actually needed to provide for one (1) of the purposes itemized in that subsection.

SECTION 85. IC 6-1.1-18.5-9.7, AS AMENDED BY P.L.273-1999, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.7. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed under any of the following:

(1) IC 12-16, except IC 12-16-1.

(2) IC 12-19-5.

(3) IC 12-19-7.

(4) **IC 12-19-7.5.**

(5) IC 12-20-24.

(b) For purposes of computing the ad valorem property tax levy limits imposed under section 3 of this chapter, a county's or township's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under the citations listed in subsection (a).

(c) Section 8(b) of this chapter does not apply to bonded indebtedness that will be repaid through property taxes imposed under IC 12-19.

SECTION 86. IC 6-1.1-18.6-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.1. As used in this chapter:

(1) "county family and children property tax levy for an ensuing calendar year" means the total property taxes imposed by a county

under the authority of IC 12-19-7 that are to be collected and deposited in the family and children's fund during the ensuing calendar year; and

(2) "county children's psychiatric residential treatment services property tax levy for an ensuing calendar year" means the total property taxes imposed by a county under the authority of IC 12-19-7.5 that are to be collected and deposited in the county children's psychiatric residential treatment services fund during the ensuing calendar year.

SECTION 87. IC 6-1.1-18.6-2.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.2. A county may not impose a county children's psychiatric residential treatment services property tax levy for an ensuing calendar year that exceeds the product of:**

(1) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for the ensuing calendar year; multiplied by

(2) the maximum county children's psychiatric residential treatment services property tax levy that the county could have imposed for the calendar year immediately preceding the ensuing calendar year under the limitations set by this section.

SECTION 88. IC 6-1.1-18.6-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. (a) A county may increase its maximum county children's psychiatric residential treatment services property tax levy for an ensuing calendar year if, in the judgment of the county fiscal body, the increase is necessary to pay the obligations that will be incurred by the county for children's psychiatric residential treatment services during the ensuing calendar year. The maximum increase that the county fiscal body may recommend for a county may not exceed:**

(1) the county's expected obligations under IC 12-19-7.5 for the ensuing calendar year; minus

(2) the portion of the county children's psychiatric residential treatment services property tax levy for the year preceding the ensuing calendar year that was available to pay

obligations under IC 12-19-7.5.

(b) In making its recommendation, the county fiscal body shall consider the county's estimate of expected obligations under IC 12-19-7.5 but may make adjustments to the county's estimate.

(c) The decision of the county fiscal body under this section is a final determination that may not be appealed.

SECTION 89. IC 6-1.1-29-9, AS AMENDED BY P.L.273-1999, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) A county council may adopt an ordinance to abolish the county board of tax adjustment. This ordinance must be adopted by July 1 and may not be rescinded in the year it is adopted. Notwithstanding IC 6-1.1-17, IC 6-1.1-18, IC 6-1.1-19, IC 12-19-7, **IC 12-19-7.5**, IC 21-2-14, IC 36-8-6, IC 36-8-7, IC 36-8-7.5, IC 36-8-11, IC 36-9-3, IC 36-9-4, and IC 36-9-13, if such an ordinance is adopted, this section governs the treatment of tax rates, tax levies, and budgets that would otherwise be reviewed by a county board of tax adjustment under IC 6-1.1-17.

(b) The time requirements set forth in IC 6-1.1-17 govern all filings and notices.

(c) A tax rate, tax levy, or budget that otherwise would be reviewed by the county board of tax adjustment is considered and must be treated for all purposes as if the county board of tax adjustment approved the tax rate, tax levy, or budget. This includes the notice of tax rates that is required under IC 6-1.1-17-12.

SECTION 90. IC 12-19-5-1, AS AMENDED BY P.L.273-1999, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) In addition to the other method of welfare financing provided by this article, the county director may appeal for the right to borrow money on a short term basis to fund:

(1) child services under IC 12-19-7-1; or

(2) children's psychiatric residential treatment services under IC 12-19-7.5; or

(3) other welfare services in the county;

if the county director determines that the family and children's fund **or the children's psychiatric residential treatment services fund** will be exhausted before the end of a fiscal year.

(b) In an appeal under this section, the county director must show the following:

(1) That the amount of money in the family and children's fund **or the children's psychiatric residential treatment services fund** will be insufficient to fund the appropriate services within the county under this article.

(2) The amount of money that the county director estimates will be needed to fund that deficit.

(c) The county director shall immediately transmit an appeal under this section to the director.

SECTION 91. IC 12-19-5-9, AS AMENDED BY P.L.273-1999, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. The division or a county fiscal body may not do the following:

(1) Recommend or approve a request to borrow money made under this chapter unless the body determines that the family and children's fund **or the children's psychiatric residential treatment services fund** will be exhausted before the particular fund can fund all county obligations incurred under this article.

(2) Recommend or approve a loan that will exceed the amount of the estimated deficit.

SECTION 92. IC 12-19-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 7.5. County Financing of Children's Psychiatric Residential Treatment Services for Medicaid Eligible Children

Sec. 1. As used in this chapter, "children's psychiatric residential treatment services" means services that are:

(1) eligible for federal financial participation under the state Medicaid plan; and

(2) provided to individuals less than twenty-one (21) years of age who are:

(A) eligible for services under the state Medicaid plan;

(B) approved by the office for admission to and treatment in a private psychiatric residential treatment facility; and

(C) residing in a private psychiatric residential facility for the purposes of treatment for a mental health condition, based on an approved treatment plan that complies with applicable federal and state Medicaid rules and regulations.

Sec. 2. As used in this chapter, "fund" means the children's psychiatric residential treatment services fund established by section 5 of this chapter.

Sec. 3. As used in this chapter, "private psychiatric residential treatment facility" means a privately owned and operated facility that:

- (1) provides inpatient treatment to individuals less than twenty-one (21) years of age for mental health conditions;
- (2) is licensed or certified by:
 - (A) the division of family and children; or
 - (B) the division of mental health and addiction;to provide children's psychiatric residential treatment services; and
- (3) is enrolled in the state Medicaid program as a provider eligible to provide children's psychiatric residential treatment services.

Sec. 4. As used in this chapter, "state Medicaid plan" means the state plan approved by the United States Department of Health and Human Services for purposes of federal financial participation, under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

Sec. 5. (a) A children's psychiatric residential treatment services fund is established in each county. The fund shall be raised by a separate tax levy (the county children's psychiatric residential treatment services property tax levy) that:

- (1) is in addition to all other tax levies authorized; and
- (2) shall be levied annually by the county fiscal body on all taxable property in the county in the amount necessary to raise the part of the fund that the county must raise to pay the items, awards, claims, allowances, assistance, and other expenses set forth in the annual budget under section 8 of this chapter.

(b) The tax imposed under this section shall be collected as other state and county ad valorem taxes are collected.

(c) The following shall be paid into the county treasury and constitute the children's psychiatric residential treatment services fund:

- (1) All receipts from the tax imposed under this section.
- (2) All grants-in-aid, whether received from the federal government or state government.

(3) Any other money required by law to be placed in the fund.

(d) The fund is available for the purpose of paying expenses and obligations set forth in the annual budget that is submitted and approved.

Sec. 6. (a) For taxes first due and payable in 2004, each county must impose a county children's psychiatric residential services property tax levy equal to the amount determined using the following formula:

STEP ONE: Determine the sum of the amounts that were paid by the county minus the amounts reimbursed by the state (including reimbursements made with federal money), as determined by the state board of accounts in 2000, 2001, and 2002 for payments to facilities licensed under 470 IAC 3-13 for services that were made on behalf of the children and for which payment was made from the county family and children fund, or five percent (5%) of the average family and children budget, as determined by the department of local government finance in 2000, 2001, and 2002, whichever is greater.

STEP TWO: Subtract from the amount determined in STEP ONE the sum of the miscellaneous taxes that were allocated to the county family and children fund and used to pay the costs for providing services in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002.

STEP THREE: Divide the amount determined in STEP TWO by three (3).

STEP FOUR: Calculate the STEP ONE amount and the STEP TWO amount for 2002 expenses only.

STEP FIVE: Adjust the amounts determined in STEP THREE and STEP FOUR by the amount determined by the department of local government finance under subsection (c).

STEP SIX: Determine whether the amount calculated in STEP THREE, as adjusted in STEP FIVE, or the amount calculated in STEP FOUR, as adjusted in STEP FIVE, is greater. Multiply the greater amount by the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the county for property taxes first due and payable in 2003.

STEP SEVEN: Multiply the amount determined in STEP SIX by the county's assessed value growth quotient for property

taxes first due and payable in 2004, as determined under IC 6-1.1-18.5-2.

(b) For taxes first due and payable in each year after 2004, each county shall impose a county children's psychiatric residential treatment services property tax levy equal to the product of:

(1) the county children's psychiatric residential treatment services property tax levy imposed for taxes first due and payable in the preceding year; multiplied by

(2) the greater of:

(A) the county's assessed value growth quotient for the ensuing calendar year, as determined under IC 6-1.1-18.5-2; or

(B) one (1).

When a year in which a statewide general reassessment of real property first becomes effective is the year preceding the year that the property tax levy under this subsection will be first due and payable, the amount to be used in subdivision (2) equals the average of the amounts used in determining the two (2) most recent adjustments in the county's levy under this section.

(c) For taxes first due and payable in 2004, the department of local government finance shall adjust the levy for each county to reflect the county's actual expenses incurred in providing services to children in facilities licensed under 470 IAC 3-13 in 2000, 2001, and 2002. In making this adjustment, the department of local government finance may consider all relevant information, including the county's use of bond and loan proceeds to pay these expenses.

(d) The department of local government finance shall review each county's property tax levy under this section and shall enforce the requirements of this section with respect to that levy.

Sec. 7. For taxes first due and payable in 2004, the department of local government finance shall reduce the maximum levy for the county family and children fund or the county general fund (in whatever amounts are appropriate) by an amount equal to the result in section 6(a) of this chapter.

Sec. 8. (a) For purposes of this section, "expenses and obligations incurred by the county office" include all anticipated costs of children's residential psychiatric services that are equal to the state share of the cost of those services that are reimbursable

under the state Medicaid plan.

(b) The county director, upon the advice of the judges of the courts with juvenile jurisdiction in the county, shall annually compile and adopt a children's psychiatric residential treatment services budget, which must be in a form prescribed by the state board of accounts. The budget may not exceed the levy limitation set forth in IC 6-1.1-18.6.

(c) The budget must contain an estimate of the amount of money that will be needed by the county office during the fiscal year to defray the expenses and obligations incurred by the county office in the payment of children's psychiatric residential treatment services for children who are residents of the county.

Sec. 9. (a) The county director shall, with the assistance of the judges of courts with juvenile jurisdiction in the county and at the same time the budget is compiled and adopted, recommend to the division the tax levy that the director and judges determine will be required to raise the amount of revenue necessary to pay the expenses and obligations of the county office set forth in the budget under section 8 of this chapter. However, the tax levy may not exceed the maximum permissible levy set forth in IC 6-1.1-18.6, and the budget may not exceed the levy limitation set forth in IC 6-1.1-18.

(b) After the county budget has been compiled, the county director shall submit a copy of the budget and the tax levy recommended by the county director and the judges of courts with juvenile jurisdiction in the county to the division. The division shall examine the budget and the tax levy for the purpose of determining whether, in the judgment of the division:

- (1) the appropriations requested in the budget will be adequate to defray the expenses and obligations incurred by the county office in the payment of children's psychiatric residential treatment services for the next fiscal year; and
- (2) the tax levy recommended will yield the amount of the appropriation set forth in the budget.

Sec. 10. The division may do the following after examining a budget submitted by the county office:

- (1) Increase or decrease the amount of the budget or an item of the budget, subject to the maximum levy set forth in IC 6-1.1-18.6.

(2) Approve the budget as compiled by the county director and judges of courts with juvenile jurisdiction in the county.

(3) Recommend the increase or decrease of the tax levy, subject to the maximum levy set forth in IC 6-1.1-18.6.

(4) Approve the tax levy as recommended by the county director and judges of courts with juvenile jurisdiction in the county.

Sec. 11. The budget finally approved and the tax levy recommended by the division shall be:

(1) certified to the county office; and

(2) filed for consideration by the county fiscal body.

Sec. 12. Except as otherwise provided, a budget submitted under section 11 of this chapter must be prepared and filed in the same form and manner and at the same time as the budgets and estimates of other county officers are prepared and filed.

Sec. 13. In September of each year, at the time provided by law, the county fiscal body shall do the following:

(1) Make the appropriations out of the children's psychiatric residential treatment services fund that are:

(A) based on the budget as submitted; and

(B) necessary to maintain the children's psychiatric residential treatment services of the county for the next fiscal year, subject to the maximum levy set forth in IC 6-1.1-18.6.

(2) Levy a tax in an amount necessary to produce the appropriated money.

Sec. 14. (a) If at any time the county director determines that the children's psychiatric residential treatment services fund is exhausted or will be exhausted before the close of a fiscal year, the county director shall prepare an estimate and statement showing the amount of money, in addition to the money already made available, that will be necessary to defray the expenses of the county office and pay the obligations of the county office, excluding administrative expenses and facilities, supplies, and equipment expenses for the county office, in the administration of the county office's activities for the unexpired part of the fiscal year.

(b) The county director shall do the following:

(1) Certify the estimate and statement to the county executive.

(2) File the estimate and statement with the county auditor.

Sec. 15. (a) The county executive shall consider and act upon an estimate and statement under section 14 of this chapter at:

- (1) the county executive's regular session immediately following the filing of the estimate and statement; or**
- (2) a special session that is:**
 - (A) called for the purpose of considering and acting upon the estimate and statement; and**
 - (B) called before the executive's regular session described in subdivision (1).**

(b) The county executive shall, for and on behalf of the county, borrow sufficient money to carry out the purposes described in section 14 of this chapter if after consideration of the estimate and statement the county executive finds the following:

- (1) That the county director has not appealed to borrow money under IC 12-19-5 or that the appeal has been denied.**
- (2) That the amount of money required, in addition to any money already available, to defray the expenses and pay the obligations of the county office in the administration of the county's children's psychiatric residential treatment services for the unexpired part of the fiscal year is greater than the amount of money that may be advanced from the general fund of the county.**

Sec. 16. (a) Before making a loan under section 15 of this chapter, the county executive shall record a finding that the amount of money that will be required is greater than the amount of money that may be advanced from the general fund of the county. The finding must:

- (1) set forth the estimated requirements of the county office; and**
- (2) direct the county auditor to call the county fiscal body into special session for the purpose of considering the making of the loan.**

(b) In the notice of the special session of the county fiscal body, the auditor shall include a statement of the estimated amount of the proposed loan.

Sec. 17. (a) In authorizing a loan under section 15 of this chapter, the county fiscal body:

- (1) shall act by ordinance; and**
- (2) may adopt the ordinance under this section at a regular**

meeting without giving special notice if requested by the county executive.

(b) The county fiscal body may:

- (1) finally adopt the ordinance at the meeting at which the ordinance is first presented; or**
- (2) adjourn from day to day for further consideration of the ordinance.**

(c) The county fiscal body is not required to make an itemized appropriation of the proceeds of the bonds at the time the bonds are issued. Except as provided in section 26 of this chapter, the entire proceeds of the bonds:

- (1) shall be placed in the children's psychiatric residential treatment services fund; and**
- (2) are periodically subject to appropriation as required by this article.**

Sec. 18. An ordinance adopted by the county fiscal body authorizing a loan under this chapter must do the following:

- (1) Authorize the issuance of the bonds of the county to evidence the loan.**
- (2) Fix the following:**
 - (A) The loan's maximum amount, which may be less than the amount shown by the estimate of the county director.**
 - (B) The number of semiannual series in which the bonds are payable, which may not exceed twenty (20).**

Sec. 19. The following apply to bonds issued under this chapter:

- (1) The bonds shall be issued so that one (1) series will be payable June 30 and one (1) series December 31 of each year in which bonds are payable.**
- (2) The series must be as nearly equal as possible, considering the following:**
 - (A) The amount of the issue.**
 - (B) The number of serial maturities.**
 - (C) The denominations to be used.**
- (3) The first series of bonds and the first interest payments must be payable June 30 of the year following the establishing of the annual tax levies immediately following the date of the issue.**
- (4) The county fiscal body may provide that the first two (2) series of bonds mature in the year following the year in which**

the bonds were issued if:

(A) issuance of the bonds is authorized by the county fiscal body at the fiscal body's regular meeting held for the purpose of establishing tax levies for the following year; and

(B) provision is made for the payment of the bonds and interest that are payable in the following year.

Sec. 20. If the proceeds of the bonds authorized under this chapter are insufficient to enable the county to administer the child services of the county for the unexpired part of the fiscal year, additional loans may be made for that time.

Sec. 21. (a) After the adoption of the bond ordinance by the county fiscal body, the county executive shall enter an order that does the following:

(1) Fixes the exact amount of the proposed loan. The amount of the proposed loan must be the maximum amount provided in the bond ordinance less any amount to be advanced from the general fund of the county.

(2) Fixes the exact rate of interest on the bonds or provides that the interest rate must be the lowest interest rate bid on the bonds. The interest rate may not exceed the maximum interest rate provided in the bond ordinance.

(b) The county executive may:

(1) fix the denominations of the bonds; or

(2) provide that the bonds shall be issued in denominations requested by the successful bidder.

(c) The denominations selected under subsection (b) may not change the amount of the serial maturities of the bonds.

(d) The county executive shall adopt the form of bond to be used in the issuance of the bonds. The form shall be substantially followed in the issuance of the bonds.

Sec. 22. Upon the adoption of the order of the county executive under section 21 of this chapter, the county auditor shall give notice of the determination to make the loan and to issue the bonds.

Sec. 23. The provisions of laws concerning the right of a taxpayer to file a remonstrance and to appeal to the department of local government finance apply to this chapter. However, the notice of the determination shall be given in one (1) publication. A taxpayer has ten (10) days after the date of publication to file a

remonstrance.

Sec. 24. Except as otherwise provided, the provisions of the general laws relating to the preparation and sale of bonds by counties apply to the preparation and sale of bonds issued under this chapter.

Sec. 25. (a) Before the sale of bonds under this chapter, the auditor shall publish notice of the sale one (1) time each week for two (2) consecutive weeks. All publications must be made at least seven (7) days before the date fixed for the sale of the bonds. The notice must be published:

- (1) in two (2) newspapers published in the county; and
- (2) one (1) time in a newspaper published in the city of Indianapolis.

(b) If the order of the county executive provides for a bid rate on the bonds, the notice of sale must state the following:

- (1) That the order provides for a bid rate.
- (2) That the highest bidder for the bonds will be the person that offers the lowest net interest cost to the county. The net interest cost shall be determined by:
 - (A) computing the total interest on all of the bonds to maturity; and
 - (B) deducting any premium bid from the total interest determined under clause (A).

Sec. 26. The auditor shall sell bonds issued under this chapter to the highest bidder. If a satisfactory bid is not received for all of the bonds at the time fixed in the notice of sale, the auditor may do the following:

- (1) Continue the sale from day to day.
- (2) Sell bonds in parcels until otherwise directed by an order of the county executive.

Sec. 27. (a) All bonds issued under this chapter:

- (1) are direct general obligations of the county issuing the bonds; and
- (2) are payable out of unlimited ad valorem taxes that shall be levied and collected on all the taxable property within the county.

(b) Each official and body responsible for the levying of taxes for the county must ensure that sufficient levies are made to meet the principal and interest on the bonds at the time fixed for the

payment of the principal and interest, without regard to any other statute. If an official or a body fails or refuses to make or allow a sufficient levy required by this section, the bonds and the interest on the bonds shall be payable out of the general fund of the county without appropriation.

Sec. 28. (a) Upon approval of the county executive, the auditor may pay out of the proceeds of the bonds without further appropriation the cost of the following:

- (1) Publishing the notice of determination and the bond sale notice.
- (2) The printing of the bonds.
- (3) The expense for legal services incurred in the sale of the bonds.
- (4) Reimbursing the general fund for advancements made to the children's psychiatric residential treatment services fund.

(b) The proceeds of the bonds remaining after the payment of the costs of the issuance of the bonds shall be paid into and are a part of the children's psychiatric residential treatment services fund.

Sec. 29. The county fiscal body may authorize and make temporary loans for the use and benefit of the children's psychiatric residential treatment services fund in anticipation of current revenues of the county that are actually levied and being collected for the fiscal year in which the loans are authorized and made. Each temporary loan authorized and made under this section must be authorized and made in conformity with IC 36-2-6.

Sec. 30. Upon the affirmative vote of two-thirds (2/3) of the members of the county fiscal body, a county may issue the county's serial bonds for an amount not exceeding in aggregate the amount for which the county is indebted for the use of the children's psychiatric residential treatment services fund if the following conditions exist:

- (1) The indebtedness for the use of the children's psychiatric residential treatment services fund is evidenced by bonds, notes, judgments, or obligations that are:
 - (A) issued or negotiated by the county; or
 - (B) rendered against the county.

- (2) The serial bonds are issued for any of the following purposes:

- (A) Funding or refunding the indebtedness or any part of the indebtedness.
- (B) Reducing the rate of interest on the indebtedness.
- (C) Extending the time of payment of the indebtedness.
- (D) Canceling the amount of the indebtedness that becomes due.

Sec. 31. The serial bonds issued under section 30 of this chapter:

- (1) may be of any denomination that is:
 - (A) not less than fifty dollars (\$50); and
 - (B) not more than one thousand dollars (\$1,000);
- (2) shall be payable:
 - (A) at any place named on the serial bonds; and
 - (B) at any time not later than fifteen (15) years after the date of the serial bonds;
- (3) may bear any rate of interest, payable annually or semiannually;
- (4) shall be sold at not less than the par value of the bonds; and
- (5) shall be sold in the manner provided for the sale of bonds issued under IC 12-20-23.

Sec. 32. (a) The county fiscal body shall add to the tax duplicate of the county:

- (1) an annual levy sufficient to pay the yearly interest on the bonds issued under section 30 of this chapter; and
- (2) an annual levy sufficient to provide a sinking fund for the liquidation of the principal as the principal becomes due. The sinking fund shall be applied solely to the payment of the bonds.

(b) If the county fiscal body fails to levy a tax sufficient to pay the interest on the bonds or to liquidate the principal of the bonds as the principal becomes due, the county auditor shall levy the tax or increase the tax levy made by the county fiscal body in the amount necessary to pay the interest and to retire the bonds as the bonds become due.

(c) Notwithstanding any other law, the tax levy may not be reduced below the amount required under this section.

Sec. 33. (a) A county auditor shall annually, not before January 1 and not later than March 31, determine the amount of any excess funds available in the county children's psychiatric treatment

services fund based on the following formula:

STEP ONE: Determine the ending cash balance in the fund in the preceding fiscal year.

STEP TWO: Calculate one-half of the actual cost of providing children's psychiatric treatment services.

STEP THREE: Subtract the amount determined in STEP TWO from the amount determined in STEP ONE.

(b) The county auditor shall transfer the amount determined in subsection (a) STEP THREE, if any, from the county children's psychiatric treatment services fund to the county general fund to be used to pay for the part of the care and maintenance of the inmates of the Plainfield juvenile correctional facility and the Indianapolis juvenile correctional facility that is charged back to the counties.

SECTION 93. [EFFECTIVE JULY 1, 2003] (a) The budget agency shall develop a plan and seek federal approval to qualify services that are provided to assist exceptional learners in accessing or coordinating services, or both, under the state Medicaid plan.

(b) The budget agency and the office of the secretary of family and social services shall establish a method to collect the state share of the costs of services that are:

(1) reimbursable under the Medicaid program; and

(2) provided to Medicaid eligible children receiving services in private psychiatric residential treatment facilities;

from the county of residence of the child receiving services.

SECTION 94. [EFFECTIVE JULY 1, 2003] (a) IC 6-1.1-18.6-2.2 and IC 6-1.1-18.6-4, both as added by this act, apply only to property taxes first due and payable after December 31, 2004.

(b) This SECTION expires January 1, 2006.

SECTION 95. [EFFECTIVE JULY 1, 2003] The state department of health established by IC 16-19-1-1 may develop a plan and seek federal approval to qualify the Indiana Veterans' Home for reimbursement of services and other expenses that could be eligible under Medicaid. A plan developed under this section must be structured to maximize federal Medicaid reimbursement for the Veterans' Home. Subject to approval of the budget agency, any revenue accruing to the Indiana Veterans' Home from the receipt of Medicaid reimbursement may be used to augment appropriations made to the office of Medicaid policy and planning

established by IC 12-8-6-1 for use in funding long term care.

SECTION 96. IC 12-24-1-10, AS ADDED BY P.L.190-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Notwithstanding any other law, the director of the division of disability, aging, and rehabilitative services may not terminate normal patient care or other operations at Muscatatuck State Developmental Center unless the division has complied with this section.

(b) The division shall conduct at least one (1) public hearing at a handicap accessible location in the county where Muscatatuck State Developmental Center is located to obtain written and oral testimony from all persons interested in the effect that the center's downsizing would have on:

(1) Muscatatuck State Developmental Center:

(A) residents;

(B) residents' families; and

(C) employees; and

(2) communities surrounding Muscatatuck State Developmental Center.

(c) The division shall conduct a study of the following issues:

(1) The risks to the health and well-being of residents of Muscatatuck State Developmental Center and the families of residents that arise from:

(A) downsizing Muscatatuck State Developmental Center; and

(B) transferring residents to new placements.

(2) The types of placements needed to adequately serve residents of Muscatatuck State Developmental Center in a setting that is located within the vicinity of the families of residents, including:

(A) the availability of adequate placements; and

(B) the need to develop new placement opportunities.

(3) The economic impact that downsizing will have on:

(A) Muscatatuck State Developmental Center:

(i) residents;

(ii) residents' families; and

(iii) employees; and

(B) communities surrounding Muscatatuck State Developmental Center.

(4) The existence of environmental hazards on the property where

Muscatatuck State Developmental Center is located.

(5) Opportunities for reuse of the Muscatatuck State Developmental Center property in a manner that will enhance the economy of the area.

(d) After the public hearing required under subsection (b), the division shall submit a report to the legislative council and the budget agency that contains the following information:

(1) A summary of the testimony received at the public hearing required under subsection (b).

(2) The results of the division's study under subsection (c).

(3) Other information the director of the division considers relevant.

(e) The division shall develop a plan for the downsizing of Muscatatuck State Developmental Center. The plan must include the following:

(1) A plan and timetable for placement of appropriate residents of Muscatatuck State Developmental Center in adequate placements that fully meet the needs of the residents before downsizing Muscatatuck State Developmental Center.

(2) A plan for moving residents to alternative placements that protects the physical health, mental health, and safety of the residents.

(3) A plan for keeping:

(A) Muscatatuck State Developmental Center:

(i) residents;

(ii) residents' families; and

(iii) employees; and

(B) communities surrounding Muscatatuck State Developmental Center;

informed of each significant step taken in the planning, resident placement, and downsizing process.

(4) An environmental plan for the elimination of any environmental hazards on the property where Muscatatuck State Developmental Center is located.

(5) A plan and timetable for the reuse of the Muscatatuck State Developmental Center property in a manner that will provide for the best economic use of the property.

(6) A plan for monitoring compliance with the standards set to

assure the health and safety of residents, compliance with this section, and compliance with the plans developed under this section.

The division shall submit the plan required under this subsection to the legislative council and the budget agency at the same time that the report required under subsection (d) is submitted.

(f) The report required under subsection (d) and the plan required under subsection (e) must be approved by the budget director after review by the legislative council and the budget committee.

(g) The director may not complete the closure of Muscatatuck State Developmental Center until:

(1) the report and plan are approved by the budget director under subsection (f); and

(2) residents of Muscatatuck State Developmental Center are placed in adequate placements that:

(A) fully meet the capabilities and needs of the residents; **and**

(B) are located sufficiently close to the families of residents so that the families may maintain the same level of contact with the residents that the families had before the residents were transferred from Muscatatuck State Developmental Center.

and

~~(C) are acceptable to the individual or the individual's representative.~~

SECTION 97. IC 21-6.1-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) It is the intent of the 1995 session of the general assembly that the state create a program to stabilize the state's general fund teacher pension expenditures as a percentage of the general fund budget.

(b) The pension stabilization fund is established. The pension stabilization fund shall be a part of the pre-1996 account, and shall be administered by the board of trustees of TRF in accordance with the powers and duties granted to the board of trustees in IC 21-6.1-3-6, IC 21-6.1-3-7, and IC 21-6.1-3-9 through IC 21-6.1-3-15.

(c) Amounts allocated to the pension stabilization fund under IC 4-30-16-3, a portion of employer reserve balance (as determined by the budget director so that the employer reserve is sufficient for the cash flow needs), and other amounts appropriated to the pension stabilization fund by the general assembly shall be deposited in the

pension stabilization fund.

(d) Expenditures from the fund may not be made until state fiscal year ~~2006~~. **After June 30, 2003, and before July 1, 2004, the board of trustees of TRF shall use an amount not to exceed one hundred ninety million dollars (\$190,000,000) from the pension stabilization fund to pay the pre-1996 Indiana state teachers' retirement fund's pension liabilities for the state's fiscal year 2004. After June 30, 2004, and before July 1, 2005, the board of trustees of TRF shall use an amount not to exceed one hundred ninety million dollars (\$190,000,000) from the pension stabilization fund to pay the pre-1996 Indiana state teachers' retirement fund's pension liabilities for the state's fiscal year 2005.** After state fiscal year ~~2006~~; **2005**, payments from the fund will equal the pre-1996 Indiana state teachers' retirement fund pension liabilities for the current fiscal year minus the prior year's state general fund payments for the pre-1996 Indiana state teachers' retirement fund times the pension stabilization percentage. **(In state fiscal year 2006, the prior year's state general fund payments for the pre-1996 Indiana state teachers' retirement fund shall be treated as including the amount used under this section in the prior state fiscal year to pay pre-1996 Indiana state teachers' retirement fund's pension liabilities.)** The pension stabilization percentage shall be set at one hundred six percent (106%). The budget agency, after review by the state budget committee and with the approval of the governor, may change the pension stabilization percentage such that the present value of future payments from the fund equal the fund's balance plus the present value of future receipts to the fund, but the payments may not allow the fund balance to be negative.

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

SECTION 98. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding P.L. 291-2001, SECTION 38, the appropriation from the Build Indiana Fund, FOR THE BUDGET AGENCY, Local Election Equipment Matching Grants for \$4,000,000 is canceled.

(b) Notwithstanding P.L. 291-2001, SECTION 38, the appropriation from the Build Indiana Fund, FOR THE BUDGET AGENCY, Local Election and Voter Registration Equipment for \$5,000,000 is canceled.

(c) There is appropriated to the voter registration and procedures account within the state general fund and to the voter system improvement account within the state general fund an amount sufficient to provide match for federal funds received under the Help America Vote Act (HAVA) from money transferred to the state general fund under subsection (d) for the biennium beginning July 1, 2003, and ending June 30, 2005.

(d) Notwithstanding IC 4-30-11-9, an amount sufficient to comply with subsection (c) is transferred to the state general fund from the balance, as of June 30, 2003, of unclaimed prize money of the Indiana state lottery under IC 4-30-11-7.

(e) This SECTION expires July 1, 2005.

SECTION 99. [EFFECTIVE JULY 1, 2003] The trustees of Indiana University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following projects if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for the following:

Indiana University - Purdue University at Fort Wayne	
Medical Building	\$14,000,000

SECTION 100. [EFFECTIVE JULY 1, 2003] The trustees of Purdue University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following projects if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for the following:

Indiana University - Purdue University at Fort Wayne	
Music Building	\$19,000,000

Bonding authority granted by this SECTION for the Music Building is not eligible for fee replacement appropriations until July 1, 2005.

SECTION 101. [EFFECTIVE JULY 1, 2003] The trustees of Indiana University and Purdue University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following projects if for each institution the

sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for that institution:

INDIANA UNIVERSITY- Bloomington Campus	
Multidisciplinary Science Building Phase II	31,872,000
INDIANA UNIVERSITY PURDUE UNIVERSITY INDIANAPOLIS	
Research Institute Building III	33,333,333
INDIANA UNIVERSITY PURDUE UNIVERSITY INDIANAPOLIS	
Information Sciences Building	15,000,000
PURDUE UNIVERSITY- West Lafayette Campus	
Millennium Engineering Building	36,000,000
PURDUE UNIVERSITY- West Lafayette Campus	
Biomedical Engineering Building	13,000,000
INDIANA UNIVERSITY-PURDUE UNIVERSITY INDIANAPOLIS	
Campus Center	40,000,000

The borrowing authority granted by this SECTION for the Indiana University-Purdue University Indianapolis Campus Center project is not authorized for fee replacement, but supplements, and is in addition to, the \$10,000,000 of fee-replaced bonding authority granted in P.L.291-2001, SECTION 46.

SECTION 102. [EFFECTIVE JULY 1, 2003] The trustees of the University of Southern Indiana may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for the University of Southern Indiana:

UNIVERSITY OF SOUTHERN INDIANA	
Renovation of the University Center	9,750,000

The project is not eligible for fee replacement.

SECTION 103. [EFFECTIVE JULY 1, 2003] The trustees of the University of Southern Indiana may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following project if the sum of principal costs of any bond

issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for the University of Southern Indiana:

UNIVERSITY OF SOUTHERN INDIANA

Library 29,084,830

SECTION 104. [EFFECTIVE JULY 1, 2003] The trustees of the University of Southern Indiana may issue and sell bonds under IC 20-12-8, subject to the approvals required by IC 20-12-5.5, for the purpose of constructing, furnishing, and equipping the parking garage project so long as the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed three million dollars (\$3,000,000). The project is not eligible for fee replacement.

SECTION 105. [EFFECTIVE JULY 1, 2003] The trustees of Indiana University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for the Indiana University South Bend Campus:

INDIANA UNIVERSITY-South Bend Campus

Land Acquisition 2,000,000

SECTION 106. [EFFECTIVE JULY 1, 2003] The trustees of Vincennes University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for the Vincennes University Jasper Campus:

VINCENNES UNIVERSITY-Jasper Campus

Jasper Center New Academic Building 4,320,000

SECTION 107. [EFFECTIVE JULY 1, 2003] The trustees of Ivy Tech State College may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following project if the sum of principal costs of any bond issued, excluding

amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for the following:

Richmond Building Addition, Phase II	8,780,000
Indianapolis/Lawrence Roosevelt Building Acquisition	10,000,000
Valparaiso New Campus, Phase I	15,843,000
Madison A&E	826,000
Portage A&E	275,000
Marion A&E	250,000
Evansville Phase II Project	18,158,000

SECTION 108. [EFFECTIVE JULY 1, 2003] The trustees of Ball State University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed below for Ball State University:

BALL STATE UNIVERSITY

Communication Media Building	21,000,000
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SECTION 109. [EFFECTIVE JULY 1, 2003] The trustees of Purdue University may issue and sell bonds under IC 20-12-8, subject to the approvals required by IC 20-12-5.5, for the purpose of constructing, furnishing, and equipping the Parking Garage No. 1 project at the Calumet Campus, so long as the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed eleven million five hundred thousand dollars (\$11,500,000). The project is not eligible for fee replacement.

SECTION 110. [EFFECTIVE JULY 1, 2003] The trustees of Indiana State University may issue and sell bonds under IC 20-12-6, subject to the approvals required by IC 20-12-5.5, for the following project if the sum of principal costs of any bond issued, excluding amounts necessary to provide money for debt service reserves, credit enhancement, or other costs incidental to the issuance of the bonds, does not exceed the total authority listed

below for Indiana State University:

INDIANA STATE UNIVERSITY

University Hall Renovation and

Business School A&E

2,240,000

SECTION 111. [EFFECTIVE JULY 1, 2003] (a) The general assembly finds that the state needs the construction, equipping, renovation, refurbishing, or alteration of not more than one (1) regional health center.

(b) The general assembly finds that the state will have a continuing need for use and occupancy of the health center described in subsection (a). The general assembly authorizes the state office building commission to provide the health center described in subsection (a) under IC 4-13.5-1 and IC 4-13.5-4.

SECTION 112. [EFFECTIVE UPON PASSAGE] (a) The general assembly finds that the state needs the construction, equipping, purchasing, leasing, renovation, refurbishing, or alteration of laboratory facilities described in subsection (d) for the use of agencies of the state, including the state police department created by IC 10-1-1-1, the state department of health established by IC 16-19-11, and, notwithstanding IC 4-13.5-1-1, the state department of toxicology of the Indiana University school of medicine established under IC 20-12-34-1.

(b) The general assembly finds that the state will have a continuing need for use and occupancy of the laboratory facilities described in subsection (d).

(c) The general assembly authorizes the state office building commission to provide the laboratory facilities described in subsection (d) under IC 4-13.5-1 and IC 4-13.5-4, including the borrowing of money or the issuance and sale of bonds, or both, under IC 4-13.5-4.

(d) As used in subsections (a), (b) and (c), the term laboratory facilities means land, buildings, structures, improvement and equipment and related facilities for the use and occupancy of state agencies and the state department of toxicology.

SECTION 113. IC 32-34-1-20, AS ADDED BY P.L.2-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

(1) does not include a communication with an owner by an agent

of the holder who has not identified in writing the property to the owner; and

(2) includes the following:

(A) With respect to an account or underlying shares of stock or other interest in a business association or financial organization:

(i) the cashing of a dividend check or other instrument of payment received; or

(ii) evidence that the distribution has been received if the distribution was made by electronic or similar means.

(B) A deposit to or withdrawal from a bank account.

(C) The payment of a premium with respect to a property interest in an insurance policy.

(D) The mailing of any correspondence in writing from a financial institution to the owner, including:

(i) a statement;

(ii) a report of interest paid or credited; or

(iii) any other written advice;

relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner has with the financial institution if the correspondence is not returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

(i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or

(ii) any other relationship with the financial institution, including the payment of any amounts due on a loan;

if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

- (1) For traveler's checks, fifteen (15) years after issuance.
- (2) For money orders, seven (7) years after issuance.
- (3) For consumer credits, three (3) years after the credit becomes payable.
- (4) For gift certificates, three (3) years after December 31 of the year in which the gift certificate was sold. If the gift certificate is redeemable in merchandise only, the amount abandoned is considered to be sixty percent (60%) of the certificate's face value.
- (5) For amounts owed by an insurer on a life or an endowment insurance policy or an annuity contract:
 - (A) if the policy or contract has matured or terminated, three (3) years after the obligation to pay arose; or
 - (B) if the policy or contract is payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.
- (6) For property distributable by a business association in a course of dissolution, one (1) year after the property becomes distributable.
- (7) For property or proceeds held by a court or a court clerk, other than property or proceeds related to child support, five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3. For property or proceeds related to child support held by a court or a court clerk, ten (10) years after the property or proceeds become distributable.
- (8) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.
- (9) For compensation for personal services, one (1) year after the compensation becomes payable.
- (10) For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.

(11) For stock or other interest in a business association, five (5) years after the earlier of:

(A) the date of the last dividend, stock split, or other distribution unclaimed by the apparent owner; or

(B) the date of the second mailing of a statement of account or other notification or communication that was:

(i) returned as undeliverable; or

(ii) made after the holder discontinued mailings to the apparent owner.

(12) For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, three (3) years after the earliest of:

(A) the actual date of the distribution or attempted distribution;

(B) the distribution date as stated in the plan or trust agreement governing the plan; or

(C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.

(13) For a demand, savings, or matured time deposit, including a deposit that is automatically renewable, five (5) years after maturity or five (5) years after the date of the last indication by the owner of interest in the property, whichever is earlier. Property that is automatically renewable is considered matured for purposes of this section upon the expiration of its initial period, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder.

(14) For property payable or distributable in the course of a demutualization, rehabilitation, or related reorganization of a mutual insurance company, five (5) years after the earlier of:

(A) the date of last contact with the policyholder; or

(B) the date the property became payable or distributable.

(15) For all other property, the earlier of five (5) years after:

(A) the owner's right to demand the property; or

(B) the obligation to pay or distribute the property;

arose.

(d) Property is payable or distributed for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or a document otherwise required to receive payment.

SECTION 114. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 32-34-1-26, a life insurance company that was required to file a report with the attorney general concerning abandoned property before May 1, 2003, shall file a supplemental report with the attorney general concerning property that:

- (1) is abandoned property for purposes of IC 32-34-1-20(c)(14), as amended by this act; and**
- (2) was not included on a report previously filed under IC 32-34-1-26.**

The supplemental report required by this SECTION must be filed before November 1, 2003, and must include the information required by IC 32-34-1-26.

(b) This SECTION expires July 1, 2005.

SECTION 115. [EFFECTIVE JULY 1, 2002 (RETROACTIVE)] (a) Notwithstanding IC 32-34-1-34, the treasurer of state shall transfer on:

- (1) June 30, 2003;**
- (2) June 30, 2004; and**
- (3) June 30, 2005;**

any balance (excluding amounts needed to fund appropriations to the attorney general for personal services and other operating expenses for the unclaimed property program) in the abandoned property fund that exceeds five hundred thousand dollars (\$500,000) to the state general fund.

(b) After June 30, 2002, and before July 1, 2005, the treasurer of state may not transfer any amount in the abandoned property fund to the common school fund. If any money was transferred before June 30, 2003, in a manner that is inconsistent with this subsection, the treasurer of state shall take the necessary action to restore the money to the abandoned property fund and transfer the money as required under subsection (a).

(c) This SECTION expires July 1, 2004.

SECTION 116. [EFFECTIVE JULY 1, 2003] (a) The budget agency shall cause fifty million dollars (\$50,000,000) to be transferred from the public depository insurance fund to the state general fund in the state fiscal year beginning July 1, 2003, and ending June 30, 2004, with the following conditions:

- (1) The transfer required under this SECTION is an interest free loan from the public depository insurance fund to the state**

general fund.

(2) If before January 1, 2013, the governor, on the advice of the budget agency, makes a determination that the general fund has a balance sufficient to repay the loan, the budget agency shall establish a repayment plan under which the loan is repaid either in one (1) installment or in a number of installments determined by the budget agency. Money sufficient to make the installments under a repayment plan established under this subsection is appropriated from the general fund.

(3) If the governor, on the advice of the budget agency, has not made a determination prior to January 1, 2013, to repay the interest free loan to the public depository insurance fund, the budget agency shall include a request for funds to repay the loan in the budget agency budget request submitted to the 2013 session of the general assembly.

(b) The budget agency shall cause the following transfers to be made from the specified funds to the state general fund in the specified state fiscal years:

(1) Two million dollars (\$2,000,000) from the industrial industries fund in the state fiscal year beginning July 1, 2003, and ending June 20, 2004.

(2) Two million four hundred thousand dollars (\$2,400,000) from the industrial industries fund in the state fiscal year beginning July 1, 2004, and ending June 30, 2005.

(3) Two million five hundred thousand dollars (\$2,500,000) from the administrative services fund in the state fiscal year beginning July 1, 2004, and ending June 30, 2005.

(c) This SECTION expires July 1, 2013.

SECTION 117. IC 4-12-1-14.3, AS AMENDED BY P.L.291-2001, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.3. (a) As used in this section, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

(b) There is hereby created the Indiana tobacco master settlement agreement fund for the purpose of depositing and distributing money received under the master settlement agreement. The fund consists of:

(1) all money received by the state under the master settlement agreement;

(2) appropriations made to the fund by the general assembly; and

(3) grants, gifts, and donations intended for deposit in the fund.

(c) Money may be expended, transferred, or distributed from the fund during a state fiscal year only in amounts permitted by subsections (d) through (e); and only if the expenditures, transfers, or distributions are specifically authorized by another statute.

(d) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2000; is determined under STEP THREE of the following formula:

STEP ONE: Determine the sum of money received or to be received by the state under the master settlement agreement before July 1, 2001:

STEP TWO: Subtract from the STEP ONE sum the amount appropriated by P.L.273-1999; SECTION 8; to the children's health insurance program from funds accruing to the state from the tobacco settlement for the state fiscal years beginning July 1, 1999; and July 1, 2000:

STEP THREE: Multiply the STEP TWO remainder by fifty percent (50%):

(e) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2001; and each state fiscal year after that is determined under STEP THREE of the following formula:

STEP ONE: Determine the amount of money received or to be received by the state under the master settlement agreement during that state fiscal year:

STEP TWO: Multiply the STEP ONE amount by sixty percent (60%):

STEP THREE: Add to the STEP TWO product any amounts that were available for expenditure; transfer; or distribution under this subsection or subsection (d) during preceding state fiscal years but that were not expended; transferred; or distributed:

(f) The following amounts shall be retained in the fund and may not be expended; transferred; or otherwise distributed from the fund:

(1) All of the money that is received by the state under the master settlement agreement and remains in the fund after the expenditures; transfers; or distributions permitted under subsections (c) through (e):

(2) All interest that accrues from investment of money in the fund;

~~unless specifically appropriated by the general assembly. Interest that is appropriated from the fund by the general assembly may not be considered in determining the maximum amount of expenditures, transfers, or distributions under subsection (e).~~

~~(g)~~ (c) The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

~~(h)~~ (d) The state general fund is not liable for payment of a shortfall in expenditures, transfers, or distributions from the Indiana tobacco master settlement agreement fund or any other fund due to a delay, reduction, or cancellation of payments scheduled to be received by the state under the master settlement agreement. If such a shortfall occurs in any state fiscal year, the budget agency shall make the full transfer to the regional health facilities construction account and then reduce all remaining expenditures, transfers, and distributions affected by the shortfall.

SECTION 118. IC 4-12-8.5-3, AS ADDED BY P.L.291-2001, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The regional health care construction account is established for the purpose of providing funding for state psychiatric hospitals and developmental centers, regional health centers, or other health facilities designed to provide crisis treatment, rehabilitation, or intervention for adults or children with mental illness, developmental disabilities, addictions, or other medical or rehabilitative needs. The account consists of:

- (1) amounts, if any, that any statute requires to be distributed to the account from the Indiana tobacco master settlement **agreement** fund;
- (2) appropriations to the account from other sources; and
- (3) grants, gifts, and donations intended for deposit in the account.

(b) ~~Fourteen million dollars (\$14,000,000) shall be transferred during state fiscal years 2001-2002 and 2002-2003 from the Indiana tobacco master settlement fund to the account:~~

(e) ~~(b)~~ The budget agency shall administer the account. Money in the account at the end of a state fiscal year does not revert to the state general fund but remains available for expenditure.

(d) ~~(c)~~ Money in the account may be used for:

- (1) the construction, equipping, renovation, demolition, refurbishing, or alteration of existing or new state hospitals, regional health centers, or other health facilities; or
- (2) lease rentals to the state office building commission or other public or private providers of such facilities.

(e) ~~(d)~~ Money in the account shall be used to pay any outstanding lease rentals before making any other payments from the account.

(f) ~~(e)~~ Money in the account is annually appropriated for the purposes described in this chapter.

SECTION 119. IC 6-7-1-30.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30.5. (a) There is annually appropriated to the local health maintenance fund established by IC 16-46-10 ~~two million three hundred seventy thousand dollars (\$2,370,000)~~ **two million four hundred thirty thousand dollars (\$2,430,000)** from the state general fund to provide funds for annual distribution to local boards of health in accordance with IC 16-46-10-2 to enable local boards of health to provide basic health services.

(b) The state department of health may retain annually a maximum of fifty thousand dollars (\$50,000) of the total appropriation to the local health maintenance fund under subsection (a) to pay administrative expenses incurred by the state department of health in distributing the funds to local health departments.

SECTION 120. IC 22-4-26-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Money credited to the account of this state in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to 42 U.S.C. 1103, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this article and public employment offices pursuant to a specific appropriation by the general assembly, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation statute which:

(1) specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(2) **except as provided in subsection (i)**, limits the period within which such money may be obligated to a period ending not more than two (2) years after the date of the enactment of the appropriation statute; and

(3) limits the total amount which may be obligated during a twelve (12) month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which:

(A) the aggregate of the amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, during such twelve (12) month period and the twenty-four (24) preceding twelve (12) month periods; exceeds

(B) the aggregate of the amounts obligated by this state pursuant to this section and amounts paid out for benefits and charged against the amounts credited to the account of this state during such twenty-five (25) twelve (12) month periods.

(b) For the purposes of this section, amounts obligated by this state during any such twelve (12) month period shall be charged against equivalent amounts which were first credited and which have not previously been so charged, except that no amount obligated for administration of this article and public employment offices during any such twelve (12) month period may be charged against any amount credited during such twelve (12) month period earlier than the fourteenth preceding such twelve (12) month period.

(c) Amounts credited to the account of this state pursuant to 42 U.S.C. 1103, as amended, may not be obligated except for the payment of cash benefits to individuals with respect to their unemployment and for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section.

(d) Money appropriated as provided in this section for the payment of expenses incurred for the administration of this article and public employment offices pursuant to this section shall be requisitioned as needed for payment of obligations incurred under such appropriation and upon requisition shall be deposited in the employment and training services administration fund but, until expended, shall remain a part of the unemployment insurance benefit fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure, and

return of funds so deposited. If any money so deposited is for any reason not to be expended for the purpose for which it was appropriated, or if it remains unexpended at the end of the period specified by the statute appropriating such money, it shall be withdrawn and returned to the Secretary of the Treasury of the United States for credit to this state's account in the unemployment trust fund.

(e) There is appropriated out of the funds made available to Indiana under Section 903 of the Social Security Act, as amended by Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (which is Title II of the federal Jobs Creation and Worker Assistance Act of 2002, Pub.L107-147), seventy-two million two hundred thousand dollars (\$72,200,000) to the department of workforce development. The appropriation made by this subsection is available for ten (10) state fiscal years beginning with the state fiscal year beginning July 1, 2003. Unencumbered money at the end of a state fiscal year does not revert to the state general fund.

(f) Money appropriated under subsection (e) is subject to the requirements of IC 22-4-37-1.

(g) Money appropriated under subsection (e) may be used only for the following purposes:

- (1) The administration of the Unemployment Insurance (UI) program and the Wagner Peyser public employment office program.**
- (2) Acquiring land and erecting buildings for the use of the department of workforce development.**
- (3) Improvements, facilities, paving, landscaping, and equipment repair and maintenance that may be required by the department of workforce development.**

(h) In accordance with the requirements of subsection (g), the department of workforce development may allocate up to the following amounts from the amount described in subsection (e) for the following purposes:

- (1) Thirty-nine million two hundred thousand dollars (\$39,200,000) to be used for the modernization of the Unemployment Insurance (UI) system beginning July 1, 2003, and ending June 30, 2013.**
- (2) For:**
 - (A) the state fiscal year beginning after June 30, 2003, and**

ending before July 1, 2004, five million dollars (\$5,000,000);
 (B) the state fiscal year beginning after June 30, 2004, and ending before July 1, 2005, five million dollars (\$5,000,000);
 (C) the state fiscal year beginning after June 30, 2005, and ending before July 1, 2006, five million dollars (\$5,000,000);
 (D) the state fiscal year beginning after June 30, 2006, and ending before July 1, 2007, five million dollars (\$5,000,000);
 and
 (E) the state fiscal year beginning after June 30, 2007, and ending before July 1, 2008, five million dollars (\$5,000,000);
 for the JOBS proposal to meet the workforce needs of Indiana employers in high wage, high skill, high demand occupations.

(3) For:

(A) the state fiscal year beginning after June 30, 2003, and ending before July 1, 2004, four million dollars (\$4,000,000);

(B) the state fiscal year beginning after June 30, 2004, and ending before July 1, 2005, four million dollars (\$4,000,000);

to be used by the workforce investment boards in the administration of Indiana's public employment offices.

(i) The amount appropriated under subsection (e) for the payment of expenses incurred in the administration of this article and public employment is not required to be obligated within the two (2) year period described in subsection (a)(2).

SECTION 121. [EFFECTIVE JULY 1, 2002 (RETROACTIVE)] (a)

For purposes of this SECTION:

(1) "department" refers to the department of local government finance;

(2) "district" refers to a solid waste management district that has territory in more than one (1) county; and

(3) "2003 levy" refers to the least of:

(A) the district's maximum permissible levy under IC 6-1.1-18.5-3;

(B) the district's advertised levy; and

(C) the district's adopted levy;

for 2002 taxes payable in 2003.

(b) Notwithstanding:

(1) IC 13-21-7; or

(2) any action taken by a county or a district to fix a property tax levy for 2002 taxes payable in 2003;

the department may, for each county that participates in a district, determine under this SECTION the portion of the district's property tax levy under IC 13-21-3-12(13) for 2002 taxes payable in 2003 to be levied in the county.

(c) The amount of the portion referred to in subsection (b) for a county that participates in a district is the amount that bears the same proportion to the 2003 levy that the certified assessed value of the county as of the 2001 assessment date bears to the total certified assessed value as of the 2001 assessment date of all counties that participate in the district.

(d) The department shall use the amount determined under subsection (c) in setting the tax rate of the county.

(e) This SECTION expires July 1, 2004.

SECTION 122. IC 11-12-1-2.5, AS AMENDED BY P.L.32-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter may include the following:

- (1) Residential or work release programs.
- (2) House arrest, home detention, and electronic monitoring programs.
- (3) Community restitution or service programs.
- (4) Victim-offender reconciliation programs.
- (5) Jail services programs.
- (6) Jail work crews.
- (7) Community work crews.
- (8) Juvenile detention alternative programs.
- (9) Day reporting programs.
- (10) **Faith based programs.**
- (11) Other community corrections programs approved by the department.

(b) The community corrections board may also coordinate and operate educational, mental health, drug or alcohol abuse counseling, housing, as a part of any of these programs, or supervision services for persons described in section 2 of this chapter.

SECTION 123. IC 11-12-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A community corrections advisory board shall:

- (1) formulate:

(A) the community corrections plan and the application for financial aid required by section 4 of this chapter; **and**
(B) the forensic diversion program plan under IC 11-12-3.5-2.

- (2) observe and coordinate community corrections programs in the county;
- (3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;
- (4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under section 5 of this chapter; and
- (5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan.

Before recommending approval of a contract, the advisory board must determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

- (b) A community corrections advisory board shall do the following:
 - (1) Adopt bylaws for the conduct of its own business.
 - (2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.
 - (3) Comply with the public meeting and notice requirements under IC 5-14-1.5.

(c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.

SECTION 124. IC 11-12-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 3.5. Forensic Diversion Program

Sec. 1. As used in this chapter, "forensic diversion program" means a program developed to ensure that an adult with a mental illness or an addictive disorder who has been convicted of a crime receives adequate community based treatment or other services instead of incarceration. An adult with a mental illness or an addictive disorder who has been convicted of a crime may participate in a forensic diversion program following the sentencing hearing, if the adult is:

- (1) participating in a community corrections program;**
- (2) participating in a community transition program; or**
- (3) on probation.**

Sec. 2. The community corrections advisory board shall develop a forensic diversion program plan to do the following:

- (1) Establish and provide procedures for the early identification of serious mental or addictive disorders among detainees, including initial intake and assessment programs for individuals who are arrested.**
- (2) Permit an individual who is not charged with a crime involving serious bodily injury to participate in an arraignment or postarraignment diversion program.**
- (3) Provide a program of community based services for an individual eligible for deferred prosecution under IC 33-14-1-7 or IC 12-23-5-7.**
- (4) Permit an individual participating in a forensic diversion program to discontinue participation sixty (60) days after the individual's primary caregiver, physician, or counselor has released the individual from all care except for basic monitoring.**

Sec. 3. The department may provide funds for forensic diversion programs for those offenders who were diverted from a mandatory period of incarceration from the department.

SECTION 125. IC 12-23-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** In a criminal proceeding for a misdemeanor or infraction in which:

- (1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or**
- (2) the defendant's mental illness other than substance abuse, is a contributing factor;**

the court may take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

(b) For purposes of IC 11-12-3.5, in a criminal proceeding in which:

- (1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or**
- (2) the defendant's mental illness other than substance abuse, is a contributing factor;**

the court shall take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

SECTION 126. IC 35-50-2-2, AS AMENDED BY P.L.116-2002, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, **unless the court has approved placement of the offender in a forensic diversion program under IC 11-12-3.5:**

- (1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.
- (2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.
- (3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under

IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

- (A) murder (IC 35-42-1-1);
- (B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;
- (C) sexual battery (IC 35-42-4-8) with a deadly weapon;
- (D) kidnapping (IC 35-42-3-2);
- (E) confinement (IC 35-42-3-3) with a deadly weapon;
- (F) rape (IC 35-42-4-1) as a Class A felony;
- (G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;
- (H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;
- (I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;
- (J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;
- (K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;
- (L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;
- (M) escape (IC 35-44-3-5) with a deadly weapon;
- (N) rioting (IC 35-45-1-2) with a deadly weapon;
- (O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center;
- (P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under

eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5; or

(R) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 127. [EFFECTIVE JULY 1, 2003] For the state fiscal year ending June 30, 2004, the department of correction shall quarterly present a report regarding county sentencing patterns to the budget committee. The report must include information concerning the following:

- (1) Population.**
- (2) Location by facility.**

(3) Percentage of facility usage.

(4) Type of inmate.

(5) Type of incarceration.

(6) Mental health diversion.

(7) Community corrections and community transition.

SECTION 128. IC 13-11-2-35.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 35.5. "Community water system", for purposes of IC 13-18-20.5, means a public water system that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.**

SECTION 129. IC 13-11-2-142.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 142.7. "Nontransient noncommunity water system", for purposes of IC 13-18-20.5, means a public water system that is not a community water system that regularly serves the same twenty-five (25) or more persons at least six (6) months per year.**

SECTION 130. IC 13-11-2-177.3, AS AMENDED BY P.L.184-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 177.3. "Public water system", for purposes of this chapter, IC 13-18-11, IC 13-18-20.5, IC 13-18-21, and other environmental management laws, has the meaning set forth in 42 U.S.C. 300f.**

SECTION 131. IC 13-11-2-237.5, AS AMENDED BY P.L.1-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 237.5. "Transient noncommunity water system", for purposes of IC 13-18-11 and IC 13-18-20.5, means a noncommunity water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.**

SECTION 132. IC 13-15-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 1. The environmental management permit operation fund is established for the purpose of providing money for permitting and directly associated activities of the following programs of the department and boards:**

(1) National Pollutant Discharge Elimination System program.

(2) Solid waste ~~and~~ program.

(3) Hazardous waste ~~programs of the department and the boards-~~
program.

(4) Safe drinking water program.

SECTION 133. IC 13-15-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. The fund consists of fees and delinquent charges collected under the following:

- (1) IC 13-18-20.
- (2) **IC 13-18-20.5.**
- (3) IC 13-20-21.
- ~~(3)~~ **(4) IC 13-22-12.**

SECTION 134. IC 13-18-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 20.5. Federal Safe Drinking Water Act

Sec. 1. The provisions in this chapter are to defray the costs of administering activities of the federal Safe Drinking Water Act.

Sec. 2. For public water systems, the annual operation fees are as follows:

- (1) For a community water system with more than four hundred (400) service connections, ninety-five cents (\$0.95) per service connection.**
- (2) For a community water system with four hundred (400) or fewer service connections, the annual operation fee is three hundred fifty dollars (\$350).**
- (3) For a nontransient noncommunity water system, the annual operation fees are as follows:**

Number served	Fee
25 - 100	\$150
101 - 250	\$180
251 - 500	\$240
501 - 1,000	\$300
1,001 - 3,300	\$450
3,301 - 5,000	\$600
5,001 - 10,000	\$1,500
more than 10,000	\$3,000

- (4) For a transient noncommunity water system, the annual operation fees are as follows:**

Type of transient

noncommunity water system	Fee
Groundwater	\$100
Purchase	\$ 50
Surface	\$200

Sec. 3. (a) Public water system annual operation fees begin accruing January 1 of each year.

(b) This subsection applies only to fees that are due in 2004. The department shall assess the public water system annual operation fees not earlier than July 1. Notwithstanding section 2 of this chapter, the annual fee assessed under this subsection is equal to one-third (1/3) of the fee required under section 2 of this chapter.

(c) This subsection applies only to fees that are due in 2005. The department shall assess the public water system annual operation fees not earlier than July 1. Notwithstanding section 2 of this chapter, the annual fee assessed under this subsection is equal to two-thirds (2/3) of the fee required under section 2 of this chapter.

(d) Beginning in 2006 and in each year thereafter, the department shall assess public water system annual operation fees not later than January 15 of each year.

(e) A person must remit a public water system annual operation fee or an installment established under IC 13-16-2 to the department not more than thirty (30) days after the date the fee is assessed or on the date the installment is due.

Sec. 4. (a) In addition to the penalties prescribed under:

- (1) IC 13-30-4-1;**
- (2) IC 13-30-4-2; and**
- (3) IC 13-30-5-1;**

if a person does not remit a public water system annual operation fee or installment of the fee under IC 13-16-2 to the department not later than sixty (60) days after the date the fee is assessed or not later than thirty (30) days after the date the installment is due, the person shall be assessed a delinquency charge equal to ten percent (10%) of the fee or ten percent (10%) of the installment, whichever applies.

(b) A delinquency charge assessed under this section is due and payable not later than sixty (60) days after the date a fee is assessed or not later than thirty (30) days after the date an installment of the fee is due under IC 13-16-2.

Sec. 5. If a person does not remit a public water system annual

operation fee or an installment of the fee under IC 13-16-2 to the department not later than ninety (90) days after the date the fee is assessed or not later than sixty (60) days after the date the installment is due, the department may pursue enforcement action under IC 13-30. However, before the department may pursue enforcement action, the department must:

- (1) not earlier than sixty (60) days after the date the fee is assessed or not earlier than thirty (30) days after the installment is due; and**
- (2) not later than thirty (30) days before the department pursues enforcement action;**

notify the person by United States mail of the fees and delinquency charges due. The notice must state that the department may pursue enforcement action for nonpayment after thirty (30) days from the date of the notice.

Sec. 6. The fees and delinquency charges collected under this chapter:

- (1) are payable to the department; and**
- (2) shall be deposited in the environmental management permit operation fund established by IC 13-15-11-1.**

SECTION 135. IC 20-1-1-6.5, AS ADDED BY P.L.221-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.5. (a) As used in this section, "board" refers to the state board of education established under section 1 of this chapter.

(b) As used in this section, "department" refers to the department of education established under IC 20-1-1.1-2.

(c) As used in this section, "governing body" has the meaning set forth in IC 20-10.1-1-5.

(d) As used in this section, "plan" refers to an Indiana school academic plan established under section 6.3 of this chapter.

(e) As used in this section, "program" refers to a professional development program.

(f) As used in this section, "school" includes the following:

- (1) A public school.**
- (2) A nonpublic school that has voluntarily become accredited under section 6 of this chapter.**

(g) As used in this section, "superintendent" has the meaning set forth in IC 20-10.1-1-6.

~~(g)~~ **(h)** A school shall develop a program as a component of a plan established by the school.

~~(h)~~ **(i)** The following apply to a program developed under this section:

(1) The program must emphasize improvement of student learning and performance.

(2) The program must be developed by the committee that develops the school's strategic and continuous improvement and achievement plan under IC 20-10.2-3-1.

(3) The program must be integrated with the school's strategic and continuous improvement and achievement plan developed under IC 20-10.2-3.

~~(i)~~ **(j)** A school committee shall submit the school's program to the superintendent for the superintendent's review. The superintendent:

(1) shall review the plan to ensure that the program aligns with the school corporation's objectives, goals, and expectations;

(2) may make written recommendations of modifications to the program to ensure alignment; and

(3) shall return the program and any recommendations to the school committee.

~~(j)~~ **(k)** A school committee may modify the program to comply with recommendations made by the superintendent under subsection ~~(i)~~: **(j)**.

~~(k)~~ **(l)** A school committee shall submit the program as part of its plan to the governing body. The governing body shall:

(1) approve or reject the program as part of the plan; and

(2) submit the program to the board as part of the plan for the school.

~~(l)~~ **(m)** The board may approve a school's program only if the program meets the board's core principles for professional development and the following additional criteria:

(1) To ensure high quality professional development, the program:

(A) is school based and collaboratively designed, and encourages participants to work collaboratively;

(B) has a primary focus on state and local academic standards, including a focus on Core 40 subject areas;

(C) enables teachers to improve expertise in subject knowledge and teaching strategies, uses of technologies, and

other essential elements in teaching to high standards;

(D) furthers the alignment of standards, curriculum, and assessments; and

(E) includes measurement activities to ensure the transfer of new knowledge and skills to classroom instruction.

(2) A variety of resources, including needs assessments, an analysis of data regarding student learning needs, professional literature, research, and school improvement programs, are used in developing the program.

(3) The program supports professional development for all stakeholders.

(4) The program includes ongoing professional growth experiences that provide adequate time and job embedded opportunities to support school improvement and student learning, including flexible time for professional development that provides professional development opportunities before, during, and after the regular school day and school year.

(5) Under the program, teacher time for professional development sustains instructional coherence, participant involvement, and continuity for students.

(6) The program includes effective, research based strategies to support ongoing developmental activities.

(7) The program supports experiences to increase the effective use of technology to improve teaching and learning.

(8) The program encourages diverse techniques, including inquiry, reflection, action research, networking, study groups, coaching, and evaluation.

(9) The program includes a means for evaluating the effectiveness of the program and activities under the program.

~~(m)~~ (n) The board shall approve an evaluation system for professional development based on recommendations from the department and the professional standards board. The department shall develop a means for measuring successful programs and activities in which schools participate. The measurements must include the following:

(1) A mechanism to identify and develop strategies to collect multiple forms of data that reflect the achievement of expectations for all students. The data may include the results of ISTEP tests

under IC 20-10.1-16, local tests, classroom work, and teacher and administrator observations.

(2) A procedure for using collected data to make decisions.

(3) A method of evaluation in terms of educator's practice and student learning, including standards for effective teaching and effective professional development.

~~(n)~~ **(o)** A school qualifies for a grant from the department when the school's program, developed and submitted under this section, is approved by the board upon recommendation of the department. For purposes of determining whether a school qualifies for a grant under this chapter, the department shall:

(1) review;

(2) suggest changes to; and

(3) recommend approval or rejection of;

a school's program.

~~(o)~~ **(p)** A school must use a grant received under this ~~chapter~~ **section** to implement all or part of the school's program by funding activities that may include the following:

(1) Partnership programs with other entities, including professional development schools.

(2) Teacher leadership academies, research teams, and study groups.

(3) Workshops, seminars, and site visits.

(4) Cooperative programs with other school corporations.

(5) National board certification for teachers.

~~(p)~~ **(q)** A school may contract with private or public sector providers to provide professional development activities under this section.

~~(q)~~ **(r)** A grant received under this section:

(1) shall be expended only for the conduct of activities specified in the program; and

(2) shall be coordinated with other professional development programs and expenditures of the school and school corporation.

~~(r)~~ **(s)** A school shall report to the department concerning the use of grants received under this chapter. A school that fails to make a report under this section is not eligible for a subsequent grant.

SECTION 136. IC 6-1.1-19-1.5, AS AMENDED BY P.L.90-2002, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) The following definitions

apply throughout this section and IC 21-3-1.7:

- (1) "Adjustment factor" means the adjustment factor determined by the department of local government finance for a school corporation under IC 6-1.1-34.
- (2) "Adjusted target property tax rate" means:
 - (A) the school corporation's target general fund property tax rate determined under IC 21-3-1.7-6.8; multiplied by
 - (B) the school corporation's adjustment factor.
- (3) "Previous year property tax rate" means the school corporation's previous year general fund property tax rate after the reductions cited in IC 21-3-1.7-5(1), IC 21-3-1.7-5(2), and IC 21-3-1.7-5(3).

(b) Except as otherwise provided in this chapter, a school corporation may not, for ~~an ensuing~~ a calendar year **beginning after December 31, 2004**, impose a general fund ad valorem property tax levy which exceeds the following:

STEP ONE: Determine the result of:

- (A) the school corporation's adjusted target property tax rate; minus
- (B) the school corporation's previous year property tax rate.

STEP TWO: Determine the result of:

- (A) the school corporation's target general fund property tax rate determined under IC 21-3-1.7-6.8; multiplied by
- (B) the quotient resulting from:
 - (i) the absolute value of the result of the school corporation's adjustment factor minus one (1); divided by
 - (ii) two (2).

~~STEP THREE:~~ **STEP TWO:** If the school corporation's adjusted target property tax rate:

- (A) exceeds the school corporation's previous year property tax rate, perform the calculation under ~~STEP FOUR~~ **THREE** and not under ~~STEP FIVE;~~ **FOUR;**
- (B) is less than the school corporation's previous year property tax rate, perform the calculation under ~~STEP FIVE~~ **FOUR** and not under ~~STEP FOUR;~~ **THREE;** or
- (C) equals the school corporation's previous year property tax rate, determine the levy resulting from using the school corporation's adjusted target property tax rate and do not

perform the calculation under ~~STEP FOUR~~ **THREE** or ~~STEP FIVE~~ **FOUR**.

The school corporation's 2002 assessed valuation shall be used for purposes of determining the levy under clause (C) in 2002 and in 2003.

~~STEP FOUR~~ **THREE**: Determine the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by the lesser of:

- (A) the ~~STEP ONE~~ result; or
- (B) the sum of:
 - (i) five cents (\$0.05); plus
 - (ii) if the school corporation's adjustment factor is more than one (1), the ~~STEP TWO~~ result.

The school corporation's 2002 assessed valuation shall be used for purposes of determining the levy under this ~~STEP~~ in 2002 and in 2003: **five cents (\$0.05)**.

~~STEP FIVE~~ **FOUR**: Determine the levy resulting from using the school corporation's previous year property tax rate after reducing the rate by the lesser of:

- (A) the absolute value of the ~~STEP ONE~~ result; or
- (B) the sum of:
 - (i) nine cents (\$0.09); plus
 - (ii) if the school corporation's adjustment factor is less than one (1), the ~~STEP TWO~~ result.

The school corporation's 2002 assessed valuation shall be used for purposes of determining the levy under this ~~STEP~~ in 2002 and in 2003: **five cents (\$0.05)**.

~~STEP SIX~~ **FIVE**: Determine the result of:

- (A) the ~~STEP THREE TWO~~ (C), ~~STEP FOUR~~, **THREE**, or ~~STEP FIVE~~ **FOUR** result, whichever applies; plus
- (B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the portion of any excessive levy and the levy for new facilities.

(c) For purposes of this section, "total assessed value", as adjusted under subsection (d), with respect to a school corporation means the

total assessed value of all taxable property for ad valorem property taxes first due and payable during that year.

(d) The department of local government finance may adjust the total assessed value of a school corporation to eliminate the effects of appeals and settlements arising from a statewide general reassessment of real property.

(e) The department of local government finance shall annually establish an assessment ratio and adjustment factor for each school corporation to be used upon the review and recommendation of the budget committee. The information compiled, including background documentation, may not be used in a:

- (1) review of an assessment under IC 6-1.1-8, IC 6-1.1-13, IC 6-1.1-14, or IC 6-1.1-15;
- (2) petition for a correction of error under IC 6-1.1-15-12; or
- (3) petition for refund under IC 6-1.1-26.

(f) All tax rates shall be computed by rounding the rate to the nearest one-hundredth of a cent (\$.0001). All tax levies shall be computed by rounding the levy to the nearest dollar amount.

(g) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation may impose a general fund ad valorem property tax levy in the amount determined under STEP SEVEN of the following formula:

STEP ONE: Determine the quotient of:

- (A) the school corporation's 2003 assessed valuation; divided by**
- (B) the school corporation's 2002 assessed valuation.**

STEP TWO: Determine the greater of zero (0) or the difference between:

- (A) the STEP ONE amount; minus**
- (B) one (1).**

STEP THREE: Determine the lesser of eleven-hundredths (0.11) or the product of:

- (A) the STEP TWO amount; multiplied by**
- (B) eleven-hundredths (0.11).**

STEP FOUR: Determine the sum of:

- (A) the STEP THREE amount; plus**
- (B) one (1).**

STEP FIVE: Determine the product of:

- (A) the STEP FOUR amount; multiplied by
- (B) the school corporation's general fund ad valorem property tax levy for calendar year 2003.

STEP SIX: Determine the lesser of:

- (A) the STEP FIVE amount; or
- (B) the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by five cents (\$0.05).

STEP SEVEN: Determine the result of:

- (A) the STEP SIX amount; plus
- (B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the part of any excessive levy and the levy for new facilities.

SECTION 137. IC 6-1.1-21-2, AS AMENDED BY P.L.192-2002(ss), SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5, is to be filed on or before March 1 of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(5) and IC 6-1.1-18.5-13(6) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

(i) is entered into after December 31, 1983;

(ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and

(iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

- (i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
- (ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (repealed) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

- (i) IC 21-2-15 for a capital projects fund; plus
- (ii) IC 6-1.1-19-10 for a racial balance fund; plus
- (iii) IC 20-14-13 for a library capital projects fund; plus
- (iv) IC 20-5-17.5-3 for an art association fund; plus
- (v) IC 21-2-17 for a special education preschool fund; plus
- (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
- (vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
- (viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are attributable to the adjustment set forth in ~~IC 6-1.1-19-1.5(a)~~ **STEP ONE IC 6-1.1-19-1.5** or any other law; minus

(I) for each township in the county, the lesser of:

- (i) the sum of the amount determined in IC 6-1.1-18.5-19(a) **STEP THREE** or IC 6-1.1-18.5-19(b) **STEP THREE**, whichever is applicable, plus the part, if any, of the township's ad valorem property tax levy for calendar year

1989 that represents increases in that levy that resulted from an appeal described in IC 6-1.1-18.5-13(5) filed after December 31, 1982; or

(ii) the amount of property taxes imposed in the township for the stated assessment year under the authority of IC 36-8-13-4; minus

(J) for each participating unit in a fire protection territory established under IC 36-8-19-1, the amount of property taxes levied by each participating unit under IC 36-8-19-8 and IC 36-8-19-8.5 less the maximum levy limit for each of the participating units that would have otherwise been available for fire protection services under IC 6-1.1-18.5-3 and IC 6-1.1-18.5-19 for that same year; minus

(K) for each county, the sum of:

(i) the amount of property taxes imposed in the county for the repayment of loans under IC 12-19-5-6 (repealed) that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or for property taxes payable in each year after 1995, the amount determined under IC 12-19-7-4(b); and

(ii) the amount of property taxes imposed in the county attributable to appeals granted under IC 6-1.1-18.6-3 that is included in the amount determined under IC 12-19-7-4(a) STEP SEVEN for property taxes payable in 1995, or the amount determined under IC 12-19-7-4(b) for property taxes payable in each year after 1995; plus

(2) all taxes to be paid in the county in respect to mobile home assessments currently assessed for the year in which the taxes stated in the abstract are to be paid; plus

(3) the amounts, if any, of county adjusted gross income taxes that were applied by the taxing units in the county as property tax replacement credits to reduce the individual levies of the taxing units for the assessment year, as provided in IC 6-3.5-1.1; plus

(4) the amounts, if any, by which the maximum permissible ad valorem property tax levies of the taxing units of the county were reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated assessment year; plus

(5) the difference between:

(A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR; minus

(B) the amount the civil taxing units' levies were increased because of the reduction in the civil taxing units' base year certified shares under IC 6-1.1-18.5-3(e).

(h) "December settlement sheet" means the certificate of settlement filed by the county auditor with the auditor of state, as required under IC 6-1.1-27-3.

(i) "Tax duplicate" means the roll of property taxes which each county auditor is required to prepare on or before March 1 of each year under IC 6-1.1-22-3.

(j) "Eligible property tax replacement amount" is equal to the sum of the following:

(1) Sixty percent (60%) of the total county tax levy imposed by each school corporation in a county for its general fund for a stated assessment year.

(2) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on real property for a stated assessment year.

(3) Twenty percent (20%) of the total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) imposed in a county on tangible personal property, excluding business personal property, for an assessment year.

(k) "Business personal property" means tangible personal property (other than real property) that is being:

(1) held for sale in the ordinary course of a trade or business; or

(2) held, used, or consumed in connection with the production of income.

(l) "Taxpayer's property tax replacement credit amount" means the sum of the following:

(1) Sixty percent (60%) of a taxpayer's tax liability in a calendar year for taxes imposed by a school corporation for its general fund for a stated assessment year.

(2) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that

is part of the total county tax levy) on real property.

(3) Twenty percent (20%) of a taxpayer's tax liability for a stated assessment year for a total county tax levy (less sixty percent (60%) of the levy for the general fund of a school corporation that is part of the total county tax levy) on tangible personal property other than business personal property.

(m) "Tax liability" means tax liability as described in section 5 of this chapter.

(n) "General school operating levy" means the ad valorem property tax levy of a school corporation in a county for the school corporation's general fund.

SECTION 138. IC 6-1.1-34-7, AS AMENDED BY P.L.90-2002, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a)** Each year in which the department of local government finance computes a new assessment ratio for a school corporation, the department shall also compute a new adjustment factor for the school corporation. If the school corporation's assessment ratio for a year is more than ninety-nine percent (99%) but less than one hundred one percent (101%) of the state average assessment ratio for that year, the school corporation's adjustment factor is the number one (1). In all other cases, the school corporation's adjustment factor equals (1) the state average assessment ratio for a year, divided by (2) the school corporation's assessment ratio for that year. The department of local government finance shall notify the school corporation of its new adjustment factor before March 2 of the year in which the department calculates the new adjustment factor.

(b) This subsection applies in a calendar year in which a general reassessment takes effect. If the department of local government finance has not computed:

(1) a new assessment ratio for a school corporation; or

(2) a new state average assessment ratio;

the school corporation's adjustment factor is the number one (1) until the department of local government finance notifies the school corporation of the school corporation's new adjustment factor.

SECTION 139. IC 20-12-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** Instruction in ~~such~~ laboratory schools may be provided for pre-school pupils, kindergarten pupils, special education pupils, and for all or a portion

of the twelve (12) common school grades.

(b) Agreements may be entered into with local school units and educational organizations for the assignment of pupils to such laboratory schools, the payment of transfer fees, and contributions to the cost of establishing and maintaining ~~said~~ **the laboratory** schools.

(c) A ~~university which operates~~ a laboratory school **that:**

(1) ~~is operated by a university under this chapter without an agreement with a local school unit or an educational organization shall receive all the state financial assistance (based on the number of pupils in ADM or ADA, as do other public schools, in the laboratory school) that the largest school corporation in the county in which the university is located would have received per pupil under IC 1971, 21-3 (except for IC 1971, 21-3-3); under Acts 1973, P.L. 339, pp. 1943-1946; and under any supplemental laws, except supplemental laws which provide for transportation assistance funding;~~ **described in subsection (b); and**

(2) ~~has an ADM (as defined in IC 21-3-1.6-1.1(d)) of not more than seven hundred fifty (750);~~

shall be treated as a charter school for purposes of local funding under IC 6-1.1-19 and state funding under IC 21-3.

(d) A pupil who attends a laboratory school full time may not be counted in ADM or ADA by any local school unit when his attendance is not regulated under an agreement. ~~Only laboratory schools with enrollments of seven hundred fifty (750) full-time pupils or less shall qualify for the above described state financial assistance.~~

SECTION 140. IC 21-1-30-2, AS AMENDED BY P.L.111-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. For purposes of computation under this chapter, the following shall be used:

(1) Kindergarten pupils shall be counted as five-tenths (0.5). All other pupils shall be counted as one (1).

(2) The number of pupils shall be the number of pupils used in determining ADM, as defined by IC 21-3-1.6, for the current year.

(3) The staff cost amount for a school corporation is ~~sixty-eight thousand four hundred forty-two dollars (\$68,442) for 2002 and sixty-nine thousand eight hundred eleven dollars (\$69,811). for 2003.~~

(4) The guaranteed amount for a school corporation is the

primetime allocation, before any penalty is assessed under this chapter, that the school corporation would have received under this chapter for the 1999 calendar year.

(5) The at-risk index is the index determined under IC 21-3-1.6-1.1.

(6) The following apply to determine whether amounts received under this chapter have been devoted to reducing class size in kindergarten through grade 3 as required by section 3(b) of this chapter:

(A) Except as permitted under section 5.5 of this chapter, only a licensed teacher who is an actual classroom teacher in a regular instructional program is counted as a teacher.

(B) If a school corporation is granted approval under section 5.5 of this chapter, the school corporation may include as one-third (1/3) of a teacher each classroom instructional aide who meets qualifications and performs duties prescribed by the Indiana state board of education.

(7) The complexity index is the index determined under IC 21-3-1.7-6.7.

SECTION 141. IC 21-1-30-3, AS AMENDED BY P.L.291-2001, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The amount to be distributed to a school corporation under this chapter is the amount determined by the following formula:

STEP ONE: For a calendar year ending before January 1, 2004, determine the applicable target pupil teacher ratio for the school corporation as follows:

(A) If the school corporation's at-risk index is less than seventeen hundredths (0.17), the school corporation's target pupil teacher ratio is eighteen to one (18:1).

(B) If the school corporation's at-risk index is at least seventeen hundredths (0.17) but less than twenty-seven hundredths (0.27), the school corporation's target pupil teacher ratio is fifteen (15) plus the result determined in item (iii):

(i) Determine the result of twenty-seven hundredths (0.27) minus the school corporation's at-risk index.

(ii) Determine the item (i) result divided by one-tenth (0.1).

(iii) Determine the item (ii) result multiplied by three (3).

(C) If the school corporation's at-risk index is at least twenty-seven hundredths (0.27), the school corporation's target pupil teacher ratio is fifteen to one (15:1).

STEP TWO: For a calendar year beginning after December 31, 2003, determine the applicable target pupil teacher ratio for the school corporation as follows:

(A) If the school corporation's complexity index is less than one-tenth (0.1), the school corporation's target pupil teacher ratio is eighteen to one (18:1).

(B) If the school corporation's complexity index is at least one-tenth (0.1) but less than two-tenths (0.2), the school corporation's target pupil teacher ratio is fifteen (15) plus the result determined in item (iii):

(i) Determine the result of two-tenths (0.2) minus the school corporation's complexity index.

(ii) Determine the item (i) result divided by one-tenth (0.1).

(iii) Determine the item (ii) result multiplied by three (3).

(C) If the school corporation's complexity index is at least two-tenths (0.2), the school corporation's target pupil teacher ratio is fifteen to one (15:1).

STEP THREE: Determine the result of:

(A) the ADM of the school corporation, as determined under section 2(2) of this chapter, in kindergarten through grade 3 for the current school year; divided by

(B) the school corporation's **applicable** target pupil teacher ratio, as determined in **STEP ONE or STEP TWO**.

~~STEP THREE:~~ **FOUR:** Determine the result of:

(A) the total regular general fund revenue (the amount determined in ~~STEP ONE of IC 21-3-1.7-8~~ **IC 21-3-1.7-8.2(b) STEP ONE or IC 21-3-1.7-8.2(c) STEP ONE**) multiplied by seventy-five hundredths (0.75); divided by

(B) the school corporation's total ADM.

~~STEP FOUR:~~ **FIVE:** Determine the result of:

(A) the ~~STEP THREE~~ **FOUR** result; multiplied by

(B) the ADM of the school corporation, as determined under section 2(2) of this chapter in kindergarten through grade 3 for

the current school year.

~~STEP FIVE:~~ **SIX:** Determine the result of:

- (A) the ~~STEP FOUR FIVE~~ result; divided by
- (B) the staff cost amount.

~~STEP SIX:~~ **SEVEN:** Determine the greater of zero (0) or the result of:

- (A) the ~~STEP TWO THREE~~ amount; minus
- (B) the ~~STEP FIVE SIX~~ amount.

~~STEP SEVEN:~~ **EIGHT:** Determine the result of:

- (A) the ~~STEP SIX SEVEN~~ amount; multiplied by
- (B) the staff cost amount.

~~STEP EIGHT:~~ **NINE:** Determine the greater of the ~~STEP SEVEN~~ **EIGHT** amount or the school corporation's guaranteed amount.

~~STEP NINE:~~ **TEN:** If the amount the school corporation received under this chapter in the previous calendar year is greater than zero (0), determine the lesser of:

- (A) the ~~STEP EIGHT NINE~~ amount; or
- (B) the amount the school corporation received under this chapter for the previous calendar year multiplied by one hundred seven and one-half percent (107.5%).

~~For 2000 calculations, the amount the school corporation received under this chapter for the previous calendar year is the 1999 calendar year allocation, before any penalty was assessed under this chapter.~~

(b) The amount received under this chapter shall be devoted to reducing class size in kindergarten through grade 3. A school corporation shall compile class size data for kindergarten through grade 3 and report the data to the department of education for purposes of maintaining compliance with this chapter.

SECTION 142. IC 21-1-30-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. This chapter expires January 1, 2006.**

SECTION 143. IC 21-2-4-7, AS ADDED BY P.L.178-2002, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7.** (a) The governing body of a school corporation may adopt a resolution to transfer after June 30, 2002, and before January 1, 2003, money that is:

(1) not greater than the remainder of the amount described in ~~IC 21-3-1.7-8~~ **IC 21-3-1.7-8.2(b)** STEP TWO (C) minus the amount transferred under IC 21-2-11.5-5(a) and IC 21-2-15-13.1(a); and

(2) on deposit in the school corporation's debt service fund; to the school corporation's general fund for use for any general fund purpose.

(b) The governing body of a school corporation may adopt a resolution to transfer after December 31, 2002, and before July 1, 2003, money that is:

(1) not greater than the remainder of the amount described in ~~IC 21-3-1.7-8~~ **IC 21-3-1.7-8.2(b)** STEP TWO (D) minus the amount transferred under IC 21-2-11.5-5(b) and IC 21-2-15-13.1(b); and

(2) on deposit in the school corporation's debt service fund; to the school corporation's general fund for use for any general fund purpose.

(c) This section expires July 1, 2003.

SECTION 144. IC 21-2-4-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 8. A school corporation may transfer money to or from the debt service fund under IC 21-2-11-4(c).**

SECTION 145. IC 21-2-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Any lawful school expenses payable from any other fund of the school corporation, including without limitation debt service and capital outlay, but excluding costs attributable to transportation (as defined in IC 21-2-11.5-2), may be budgeted in and paid from the general fund. **However, after June 30, 2003, and before July 1, 2005, a school corporation may budget for and pay costs attributable to transportation (as defined in IC 21-2-11.5-2) from the general fund.**

(b) In addition, remuneration for athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3) may be budgeted in and paid from the school corporation's general fund.

(c) **During the period beginning July 1, 2003, and ending June 30, 2005, school corporation may transfer money in a fund maintained by the school corporation (other than the special**

education preschool fund (IC 21-2-17-1) or the school bus replacement fund (IC 21-2-11.5-2)) that is obtained from:

- (1) a source other than a state distribution or local property taxation; or
- (2) a state distribution or a property tax levy that is required to be deposited in the fund;

to any other fund. A transfer under subdivision (2) may not be the sole basis for reducing the property tax levy for the fund from which the money is transferred or the fund to which money is transferred. Money transferred under this subsection may be used only to pay costs, including debt service, attributable to reductions in funding for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5. The property tax levy for a fund from which money was transferred may not be increased to replace the money transferred to another fund.

(d) The total amount transferred under subsection (c) may not exceed the following:

- (1) For the period beginning July 1, 2003, and ending June 30, 2004, the total amount of state funding received for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5 for the same period.
- (2) For the period beginning July 1, 2004, and ending June 30, 2005, the product of:
 - (A) the amount determined under subdivision (1); multiplied by
 - (B) two (2).

SECTION 146. IC 21-2-11.5-5, AS ADDED BY P.L.178-2002, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The governing body of a school corporation may adopt a resolution to transfer after June 30, 2002, and before January 1, 2003, money that is:

- (1) not greater than the remainder of the amount described in ~~IC 21-3-1.7-8~~ **IC 21-3-1.7-8.2(b)** STEP TWO (C) minus the amount transferred under IC 21-2-4-7(a) and IC 21-2-15-13.1(a);

and

(2) on deposit in the school corporation's:

- (A) transportation fund;
- (B) school bus replacement fund; or
- (C) both the transportation fund and school bus replacement fund;

to the school corporation's general fund for use for any general fund purpose.

(b) The governing body of a school corporation may adopt a resolution to transfer after December 31, 2002, and before July 1, 2003, money that is:

(1) not greater than the remainder of the amount described in ~~IC 21-3-1.7-8~~ **IC 21-3-1.7-8.2(b)** STEP TWO (D) minus the amount transferred under IC 21-2-4-7(b) and IC 21-2-15-13.1(b); and

(2) on deposit in the school corporation's:

- (A) transportation fund;
- (B) school bus replacement fund; or
- (C) both the transportation fund and school bus replacement fund;

to the school corporation's general fund for use for any general fund purpose.

(c) This section expires July 1, 2003.

SECTION 147. IC 21-2-11.5-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. A school corporation may transfer money to or from the school transportation fund under IC 21-2-11-4(c).**

SECTION 148. IC 21-2-15-4, AS AMENDED BY P.L.144-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. (a) As used in this subsection, "calendar year distribution" means the sum of:**

(1) all distributions to a school corporation under:

- (A) IC 6-1.1-19-1.5;**
- (B) IC 21-1-30;**
- (C) IC 21-3-1.7;**
- (D) IC 21-3-2.1; and**
- (E) IC 21-3-12;**

for the calendar year; plus

(2) plus the school corporation's excise tax revenue (as defined in IC 21-3-1.7-2) for the immediately preceding calendar year.

(b) A school corporation may establish a capital projects fund.

~~(b)~~ **(c)** With respect to any facility used or to be used by the school corporation (other than a facility used or to be used primarily for interscholastic or extracurricular activities, except as provided in subsection ~~(i)~~; **(j)**), the fund may be used to pay for the following:

- (1) Planned construction, repair, replacement, or remodeling.
- (2) Site acquisition.
- (3) Site development.
- (4) Repair, replacement, or site acquisition that is necessitated by an emergency.

~~(c)~~ **(d)** The fund may be used to pay for the purchase, lease, repair, or maintenance of equipment to be used by the school corporation (other than vehicles to be used for any purpose and equipment to be used primarily for interscholastic or extracurricular activities, except as provided in subsection ~~(i)~~; **(j)**).

~~(d)~~ **(e)** The fund may be used for any of the following purposes:

- (1) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:
 - (A) Computer hardware.
 - (B) Computer software.
 - (C) Wiring and computer networks.
 - (D) Communication access systems used to connect with computer networks or electronic gateways.
- (2) To pay for the services of full-time or part-time computer maintenance employees.
- (3) To conduct nonrecurring inservice technology training of school employees.
- (4) To fund the payment of advances, together with interest on the advances, from the common school fund for educational technology programs under IC 21-1-5.
- (5) To fund the acquisition of any equipment or services necessary:
 - (A) to implement the technology preparation curriculum under IC 20-10.1-5.6;
 - (B) to participate in a program to provide educational

technologies, including computers, in the homes of students (commonly referred to as "the buddy system project") under IC 20-10.1-25, the 4R's technology program under IC 20-10.1-25, or any other program under the educational technology program described in IC 20-10.1-25; or
 (C) to obtain any combination of equipment or services described in clauses (A) and (B).

~~(e)~~ **(f)** The fund may be used to purchase:

- (1) building sites;
- (2) buildings in need of renovation;
- (3) building materials; and
- (4) equipment;

for the use of vocational building trades classes to construct new buildings and to remodel existing buildings.

~~(f)~~ **(g)** The fund may be used for leasing or renting of existing real estate, excluding payments authorized under IC 21-5-11 and IC 21-5-12.

~~(g)~~ **(h)** The fund may be used to pay for services of the school corporation employees that are bricklayers, stone masons, cement masons, tile setters, glaziers, insulation workers, asbestos removers, painters, paperhangers, drywall applicators and tapers, plasterers, pipe fitters, roofers, structural and steel workers, metal building assemblers, heating and air conditioning installers, welders, carpenters, electricians, or plumbers, as these occupations are defined in the United States Department of Labor, Employment and Training Administration, Dictionary of Occupational Titles, Fourth Edition, Revised 1991, if:

- (1) the employees perform construction of, renovation of, remodeling of, repair of, or maintenance on the facilities and equipment specified in subsections (b) and (c);
- (2) the school corporation's total annual salary and benefits paid by the school corporation to employees described in this subsection are at least six hundred thousand dollars (\$600,000); and
- (3) the payment of the employees described in this subsection is included as part of the proposed capital projects fund plan described in section 5(a) of this chapter.

However, the number of employees that are covered by this subsection is limited to the number of employee positions described in this

subsection that existed on January 1, 1993. For purposes of this subsection, maintenance does not include janitorial or comparable routine services normally provided in the daily operation of the facilities or equipment.

(h) (i) The fund may be used to pay for energy saving contracts entered into by a school corporation under IC 36-1-12.5.

(i) (j) Money from the fund may be used to pay for the construction, repair, replacement, remodeling, or maintenance of a school sports facility. However, a school corporation's expenditures in a calendar year under this subsection may not exceed five percent (5%) of the property tax revenues levied for the fund in the calendar year.

(j) (k) Money from the fund may be used to carry out a plan developed under IC 20-10.1-33.

(l) This subsection applies during the period beginning January 1, 2004, and ending December 31, 2005. Money from the fund may be used to pay for up to one hundred percent (100%) of the following costs of a school corporation:

(1) Utility services.

(2) Property or casualty insurance.

(3) Both utility services and property or casualty insurance.

In the 2004 calendar year, a school corporation's expenditures under this subsection may not exceed one percent (1%) of the school corporation's 2003 calendar year distribution. In the 2005 calendar year, a school corporation's expenditures under this subsection may not exceed two percent (2%) of the school corporation's 2003 calendar year distribution.

(m) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution if the school corporation's 2004 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution is the least of the following:

(1) One percent (1%) of the school corporation's 2003 calendar year distribution.

(2) The greater of zero (0) or the difference between:

- (A) the sum of:**
 - (i) the school corporation's calendar year distribution;**
 - (ii) the amount determined for the school corporation under subsection (l); plus**
 - (iii) the amount determined for the school corporation under this subsection, if any;**

for the immediately preceding calendar year; minus

(B) the school corporation's calendar year distribution for the calendar year.

- (3) The difference between:**
 - (A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus**
 - (B) the amount determined for the school corporation under subsection (l) for the calendar year.**

(n) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution if the school corporation's 2005 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution is the least of the following:

- (1) Two percent (2%) of the school corporation's 2003 calendar year distribution.**

- (2) The greater of zero (0) or the difference between:**

- (A) the sum of:**
 - (i) the school corporation's calendar year distribution;**
 - (ii) the amount determined for the school corporation under subsection (l); plus**
 - (iii) the amount determined for the school corporation under this subsection, if any;**

for the immediately preceding calendar year; minus

(B) the school corporation's calendar year distribution for the calendar year.

- (3) The difference between:**
 - (A) one hundred percent (100%) of the school corporation's costs for utility services and property or**

casualty insurance; minus

(B) the amount determined for the school corporation under subsection (I) for the calendar year.

SECTION 149. IC 21-2-15-5, AS AMENDED BY P.L.177-2002, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This subsection does not apply to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect. Before a governing body may collect property taxes for a capital projects fund in a particular year, the governing body must, after January 1 and not later than September 20 of the immediately preceding year, hold a public hearing on a proposed **or amended** plan and then pass a resolution to adopt **a the proposed or amended** plan.

(b) This subsection applies only to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000). This subsection does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect. Before the governing body of the school corporation may collect property taxes for a capital projects fund in a particular year, the governing body must, after January 1 and on or before February 1 of the immediately preceding year, hold a public hearing on a proposed **or amended** plan and then pass a resolution to adopt **a the proposed or amended** plan.

(c) The department of local government finance shall prescribe the format of the plan. A plan must apply to at least the three (3) years immediately following the year the plan is adopted. A plan must estimate for each year to which it applies the nature and amount of proposed expenditures from the capital projects fund. A plan must estimate:

- (1) the source of all revenue to be dedicated to the proposed expenditures in the upcoming calendar year; and
- (2) the amount of property taxes to be collected in that year and retained in the fund for expenditures proposed for a later year.

(d) If a hearing is scheduled under subsection (a) or (b), the governing body shall publish the proposed plan and a notice of the

hearing in accordance with IC 5-3-1-2(b).

(e) Subject to any notice and hearing requirements, a school corporation may amend a plan adopted under this chapter to include expenditures under section 4(l), 4(m), or 4(n) of this chapter.

SECTION 150. IC 21-2-15-6, AS AMENDED BY P.L.90-2002, SECTION 443, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The governing body shall publish a notice of the adoption **or amendment** of ~~the a~~ plan in accordance with IC 5-3-1-2(b). This publication must be made no later than twenty (20) days after the county auditor posts and publishes the notice of the school corporation's tax rate for the ensuing calendar year.

(b) In the first year that a plan is proposed, ten (10) or more taxpayers who will be affected by the adopted plan may file a petition with the county auditor of a county in which the school corporation is located not later than ten (10) days after the publication, setting forth their objections to the proposed plan. After the first year a plan is proposed, ten (10) or more taxpayers who will be affected by the adopted plan may file a petition with the county auditor of a county in which the school corporation is located not later than ten (10) days after the publication, setting forth their objections to any item in the proposed plan **or amendment to the plan** that does not concern a construction project that had previously been included in an adopted capital project fund plan. The county auditor shall immediately certify the petition to the department of local government finance.

SECTION 151. IC 21-2-15-11, AS AMENDED BY P.L.178-2002, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **Except as provided in subsection (e)**, to provide for the capital projects fund, the governing body may, for each year in which a plan adopted under section 5 of this chapter is in effect, impose a property tax rate that does not exceed forty-one and sixty-seven hundredths cents (\$0.4167) on each one hundred dollars (\$100) of assessed valuation of the school corporation. This actual rate must be advertised in the same manner as other property tax rates.

(b) The maximum property tax rate levied by each school corporation must be adjusted each time a general reassessment of property takes effect. The adjusted property tax rate becomes the new maximum property tax rate for the levy for property taxes first due and

payable in each year:

- (1) after the general reassessment for which the adjustment was made takes effect; and
- (2) before the next general reassessment takes effect.

(c) The new maximum rate under this section is the tax rate determined under STEP SEVEN of the following formula:

STEP ONE: Determine the maximum rate for the school corporation for the year preceding the year in which the general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value of the taxable property from the year preceding the year the general reassessment takes effect to the year that the general reassessment is effective.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

- (A) Zero (0).
- (B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(d) The department of local government finance shall compute the maximum rate allowed under subsection (c) and provide the rate to each school corporation.

(e) For a year in which a school corporation uses money from the school corporation's capital projects fund to pay for costs described in section 4(l) of this chapter, the school corporation may impose a property tax rate that exceeds the rate described in

subsection (a). The amount by which the property tax rate may exceed the rate described in subsection (a) equals the amount determined under **STEP THREE** of the following formula:

STEP ONE: Determine the sum of:

(A) the school corporation's expenditures under section 4(l) of this chapter for the calendar year; plus

(B) either:

(i) the school corporation's expenditures under section 4(m) of this chapter for the 2004 calendar year; or

(ii) the school corporation's expenditures under section 4(n) of this chapter for the 2005 calendar year.

STEP TWO: Determine the quotient of:

(A) the STEP ONE amount; divided by

(B) the school corporation's assessed valuation for the year.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) one hundred (100).

SECTION 152. IC 21-2-15-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. **(a)** Interest on the capital projects fund, including the fund's pro rata share of interest earned on the investment of total money on deposit, shall be deposited in the fund. However, the governing body may adopt a resolution to transfer any interest earned on money on deposit in the capital projects fund to the school corporation's general fund.

(b) A school corporation may transfer money to or from the capital projects fund under IC 21-2-11-4(c).

SECTION 153. IC 21-2-15-13.1, AS ADDED BY P.L.178-2002, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.1. (a) The governing body of a school corporation may adopt a resolution to transfer after June 30, 2002, and before January 1, 2003, money that is:

(1) not greater than the remainder of the amount described in ~~IC 21-3-1-7-8~~ **IC 21-3-1.7-8.2(b)** STEP TWO (C) minus the amount transferred under IC 21-2-4-7(a) and IC 21-2-11.5-5(a); and

(2) on deposit in the school corporation's capital projects fund; to the school corporation's general fund for use for any general fund

purpose.

(b) The governing body of a school corporation may adopt a resolution to transfer after December 31, 2002, and before July 1, 2003, money that is:

(1) not greater than the remainder of the amount described in ~~IC 21-3-1.7-8~~ **IC 21-3-1.7-8.2(b)** STEP TWO (D) minus the amount transferred under IC 21-2-4-7(b) and IC 21-2-11.5-5(b); and

(2) on deposit in the school corporation's capital projects fund; to the school corporation's general fund for use for any general fund purpose.

(c) This section expires July 1, 2003.

SECTION 154. IC 21-2-18-3, AS ADDED BY P.L.77-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b), the fund may be used for one (1) or more of the purposes described in IC 20-5-62-6(4)(B), IC 20-10.1-25, IC 20-10.1-25.3, or ~~IC 21-2-15-4(d)~~ **IC 21-2-15-4(e)**.

(b) Money in the fund may not be used to purchase software programs to be used exclusively for administrative purposes, such as payroll and attendance records, personnel records, administration of insurance or pension programs, or any other similar purpose. However, if a particular software program is to be used for administrative purposes and for other purposes described in subsection (a), a portion of the cost of the software program may be paid from the fund. The portion of the cost that may be paid from the fund is the total cost of the software program multiplied by the estimated percentage of use of the software program for nonadministrative purposes.

SECTION 155. IC 21-2-18-4, AS AMENDED BY P.L.86-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. Before February 15 of 2001 and each year thereafter, each school corporation shall file a report with the superintendent of public instruction's special assistant for technology. The report must be prepared in the form prescribed by the special assistant for technology and must include a list of expenditures made by the school corporation during the preceding calendar year from the school corporation's:

(1) school technology fund for purposes described in this chapter;

- (2) capital projects fund for purposes described in ~~IC 21-2-15-4(d)~~; **IC 21-2-15-4(e)**; and
- (3) debt service fund for purposes of providing financing for any equipment or facilities used to provide educational technology programs.

Before April 1 of 2001 and each year thereafter, the special assistant for technology shall compile the information contained in the reports required by this section and present that compilation to the educational technology council.

SECTION 156. IC 21-3-1.6-1.1, AS AMENDED BY P.L.111-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.1. As used in this chapter:

(a) "School corporation" means any local public school corporation established under Indiana law.

(b) "School year" means a year beginning July 1 and ending the next succeeding June 30.

(c) "State distribution" due a school corporation means the amount of state funds to be distributed to a school corporation in any calendar year under this chapter.

(d) "Average daily membership" or "ADM" of a school corporation means the number of eligible pupils enrolled in the school corporation or in a transferee corporation on a day to be fixed annually by the Indiana state board of education ~~Such~~ **and, beginning in the school year that ends in the 2005 calendar year, as subsequently adjusted not later than January 30 under the rules adopted by the state board of education. The initial day of the count** shall fall within the first thirty (30) days of the school term. If, however, extreme patterns of student in-migration, illness, natural disaster, or other unusual conditions in a particular school corporation's enrollment on **either the particular day thus fixed by the Indiana state board of education or on the subsequent adjustment date**, cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the Indiana state board of education may designate another day for determining the school corporation's enrollment. The Indiana state board of education shall monitor changes that occur after the fall count, in the number of students enrolled in programs for children with disabilities and shall, before December 2 of that same year **and, beginning in the 2004 calendar year, before April 2 of the following**

calendar year, make an adjusted count of students enrolled in programs for children with disabilities. The superintendent of public instruction shall certify the **December** adjusted count to the budget committee before February 5 of the following year **and the April adjusted count not later than May 31 immediately after the date of the April adjusted count**. In determining the ADM, each kindergarten pupil shall be counted as one-half (1/2) pupil. Where a school corporation commences kindergarten in a school year, the ADM of the current and prior calendar years shall be adjusted to reflect the enrollment of the kindergarten pupils. In determining the ADM, each pupil enrolled in a public school and a nonpublic school is to be counted on a full-time equivalency basis as provided in section 1.2 of this chapter. ~~"Current ADM" of a school corporation, used in computing its state distribution in a calendar year means the ADM of the school year ending in the calendar year. "ADM of the previous year" or "ADM of the prior year" of a school corporation used in computing its state distribution in a calendar year means the ADM of the school corporation for the school year ending in the preceding calendar year.~~

(e) "Additional count" of a school corporation, or comparable language, means the aggregate of the additional counts of the school corporation for certain pupils as set out in section 3 of this chapter (repealed) and as determined at the times for calculating ADM. "Current additional count" means the **initial computed** additional count of the school corporation for the school year ending in the calendar year. "Prior year additional count" of a school corporation used in computing its state distribution in a calendar year means the **initial computed** additional count of the school corporation for the school year ending in the preceding calendar year.

(f) "Adjusted assessed valuation" of any school corporation used in computing state distribution for a calendar year means the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34. The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is

delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, then the state superintendent of public instruction shall prescribe adjustments in the distributions of state funds pursuant to this chapter as are thereafter to become due to a school corporation affected by the delinquency as will ensure that the school corporation will not have been unjustly enriched under the provisions of P.L.382-1987(ss). The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property described in IC 6-1.1-17-0.5(b).

(g) "General fund" means a school corporation fund established under IC 21-2-11-2.

(h) "Teacher" means every person who is required as a condition of employment by a school corporation to hold a teacher's license issued or recognized by the state, except substitutes and any person paid entirely from federal funds.

(i) "Teacher ratio" of a school corporation used in computing state distribution in any calendar year means the ratio assigned to the school corporation pursuant to section 2 of this chapter.

(j) "Eligible pupil" means a pupil enrolled in a school corporation if:

- (1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;
- (2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-8.1-6.1, because the pupil is transferred for education to another school corporation (the "transferee corporation");
- (3) the pupil is enrolled in a school corporation as a transfer student under IC 20-8.1-6.1-3 or entitled to be counted for ADM or additional count purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;
- (4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-8.1-6.1; or
- (5) all of the following apply:
 - (A) The school corporation is a transferee corporation.
 - (B) The pupil does not qualify as a qualified pupil in the

transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility, child care facility, or foster family home where the pupil was placed:

- (i) by or with the consent of the division of family and children;
- (ii) by a court order;
- (iii) by a child placing agency licensed by the division of family and children; or
- (iv) by a parent or guardian under IC 20-8.1-6.1-5.

(k) "General fund budget" of a school corporation means the amount of the budget approved for a given year by the department of local government finance and used by the department of local government finance in certifying a school corporation's general fund tax levy and tax rate for the school corporation's general fund as provided for in IC 21-2-11.

(l) "At risk index" means the sum of:

- (1) the product of sixteen-hundredths (0.16) multiplied by the percentage of families in the school corporation with children who are less than eighteen (18) years of age and who have a family income below the federal income poverty level (as defined in IC 12-15-2-1);
- (2) the product of four-tenths (0.4) multiplied by the percentage of families in the school corporation with a single parent; and
- (3) the product of forty-four hundredths (0.44) multiplied by the percentage of the population in the school corporation who are at least twenty (20) years of age with less than a twelfth grade education.

The data to be used in making the calculations under this subsection must be the data from the 1990 federal decennial census.

(m) "ADM of the previous year" or "ADM of the prior year" used in computing a state distribution in a calendar year means the initial computed ADM for the school year ending in the preceding calendar year.

(n) "Current ADM" used in computing a state distribution in a calendar year means the initial computed ADM for the school year

ending in the calendar year.

SECTION 157. IC 21-3-1.7-3.1, AS AMENDED BY P.L.1-2003, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

(1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:

(A) special education grants;

(B) vocational education grants;

(C) at-risk programs;

(D) the enrollment adjustment grant;

(E) ~~for 1999 and thereafter~~, the academic honors diploma award; ~~and~~

(F) ~~for 2001 and thereafter~~, the primetime distribution; ~~and~~

(G) for 2005 and thereafter, the supplemental remediation grant;

for the year that precedes the current year; plus

(2) the school corporation's tuition support levy for the year that precedes the current year before the reductions required under section 5(1) and 5(2) of this chapter; plus

(3) distributions received by the school corporation under IC 6-1.1-21.6 for the year that precedes the current year; plus

(4) the school corporation's excise tax revenue for the year that precedes the current year by two (2) years; minus

(5) an amount equal to the reduction in the school corporation's tuition support under subsection (b) or IC 20-10.1-2-1, or both; plus

(6) in calendar year 2003, the amount determined for calendar year 2002 under section ~~8~~ **8.2** of this chapter, STEP TWO (C); plus

(7) in calendar year 2004, the amount determined for calendar year 2002 under section ~~8~~ **8.2** of this chapter, STEP TWO (D); **plus**

(8) notwithstanding subdivision (1), in calendar year 2004, the school corporation's distribution under section 9.7 of this chapter for calendar year 2003.

(b) A school corporation's previous year revenue shall be reduced if:

- (1) the school corporation's state tuition support for special or vocational education was reduced as a result of a complaint being filed with the department of education after December 31, 1988, because the school program overstated the number of children enrolled in special or vocational education programs; and
- (2) the school corporation's previous year revenue has not been reduced under this subsection more than one (1) time because of a given overstatement.

The amount of the reduction equals the amount the school corporation would have received in tuition support for special and vocational education because of the overstatement.

SECTION 158. IC 21-3-1.7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. As used in this chapter, "tuition support" with respect to a school corporation for a year means the total amount of state tuition support the school corporation actually received in that year for basic programs under section **§ 8.2** of this chapter.

SECTION 159. IC 21-3-1.7-6.6, AS AMENDED BY P.L.291-2001, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.6. **(a)** For purposes of this chapter, a school corporation's "adjusted ADM" for the current year is the result determined under the following formula:

STEP ONE: Determine the greatest of the following:

- (A) The school corporation's ADM for the year preceding the current year by three (3) years.
- (B) The school corporation's ADM for the year preceding the current year by two (2) years.
- (C) The school corporation's ADM for the year preceding the current year by one (1) year.
- (D) The school corporation's ADM for the current year.

STEP TWO: Determine the greater of zero (0) or the result of:

- (A) the school corporation's ADM for the year preceding the current year by four (4) years; minus
- (B) the STEP ONE amount.

STEP THREE: Determine the greatest of the following:

- (A) The school corporation's ADM for the year preceding the current year by two (2) years.
- (B) The school corporation's ADM for the year preceding the

current year by one (1) year.

(C) The school corporation's ADM for the current year.

STEP FOUR: Determine the greater of zero (0) or the result of:

(A) the school corporation's ADM for the year preceding the current year by three (3) years; minus

(B) the STEP THREE amount.

STEP FIVE: Determine the greater of the following:

(A) The school corporation's ADM for the year preceding the current year by one (1) year.

(B) The school corporation's ADM for the current year.

STEP SIX: Determine the greater of zero (0) or the result of:

(A) the school corporation's ADM for the year preceding the current year by two (2) years; minus

(B) the STEP FIVE amount.

STEP SEVEN: Determine the greater of zero (0) or the result of:

(A) the school corporation's ADM for the year preceding the current year by one (1) year; minus

(B) the school corporation's ADM for the current year.

STEP EIGHT: Determine the sum of the following:

(A) The STEP TWO result multiplied by two-tenths (0.2).

(B) The STEP FOUR result multiplied by four-tenths (0.4).

(C) The STEP SIX result multiplied by six-tenths (0.6).

(D) The STEP SEVEN result multiplied by eight-tenths (0.8).

STEP NINE: Determine the result of:

(A) the school corporation's ADM for the current year; plus

(B) the STEP EIGHT result.

STEP TEN: This STEP applies to a school corporation for which the amount determined under STEP EIGHT is zero (0).

Determine the sum of:

(A) the school corporation's ADM for the 2003 school year; plus

(B) the subsection (b) or (c) result, whichever is applicable.

Round the result to the nearest five-tenths (0.5).

(b) This subsection applies during the 2004 calendar year to a school corporation described in subsection (a) STEP TEN. Determine the result under the following formula:

STEP ONE: Determine the difference between:

(A) the school corporation's ADM for the 2004 school year;

minus

(B) the school corporation's ADM for the 2003 school year.

STEP TWO: Determine the greater of zero (0) or the STEP ONE amount.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) two-thousandths (0.002).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) Seventy-five hundredths (0.75).

STEP FIVE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP FOUR amount.

(c) This subsection applies during the 2005 calendar year to a school corporation described in subsection (a) STEP TEN. Determine the result under the following formula:

STEP ONE: Determine the difference between:

(A) the school corporation's ADM for the 2005 school year; minus

(B) the school corporation's ADM for the 2004 school year.

STEP TWO: Determine the greater of zero (0) or the STEP ONE amount.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) two-thousandths (0.002).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) Seventy-five hundredths (0.75).

STEP FIVE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP FOUR amount.

STEP SIX: Determine the subsection (b) amount.

STEP SEVEN: Determine the sum of:

(A) the STEP FIVE result; plus

(B) the STEP SIX result.

SECTION 160. IC 21-3-1.7-6.7, AS AMENDED BY P.L.111-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.7. (a) **This subsection applies during the 2003 calendar year.** For each school corporation, the index used in

subsection ~~(b)~~ (c) is determined under the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of the following:

(1) Multiply the school corporation's at risk index by ~~twenty-three hundredths (0.23) in 2002 and~~ twenty-five hundredths (0.25). ~~in 2003.~~

(2) Divide the result under subdivision (1) by three thousand seven hundred thirty-six ten-thousandths (0.3736).

(3) Subtract ~~three hundred sixty-four ten-thousandths (0.0364) in 2002 and~~ three hundred ninety-five ten-thousandths (0.0395) ~~in 2003~~ from the result under subdivision (2).

STEP TWO: Determine the greater of zero (0) or the result of the following:

(1) Multiply the percentage of the school corporation's students who were eligible for free lunches in the school year ending in 2001 by ~~twenty-three hundredths (0.23) in 2002 and~~ twenty-five hundredths (0.25). ~~in 2003.~~

(2) Divide the result under subdivision (1) by seven hundred twenty-three thousandths (0.723).

STEP THREE: Determine the greater of zero (0) or the result of the following:

(1) Multiply the percentage of the school corporation's students who were classified as limited English proficient in the school year ending in 2000 by ~~twenty-three hundredths (0.23) in 2002 and~~ twenty-five hundredths (0.25). ~~in 2003.~~

(2) Divide the result under subdivision (1) by one thousand seven hundred fifteen ten-thousandths (0.1715).

STEP FOUR: Determine the result of:

(1) the sum of the results in STEPS ONE through THREE; divided by

(2) three (3).

STEP FIVE: Determine the result of one (1) plus the STEP FOUR result.

(b) This subsection applies to calendar years beginning after December 31, 2003. For each school corporation, the index used in subsection (d) is determined under the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of the population in the school corporation who are at least twenty (20) years of age with less than a twelfth grade education.

(2) Determine the quotient of:

(A) eight hundred seventy dollars (\$870) in 2004 and nine hundred seventy dollars (\$970) in 2005; divided by

(B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP TWO: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of the school corporation's students who were eligible for free lunches in the school year ending in 2003.

(2) Determine the quotient of:

(A) one thousand one hundred dollars (\$1,100) in 2004 and one thousand two hundred dollars (\$1,200) in 2005; divided by

(B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.

(3) Determine the product of:

(A) the subdivision (1) amount; multiplied by

(B) the subdivision (2) amount.

STEP THREE: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of the school corporation's students who were classified as limited English proficient in the school year ending in 2003.

(2) Determine the quotient of:

(A) three hundred ten dollars (\$310) in 2004 and four hundred thirty dollars (\$430) in 2005; divided by

(B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.

(3) Determine the product of:

- (A) the subdivision (1) amount; multiplied by
- (B) the subdivision (2) amount.

STEP FOUR: Determine the greater of zero (0) or the result of the following:

- (1) Determine the percentage of families in the school corporation with a single parent.
- (2) Determine the quotient of:
 - (A) four hundred forty dollars (\$440) in 2004 and five hundred thirty dollars (\$530) in 2005; divided by
 - (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.
- (3) Determine the product of:
 - (A) the subdivision (1) amount; multiplied by
 - (B) the subdivision (2) amount.

STEP FIVE: Determine the greater of zero (0) or the result of the following:

- (1) Determine the percentage of families in the school corporation with children who are less than eighteen (18) years of age and who have a family income level below the federal income poverty level (as defined in IC 12-15-2-1).
- (2) Determine the quotient of:
 - (A) two hundred twenty dollars (\$220) in 2004 and three hundred thirty dollars (\$330) in 2005; divided by
 - (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.
- (3) Determine the product of:
 - (A) the subdivision (1) amount; multiplied by
 - (B) the subdivision (2) amount.

STEP SIX: Determine the sum of the results in STEPS ONE through FIVE.

STEP SEVEN: Determine the result of one (1) plus the STEP SIX result.

STEP EIGHT: This STEP applies if the STEP SEVEN result is equal to or greater than one and twenty-five hundredths (1.25). Determine the result of the following:

- (1) Determine the STEP TWO (1) amount for the school corporation.

- (2) Determine the quotient of:**
 - (A) one hundred fifty dollars (\$150); divided by**
 - (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.**
- (3) Determine the product of:**
 - (A) the subdivision (1) amount; multiplied by**
 - (B) the subdivision (2) amount.**
- (4) Determine the STEP FIVE (1) amount for the school corporation.**
- (5) Determine the product of:**
 - (A) the subdivision (4) amount; multiplied by**
 - (B) the subdivision (2) amount.**
- (6) Determine the result of:**
 - (A) the subdivision (3) result; plus**
 - (B) the subdivision (5) result.**
- (7) Determine the result of:**
 - (A) the STEP SEVEN result; plus**
 - (B) the subdivision (6) result.**

The data to be used in making the calculations under STEP ONE, STEP FOUR, and STEP FIVE of this subsection must be the data from the 2000 federal decennial census.

(c) This subsection applies to calendar years ending before January 1, 2004. A school corporation's target revenue per ADM for a calendar year is the result determined under STEP SIX of the following formula:

STEP ONE: Determine the result under clause (B) of the following formula:

- (A) Determine the result of:**
 - (i) four thousand four hundred forty dollars (\$4,440) in 2002 and four thousand five hundred sixty dollars (\$4,560); in ~~2003~~; multiplied by**
 - (ii) the index determined for the school corporation under subsection (a).**
- (B) Multiply the clause (A) result by the school corporation's adjusted ADM for the current year.**

STEP TWO: Divide the school corporation's previous year revenue by the school corporation's adjusted ADM for the

previous year.

STEP THREE: Multiply the subsection (a) STEP FIVE result by the following:

(A) If the STEP TWO result is not more than ~~(i) four thousand four hundred forty dollars (\$4,440) in 2002; and (ii) four thousand five hundred sixty dollars (\$4,560), in 2003;~~ multiply by ninety dollars (\$90).

(B) If the STEP TWO result is ~~(i) more than four thousand four hundred forty dollars (\$4,440) and not more than five thousand five hundred twenty-five dollars (\$5,525) in 2002; or (ii) more than four thousand five hundred sixty dollars (\$4,560) and not more than five thousand eight hundred twenty-five dollars (\$5,825), in 2003;~~ multiply by the result under clause (C).

(C) Determine the result of:

(i) The STEP TWO result minus ~~four thousand four hundred forty dollars (\$4,440) in 2002 and four thousand five hundred sixty dollars (\$4,560). in 2003;~~

(ii) Divide the item (i) result by ~~one thousand eighty-five dollars (\$1,085) in 2002 and one thousand two hundred sixty-five dollars (\$1,265). in 2003;~~

(iii) Multiply the item (ii) result by forty dollars (\$40).

(iv) Subtract the item (iii) result from ninety dollars (\$90).

(D) If the STEP TWO result is more than ~~(i) five thousand five hundred twenty-five dollars (\$5,525) in 2002; and (ii) five thousand eight hundred twenty-five dollars (\$5,825), in 2003;~~ multiply by fifty dollars (\$50).

STEP FOUR: Add the STEP TWO result and the STEP THREE result.

STEP FIVE: Determine the greatest of the following:

(A) Multiply the STEP FOUR result by the school corporation's adjusted ADM for the current year.

(B) Multiply the school corporation's previous year revenue by one and two-hundredths (1.02).

(C) The STEP ONE amount.

STEP SIX: Divide the STEP FIVE amount by the school corporation's adjusted ADM for the current year.

(d) This subsection applies to calendar years beginning after

December 31, 2003. A school corporation's target revenue per ADM for a calendar year is the result determined under STEP EIGHT of the following formula:

STEP ONE: Determine the result under clause (B) of the following formula:

(A) Determine the result of:

- (i) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005; multiplied by**
- (ii) the index determined for the school corporation under subsection (b).**

(B) Multiply the clause (A) result by the school corporation's adjusted ADM for the current year.

STEP TWO: Determine the result under the following formula:

(A) Determine the quotient of:

- (i) the school corporation's previous year revenue; divided by**
- (ii) the school corporation's ADM for the previous year.**

(B) Determine the product of:

- (i) the clause (A) amount; multiplied by**
- (ii) one and two-hundredths (1.02).**

(C) Determine the product of:

- (i) the clause (B) amount; multiplied by**
- (ii) the school corporation's current ADM.**

STEP THREE: Determine the result under the following formula:

(A) Determine the product of:

- (i) the STEP TWO clause (A) amount; multiplied by**
- (ii) ninety-eight hundredths (0.98).**

(B) Determine the product of:

- (i) the clause (A) amount; multiplied by**
- (ii) the school corporation's current ADM.**

STEP FOUR: Determine the lesser of:

- (A) the STEP ONE amount; or**
- (B) the STEP TWO amount.**

STEP FIVE: Determine the greater of:

- (A) the STEP THREE amount; or**
- (B) the STEP FOUR amount.**

STEP SIX: Divide the school corporation's previous year revenue by the school corporation's adjusted ADM for the previous year.

STEP SEVEN: Determine the product of:

- (A) the STEP SIX result; multiplied by
- (B) the school corporation's current adjusted ADM.

STEP EIGHT: Determine the greatest of the following:

- (A) The product of:
 - (i) the school corporation's previous year revenue; multiplied by
 - (ii) one and one-hundredth (1.01).
- (B) The STEP FIVE amount.
- (C) The STEP SEVEN amount.

STEP NINE: Determine the quotient of:

- (A) the STEP EIGHT amount; divided by
- (B) the school corporation's current adjusted ADM.

SECTION 161. IC 21-3-1.7-6.8, AS AMENDED BY P.L.85-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.8. **(a) This subsection does not apply after December 31, 2003.** A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP THREE of the following formula:

STEP ONE: This STEP applies only if the amount determined in STEP FIVE of the formula in section ~~6.7(b)~~ **6.7(c)** of this chapter minus the result determined in STEP ONE of the formula in section ~~6.7(b)~~ **6.7(c)** of this chapter is greater than zero (0).

Determine the result under clause (E) of the following formula:

- (A) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.
- (B) Divide the clause (A) result by ten thousand (10,000).
- (C) Determine the greater of the following:
 - (i) The clause (B) result.
 - (ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(D) Determine the result determined under item (ii) of the following formula:

- (i) Subtract the result determined in STEP ONE of the formula in section ~~6.7(b)~~ **6.7(c)** of this chapter from the

amount determined in STEP FIVE of the formula in section ~~6.7(b)~~ **6.7(c)** of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP TWO: This STEP applies only if the amount determined in STEP FIVE of the formula in section ~~6.7(b)~~ **6.7(c)** of this chapter is equal to STEP ONE of the formula in section ~~6.7(b)~~ **6.7(c)** of this chapter and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP THREE: Determine the sum of

(A) ninety-one and eight-tenths cents (\$0.918) in 2002; and

(B) ninety-five and eight-tenths cents (\$0.958) in 2003; and if applicable, the STEP ONE or STEP TWO result.

(b) This subsection applies to calendar years beginning after December 31, 2004. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result

determined under **STEP FOUR** of the following formula:

STEP ONE: Determine the amount determined for the school corporation in **STEP ONE** of the formula in section 6.7(d) of this chapter.

STEP TWO: This **STEP** applies only if the amount determined in **STEP EIGHT** of the formula in section 6.7(d) of this chapter minus the **STEP ONE** result is greater than zero (0). Determine the result under clause (E) of the following formula:

(A) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the **STEP ONE** result from the amount determined in **STEP EIGHT** of the formula in section 6.7(d) of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP THREE: This **STEP** applies only if the amount determined in **STEP EIGHT** of the formula in section 6.7(d) of this chapter is equal to the **STEP ONE** result and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's

current ADM.

(C) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP FOUR: Determine the sum of sixty-three and seven-tenths cents (\$0.637) and, if applicable, the STEP TWO or STEP THREE result.

(c) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation's general fund ad valorem property tax levy is determined under IC 6-1.1-19-1.5(g).

SECTION 162. IC 21-3-1.7-8.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.2. (a) As used in this section, "transfer amount" means the product of:

(1) a school corporation's assessed valuation for calendar year 2002 divided by one hundred (100); multiplied by

(2) the lesser of:

(A) three hundred twenty-eight ten-thousandths (0.0328);
or

(B) the school corporation's capital projects fund tax rate for calendar year 2002 multiplied by five-tenths (0.5).

(b) This subsection applies to calendar years ending before January 1, 2004. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

(A) For a school corporation not described in clause (B), determine the school corporation's result under STEP FIVE of section 6.7(c) of this chapter for the calendar year.

(B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount under STEP ONE (A) of section 6.7(c) of this chapter, determine the sum of:

- (i) the school corporation's result under STEP ONE of section 6.7(c) of this chapter for the calendar year; plus
- (ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus
- (iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

STEP TWO: Determine the sum of:

- (A) the school corporation's tuition support levy;
- (B) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year;
- (C) for the last six (6) months of calendar year 2002, the school corporation's transfer amount; plus
- (D) for the first six (6) months of calendar year 2003, the school corporation's transfer amount.

STEP THREE: Determine the difference between:

- (A) the STEP ONE amount; minus
- (B) the STEP TWO amount.

(c) This subsection applies to calendar years beginning after December 31, 2003. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

- (A) For a school corporation not described in clause (B), determine the school corporation's result under STEP EIGHT of section 6.7(d) of this chapter for the calendar year.
- (B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount under STEP ONE (A) of section 6.7(d) of this chapter, determine the sum of:
 - (i) the school corporation's result under STEP ONE of section 6.7(f) of this chapter for the calendar year; plus
 - (ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing

calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus (iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

STEP TWO: Determine the sum of:

- (A) the school corporation's tuition support levy; plus
- (B) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year.

STEP THREE: Determine the difference between:

- (A) the STEP ONE amount; minus
- (B) the STEP TWO amount.

(d) If the state tuition support determined for a school corporation under this section is negative, the school corporation is not entitled to any state tuition support. In addition, the school corporation's maximum general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount of the negative result.

SECTION 163. IC 21-3-1.7-9, AS AMENDED BY P.L.178-2002, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) Subject to the amount appropriated by the general assembly for tuition support, the amount that a school corporation is entitled to receive in tuition support for a year is the amount determined in section 8 8.2 of this chapter.

(b) If the total amount to be distributed as tuition support under this chapter, for enrollment adjustment grants under section 9.5 of this chapter, for at-risk programs under section 9.7 of this chapter, for academic honors diploma awards under section 9.8 of this chapter, **for supplemental remediation grants under section 9.9 of this chapter**, for primetime distributions under IC 21-1-30, for special education grants under IC 21-3-2.1, and for vocational education grants under IC 21-3-12 for a particular year, exceeds:

- (1) three billion ~~three five~~ hundred ~~sixty-three~~ **eighty** million ~~four hundred thousand~~ dollars (~~\$3,363,400,000~~) (**\$3,580,000,000**) in ~~2001;~~ **2003;**
- (2) three billion ~~four six~~ hundred ~~thirty-seven~~ **seventy-six** million ~~one hundred thousand~~ dollars (~~\$3,437,100,000~~) (**\$3,676,000,000**) in ~~2002;~~ **2004;** and

(3) three billion ~~five seven~~ hundred ~~thirty-six~~ **twenty-one** million ~~five hundred thousand~~ dollars (~~\$3,536,500,000~~) (**\$3,721,000,000**) in ~~2003~~; **2005**;

the amount to be distributed for tuition support under this chapter to each school corporation during each of the last six (6) months of the year shall be reduced by the same dollar amount per ADM (as adjusted by IC 21-3-1.6-1.1) so that the total reductions equal the amount of the excess.

SECTION 164. IC 21-3-1.7-9.5, AS AMENDED BY P.L.93-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.5. (a) In addition to the distribution under sections ~~8~~; **8.2**, 9.7, ~~and~~ 9.8, ~~and~~ **9.9** of this chapter, a school corporation is eligible for an enrollment adjustment grant if the school corporation's:

- (1) current ADM minus the school corporation's previous year ADM is at least two hundred fifty (250); or
- (2) current ADM divided by the school corporation's previous year ADM is at least one and five-hundredths (1.05).

(b) The amount of the enrollment adjustment grant is the amount determined in STEP THREE of the following formula:

STEP ONE: Determine the school corporation's target revenue per ADM divided by three (3).

STEP TWO: Determine the result of the school corporation's current ADM minus the school corporation's previous year ADM.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

(c) Notwithstanding any other provision, for purposes of computing the amount of a grant under this section, "ADM" does not include an eligible pupil who is described in IC 21-3-1.6-1.2(a).

SECTION 165. IC 21-3-1.7-9.7, AS AMENDED BY P.L.291-2001, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.7. In addition to the distributions under sections ~~8~~; **8.2**, 9.5, ~~and~~ 9.8, ~~and~~ **9.9** of this chapter for 1997 and thereafter, a school corporation is eligible for an amount for at-risk programs in the amount determined in STEP SIX of the following formula:

STEP ONE: Determine the greater of the following:

- (A) The result determined under item (ii) of the following formula:

(i) Determine the result of the school corporation's at-risk index minus two-tenths (0.2).

(ii) Multiply the item (i) result by seven-hundredths (0.07).

(B) Zero (0).

STEP TWO: Determine the greater of the following:

(A) The result determined under item (ii) of the following formula:

(i) Determine the result of the school corporation's at-risk index minus fifteen-hundredths (0.15).

(ii) Multiply the item (i) result by eighteen-hundredths (0.18).

(B) Zero (0).

STEP THREE: Determine the result under clause (B) of the following formula:

(A) Determine the lesser of:

(i) the school corporation's at-risk index; or

(ii) fifteen-hundredths (0.15).

(B) Multiply the clause (A) result by one hundredth (0.01).

STEP FOUR: Add the STEP ONE result, the STEP TWO result, and the STEP THREE result.

STEP FIVE: Multiply the STEP FOUR sum by the school corporation's current ADM. Round the result to the nearest one-hundredth (0.01).

STEP SIX: Multiply the STEP FIVE product by ~~three thousand five hundred ninety-two dollars (\$3,592)~~ in 2002 and three thousand six hundred sixty-four dollars (\$3,664) in 2003 **and zero dollars (\$0) in calendar years beginning after December 31, 2003.**

SECTION 166. IC 21-3-1.7-9.8, AS AMENDED BY P.L.291-2001, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.8. (a) In addition to the distributions under sections 8, **8.2**, 9.5, ~~and~~ 9.7, **and 9.9** of this chapter, a school corporation is eligible for an honors diploma award in the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the number of the school corporation's eligible pupils who successfully completed an academic honors diploma program in the school year ending in the previous calendar year.

STEP TWO: Multiply the STEP ONE amount by

- (1) ~~nine hundred forty-four dollars (\$944) in 2002;~~ and
- (2) ~~nine hundred sixty-three dollars (\$963) in 2003.~~

~~(b)~~ (c) Each year the governing body of a school corporation may use the money that the school corporation receives for an honors diploma award under this section to give ~~nine hundred forty-four dollars (\$944) in 2002~~ and nine hundred sixty-three dollars (\$963) ~~in 2003~~ to each eligible pupil in the school corporation who successfully completes an academic honors diploma program in the school year ending in the previous calendar year.

SECTION 167. IC 21-3-1.7-9.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.9. In addition to the distributions under sections 8.2, 9.5, 9.7, and 9.9 of this chapter, a school corporation is eligible for a supplemental remediation grant in the amount determined under STEP TWO of the following formula:**

STEP ONE: Determine the product of:

- (A) the percentage of the ISTEP tests administered by the school corporation during the school year beginning in the 2002 calendar year for which the students who were given the test scored below the academic standards set for the test; multiplied by
- (B) the school corporation's current ADM.

STEP TWO: Determine the product of:

- (A) the STEP ONE amount; multiplied by
- (B) either:
 - (i) in calendar year 2004, forty-seven dollars and eighty-five cents (\$47.85); or
 - (ii) in calendar year 2005, ninety-five dollars and seventy cents (\$95.70).

SECTION 168. IC 21-3-1.7-10, AS AMENDED BY P.L.291-2001, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. This chapter expires January 1, ~~2004~~. **2006.**

SECTION 169. IC 21-3-2.1-7, AS ADDED BY P.L.111-2002, SECTION 9 AND P.L.178-2002, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The amount of the grant that a school corporation is entitled to receive for

special education programs is equal to:

- (1) the nonduplicated count of pupils in programs for severe disabilities multiplied by ~~(A) eight thousand forty-five dollars (\$8,045) in 2002; and (B) eight thousand two hundred forty-six dollars (\$8,246); in 2003;~~ plus
- (2) the nonduplicated count of pupils in programs of mild and moderate disabilities multiplied by ~~(A) two thousand one hundred eighty-three dollars (\$2,183) in 2002; and (B) two thousand two hundred thirty-eight dollars (\$2,238); in 2003;~~ plus
- (3) the duplicated count of pupils in programs for communication disorders multiplied by ~~(A) five hundred eighteen dollars (\$518) in 2002; and (B) five hundred thirty-one dollars (\$531); in 2003;~~ plus
- (4) the cumulative count of pupils in homebound programs multiplied by ~~(A) five hundred eighteen dollars (\$518) in 2002; and (B) five hundred thirty-one dollars (\$531). in 2003;~~

SECTION 170. IC 21-3-2.1-10, AS ADDED BY P.L.111-2002, SECTION 9 AND P.L.178-2002, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. This chapter expires January 1, ~~2004.~~ **2006.**

SECTION 171. IC 21-3-12-12, AS AMENDED BY P.L.291-2001, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. This chapter expires January 1, ~~2004.~~ **2006.**

SECTION 172. IC 21-3-1.7-8 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 173. P.L.291-2001, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 101. (a) Notwithstanding IC 21-3-1.6-1.2, as added by this act, and IC 21-3-1.7, the tuition support determined under IC 21-3-1.7-8 for a school corporation shall be reduced as follows:

- (1) For 2001, the previous year's revenue determined without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount determined under the following STEPS:

STEP ONE: Determine the difference between:

- (A) the school corporation's average daily membership count for 2000, without regard to IC 21-3-1.6-1.2, as added by this act; minus

(B) the school corporation's average daily membership count for 2000, as adjusted by the school corporation under this act after applying IC 21-3-1.6-1.2, as added by this act.

STEP TWO: Determine the result of:

(A) the school corporation's previous year's revenue under IC 21-3-1.7-3.1, without regard to IC 21-3-1.6-1.2, as added by this act; divided by

(B) the school corporation's average daily membership for 2000, without regard to IC 21-3-1.6-1.2, as added by this act.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE result by one-third (1/3).

(2) For 2002, the previous year revenue determined without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount equal to the result under the following:

(A) Determine the result of:

(i) the amount determined under STEP THREE of subdivision (1); minus

(ii) the amount determined under STEP FOUR of subdivision (1).

(B) Divide the clause (A) result by three (3).

(C) Multiply the clause (B) result by one and three-hundredths (1.03).

(3) For 2003, the previous year revenue determined without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount equal to the reduction amount under subdivision (2) multiplied by one and two-hundredths (1.02).

~~(4) For 2004, the previous year revenue determined without regard to IC 21-3-1.6-1.2, as added by P.L.93-2000, shall be reduced by an amount equal to the reduction under subdivision (2) multiplied by one and two-hundredths (1.02). For 2005, the product of:~~

~~(A) the reduction amount under subdivision (3) divided by three (3); multiplied by~~

~~(B) one and three-hundredths (1.03).~~

~~(5) For 2006 and 2007, the product of:~~

- (A) the reduction amount under subdivision (4) divided by three (3); multiplied by
 (B) one and one-hundredth (1.01).

(b) This SECTION expires January 1, ~~2005~~ 2008.

SECTION 174. [EFFECTIVE JULY 1, 2003] (a) The definitions in IC 20-5.5-1 apply throughout this SECTION.

(b) This SECTION applies to the period beginning January 1, 2004, and ending December 31, 2004. Total distributions of tuition support and other state funds under IC 20-5.5-7-3(b) to all organizers may not exceed twenty million two hundred fifty thousand dollars (\$20,250,000). If total distributions of tuition support and other state funds under IC 20-5.5-7-3(b) to all organizers exceed twenty million two hundred fifty thousand dollars (\$20,250,000), the department shall prorate the distribution of tuition support and other state funds under IC 20-5.5-7-3(b) to each organizer based on the enrollment of the organizer's charter school.

(c) This SECTION applies to the period beginning January 1, 2005, and ending December 31, 2005. Total distributions of tuition support and other state funds under IC 20-5.5-7-3(b) to all organizers may not exceed twenty million two hundred fifty thousand dollars (\$20,250,000). If total distributions of tuition support and other state funds under IC 20-5.5-7-3(b) to all organizers exceed twenty million two hundred fifty thousand dollars (\$20,250,000), the department shall prorate the distribution of tuition support and other state funds under IC 20-5.5-7-3(b) to each organizer based on the enrollment of the organizer's charter school.

SECTION 175. [EFFECTIVE JULY 1, 2003] (a) This SECTION applies only to Madison Consolidated Schools.

(b) As used in this SECTION, "department" means the department of education.

(c) The tuition support determined under IC 21-3-1.7-8 for the school corporation for the period beginning January 1, 2004, and ending December 31, 2004, shall be increased by the amount determined under the last of the following STEPS:

STEP ONE: For the period beginning January 1, 2000, and ending December 31, 2000, determine the school corporation's revenue under IC 21-3-1.7-3.1 without regard to

IC 21-3-1.6-1.2.

STEP TWO: For the period beginning January 1, 2000, and ending December 31, 2000, determine the school corporation's revenue under IC 21-3-1.7-3.1, applying IC 21-3-1.6-1.2.

STEP THREE: Determine the difference between:

- (A) the STEP ONE amount; and
- (B) the STEP TWO amount.

STEP FOUR: Determine the reduction amount for the school corporation under P.L. 291-2001(a)(1) STEP THREE.

STEP FIVE: Determine the difference between:

- (A) the STEP FOUR amount; minus
- (B) the STEP THREE amount.

(d) This SECTION expires January 1, 2005.

SECTION 176. P.L.292-2002(ss), SECTION 209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: SECTION 209. (a) Notwithstanding P.L.291-2001, SECTION 38, the appropriation from the build Indiana fund FOR THE BUDGET AGENCY, twenty-first century research and technology fund for the biennium is zero dollars (\$0) and not fifty million dollars (\$50,000,000).

(b) There is appropriated to the twenty-first century technology research and technology fund from the state general fund fifteen million dollars (\$15,000,000) for the period beginning July 1, 2002, and ending June 30, 2003. The appropriation made by this section does not revert to the state general fund at the end of any state fiscal year.

(c) There is appropriated to the twenty-first century technology research and technology fund from the state general fund fifteen million dollars (\$15,000,000) for the period beginning July 1, 2003, and ending June 30, 2004. The appropriation made by this section does not revert to the state general fund at the end of any state fiscal year.

SECTION 177. IC 4-4-9.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 9.3. Rural Development Administration Fund

Sec. 1. (a) The rural development administration fund is established for the purpose of enhancing and developing rural communities. The fund shall be administered by the Indiana rural development council.

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

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

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

Sec. 2. (a) Money in the fund may be used for the following purposes:

(1) To create, assess, and assist a pilot project to enhance the economic and community development in a rural area.

(2) To establish a local revolving loan fund for an industrial, a commercial, an agricultural, or a tourist venture.

(3) To provide a loan for an economic development project in a rural area.

(4) To provide technical assistance to a rural organization.

(5) To assist in the development and creation of a rural cooperative.

(6) To address rural workforce development challenges.

(7) To assist in addressing telecommunications needs in a rural area.

(b) Expenditures from the fund are subject to appropriation by the general assembly and approval by the Indiana rural development council under IC 4-4-9.5. The council may not approve an expenditure from the fund unless the rural development administration advisory board established by section 3 of this chapter has recommended the expenditure.

Sec. 3. (a) The rural development administration advisory board is established to make recommendations concerning the expenditure of money from the fund.

(b) The advisory board shall meet at least four (4) times per year and shall also meet at the call of the executive director of the rural development council.

(c) The advisory board consists of the following members:

(1) The executive director of the Indiana rural development council, who serves as an ex officio member and as the

chairperson of the advisory board.

(2) Two (2) members of the senate, who may not be members of the same political party, and who are appointed by the president pro tempore of the senate.

(3) Two (2) members of the house of representatives, who may not be members of the same political party, and who are appointed by the speaker of the house of representatives.

(4) A representative of the commissioner of agriculture, to be appointed by the governor.

(5) A representative of the department of commerce, to be appointed by the governor.

(6) A representative of the department of workforce development, to be appointed by the governor.

(7) Two (2) persons with knowledge and experience in state and regional economic needs, to be appointed by the governor.

(8) A representative of a local rural economic development organization, to be appointed by the governor.

(9) A representative of a small town or rural community, to be appointed by the governor.

(10) A representative of the rural development council, to be appointed by the governor.

(11) A representative of rural education, to be appointed by the governor.

(12) A representative of the league of regional conservation and development districts, to be appointed by the governor.

(13) A person currently enrolled in rural secondary education, to be appointed by the governor.

(d) The members of the advisory board listed in subsection (c)(1) through (c)(3) are nonvoting members.

(e) The term of office of a legislative member of the advisory board is four (4) years. However, a legislative member of the advisory board ceases to be a member if the member:

(1) is no longer a member of the chamber from which the member was appointed; or

(2) is removed from the advisory board by the appointing authority who appointed the legislator.

(f) The term of office of a voting member of the advisory board is four (4) years. However, these members serve at the pleasure of

the governor and may be removed for any reason.

(g) If a vacancy exists on the advisory board, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy for the balance of the unexpired term.

(h) Six (6) voting members of the advisory board constitute a quorum for the transaction of business at a meeting of the advisory board. The affirmative vote of at least six (6) voting members is necessary for the advisory board to take action.

SECTION 178. IC 4-4-9.5-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The rural development council fund is established to be used exclusively for:

- (1) the purposes set forth in sections 2 and 3 of this chapter;
- (2) administrative expenses and personnel expenses incurred by the council in carrying out this chapter; and
- (3) providing funding for the establishment of new regional rural development groups and the operations of existing regional rural development groups.

The fund shall be administered by the council.

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

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

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

SECTION 179. IC 4-12-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 11. Technology Development Grant Fund

Sec. 1. As used in this chapter, "department" refers to the department of commerce established by IC 4-4-3-2.

Sec. 2. As used in this chapter, "fund" refers to the technology development grant fund established by section 8 of this chapter.

Sec. 3. As used in this chapter, "political subdivision" has the

meaning set forth in IC 36-1-2-13.

Sec. 4. As used in this chapter, "redevelopment commission" refers to a redevelopment commission established under IC 36-7-14-3 or a commission (as defined in IC 36-7-15.1-3) that establishes a technology park.

Sec. 5. As used in this chapter, "technology park" refers to a certified technology park established under IC 36-7-32.

Sec. 6. As used in this chapter, "targeted employment" means employment in any of the following business activities:

- (1) **Advanced manufacturing, including the following:**
 - (A) **Automotive and electronics.**
 - (B) **Aerospace technology.**
 - (C) **Robotics.**
 - (D) **Engineering design technology.**
- (2) **Life sciences, including the following:**
 - (A) **Orthopedics or medical devices.**
 - (B) **Biomedical research or development.**
 - (C) **Pharmaceutical manufacturing.**
 - (D) **Agribusiness.**
 - (E) **Nanotechnology or molecular manufacturing.**
- (3) **Information technology, including the following:**
 - (A) **Informatics.**
 - (B) **Certified network administration.**
 - (C) **Software development.**
 - (D) **Fiber optics.**
- (4) **Twenty-first century logistics, including the following:**
 - (A) **High technology distribution.**
 - (B) **Efficient and effective flow and storage of goods, services, or information.**
 - (C) **Intermodal ports.**

Sec. 7. As used in this chapter, "technology product" means a product that involves high technology activity or otherwise involves targeted employment.

Sec. 8. The technology development grant fund is established to provide the necessary money for grants to redevelopment commissions under this chapter and the administration of this program.

Sec. 9. The fund shall be administered by the department.

Sec. 10. The expenses of administering the fund shall be paid

from money in the fund. Interest that accrues from these investments shall be deposited in the fund.

Sec. 11. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested.

Sec. 12. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 13. The department shall establish a grant application procedure for redevelopment commissions.

Sec. 14. To qualify for a grant under this chapter, a redevelopment commission must:

- (1) submit an application in the form prescribed by the department;
- (2) demonstrate that:
 - (A) the redevelopment commission has established a technology park; and
 - (B) the grant being applied for under this chapter will assist the redevelopment commission in accomplishing the goals of the technology park under IC 36-7-32; and
- (3) provide the other information required by the department.

Sec. 15. The department shall provide grants on a competitive basis from the fund to businesses that apply for a grant under this chapter. The department may select and fund part or all of an application request that:

- (1) is submitted during an application period; or
- (2) was submitted in a prior application period but not fully funded in that application period.

Sec. 16. (a) For purposes of this section, "operating expenditures" includes the following:

- (1) Business plans.
- (2) Marketing studies.
- (3) Mentor identification.
- (4) Securitization of capital.
- (5) Legal services.
- (6) Other necessary services.

(b) The total of all grants provided under this chapter for a technology park may not exceed the following:

- (1) Two million dollars (\$2,000,000) for the leasing, construction, or purchase of capital assets.

(2) Two million dollars (\$2,000,000) for operating expenditures, and, subject to subsection (d), with not more than five hundred thousand dollars (\$500,000) being distributed in any one (1) fiscal year.

(c) This subsection applies to a grant provided under subsection (b)(1) for the leasing of a capital asset. The grant may be applied only to lease payments made during:

- (1) the fiscal year; or
- (2) each of the three (3) fiscal years immediately following the fiscal year;

in which the grant is provided.

(d) The annual distribution of a grant under subsection (b)(2) may not exceed the following:

- (1) Eighty percent (80%) of total operating expenditures in the fiscal year in which the grant is provided.
- (2) Sixty percent (60%) of total operating expenditures in the fiscal year after the fiscal year in which the grant is provided.
- (3) Forty percent (40%) of total operating expenditures in the second fiscal year after the fiscal year in which the grant is provided.
- (4) Twenty percent (20%) of total operating expenditures in the third fiscal year after the fiscal year in which the grant is provided.

Sec. 17. A capital expenditure grant under this chapter shall require that the lesser of:

- (1) two million dollars (\$2,000,000); or
- (2) fifty percent (50%) of the total capital costs;

of the project being funded by the grant be matched from other sources.

Sec. 18. The department may, under rules established by the department of local government finance and the procedures established by the department, award grants from the fund to one (1) or more political subdivisions to reimburse the political subdivisions for ad valorem property taxes allocated to an allocation area as a result of a resolution adopted under IC 36-7-32-15.

SECTION 180. IC 6-1.1-12.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 12.2. Deduction for Aircraft

Sec. 1. This chapter applies only to the following:

(1) Aircraft that:

(A) have a seating capacity of not more than ninety (90) passengers;

(B) are used in the air transportation of passengers or passengers and property; and

(C) are owned or operated by a person who is:

(i) an air carrier certificated under Federal Air Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Air Regulation Part 135.

(2) Aircraft that:

(A) are used to transport only property, regardless of whether the aircraft is operated as a common carrier for compensation; and

(B) are owned or operated by a person who is:

(i) an air carrier certificated under Federal Air Regulation Part 121; or

(ii) a scheduled air taxi operator certified under Federal Air Regulation Part 135.

Sec. 2. As used in this chapter "abatement property" refers to aircraft described in section 1 of this chapter.

Sec. 3. As used in this chapter, "aircraft" has the meaning set forth in 49 U.S.C. 40102.

Sec. 4. As used in this chapter, "air transportation" means transportation of passengers or property by aircraft as a common carrier for compensation.

Sec. 5. As used in this chapter, "business entity" refers to a corporation (as defined in IC 6-3-1-10) or partnership (as defined in IC 6-3-1-19).

Sec. 6. As used in this chapter, "Indiana corporate headquarters" means a physical presence in Indiana of a domestic business entity that results in Indiana being the regular or principal place of business of its chief executive, operating, and financial officers.

Sec. 7. As used in this chapter, "subsidiary" means a business entity in which another business entity with an Indiana corporate headquarters has at least an eighty percent (80%) ownership

interest.

Sec. 8. As used in this chapter, "taxpayer" means a business entity that:

- (1) has an Indiana corporate headquarters; or
- (2) is a subsidiary of a business entity with an Indiana corporate headquarters;

and that is liable under IC 6-1.1-2-4, as applied under IC 6-1.1-3 or IC 6-1.1-8, for ad valorem property taxes on abatement property.

Sec. 9. A taxpayer is entitled to a deduction from the assessed value of abatement property in each year in which the abatement property is subject to taxation for ad valorem property taxes.

Sec. 10. The amount of the deduction is equal to one hundred percent (100%) of the assessed value of the abatement property.

Sec. 11. The deduction includes ad valorem property taxes calculated using aircraft ground times.

Sec. 12. To qualify for the deduction, the taxpayer must claim the deduction, in the manner prescribed by the department of local government finance, on the taxpayer's personal property tax return filed under IC 6-1.1-3 or IC 6-1.1-8 (or an amended return filed within the time allowed under this article) for the abated property to which the deduction applies.

SECTION 181. IC 6-6-6.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 9. (a) The provisions of this chapter pertaining to registration and taxation shall not apply to any of the following:

- (1) An aircraft owned by and used exclusively in the service of:
 - (i) the United States government;
 - (ii) a state (except Indiana), territory, or possession of the United States;
 - (iii) the District of Columbia; or
 - (iv) a political subdivision of an entity listed in clause (i), (ii), or (iii).
- (2) An aircraft owned by a resident of another state and registered in accordance with the laws of that state. However, the aircraft shall not be exempt under this subdivision if a nonresident establishes a base for the aircraft inside this state and the base is used for a period of sixty (60) days or more.
- (3) An aircraft which this state is prohibited from taxing under

this chapter by the Constitution or the laws of the United States.

(4) An aircraft owned or operated by a person who is either an air carrier certificated under Federal Air Regulation Part 121 or a scheduled air taxi operator certified under Federal Air Regulation Part 135, unless such person is a corporation incorporated under the laws of the state of Indiana, ~~or~~ an individual who is a resident of Indiana, **or a corporation with Indiana corporate headquarters (as defined in IC 6-1.1-12.2-6).**

(5) An aircraft which has been scrapped, dismantled, or destroyed, and for which the airworthiness certificate and federal certificate of registration have been surrendered to the Federal Aviation Administration by the owner.

(6) An aircraft owned by a resident of this state that is not a dealer and that is not based in this state at any time, if the owner files the required form not later than thirty-one (31) days after the date of purchase; and furnishes the department with evidence, satisfactory to the department, verifying where the aircraft is based during the year.

(7) An aircraft owned by a dealer for not more than five (5) days if the ownership is part of an ultimate sale or transfer of an aircraft that will not be based in this state at any time. However, the dealer described in this subdivision is required to file a report of the transaction within thirty-one (31) days after the ultimate sale or transfer of ownership of the aircraft. The report is not required to identify the seller or purchaser but must list the aircraft's origin, destination, N number, date of each transaction, and ultimate sales price.

(8) An aircraft owned by a registered nonprofit museum, if the owner furnishes the department with evidence satisfactory to the department not later than thirty-one (31) days after the purchase date. The aircraft must be reported for registration, but the department shall issue the registration without charge.

(b) The provisions of this chapter pertaining to taxation shall not apply to an aircraft owned by and used exclusively in the service of Indiana or a political subdivision of Indiana or any university or college supported in part by state funds. That aircraft must be reported for registration, but the department will issue the registration without charge.

SECTION 182. [EFFECTIVE JULY 1, 2003] (a) This SECTION applies to a county in which an entity:

- (1) qualified as a taxpayer (as defined in IC 6-1.1-12.2-8, as added by this act) on an assessment date in 2002;**
- (2) was not incorporated under the laws of Indiana on the assessment date in 2002;**
- (3) was incorporated under the laws of Indiana on the assessment date in 2003; and**
- (4) as a result, is subject to the aircraft excise tax under IC 6-6-6.5 on abatement property rather than the ad valorem property tax in 2004.**

(b) The definitions in IC 6-1.1-1 and IC 6-1.1-12.2, as added by this act, apply throughout this SECTION.

(c) The department of local government finance shall adjust the maximum property tax rate under IC 21-2-15-11 for the capital projects fund of a school city (as defined in IC 20-3-11-1) to allow a levy of an amount that is equal to the amount that would have applied if the taxpayer had continued to pay property taxes for assessment dates after 2002 on abatement property that was subject to assessment in 2002. The department of local government finance shall adjust the maximum property tax rate in 2004, and the maximum property tax rate applies to property taxes first due and payable in 2004 and for each subsequent year.

SECTION 183. [EFFECTIVE JANUARY 1, 2004] IC 6-6-6.5-9, as amended by this act, applies to aircraft excise taxes and registration fees imposed under IC 6-6-6.5 after December 31, 2003.

SECTION 184. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] IC 6-1.1-12.2, as added by this act, applies only to assessment dates after January 1, 2003, and ad valorem property taxes due and payable after January 1, 2004.

SECTION 185. IC 5-10.2-2-2.5, AS AMENDED BY P.L.61-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary for all assets under its control, subject to the limitations and restrictions set forth in **section 18 of this chapter,**

IC 5-10.3-5-3, and IC 21-6.1-3-9.

(b) Each board may commingle or pool assets with the assets of any other persons or entities. This authority includes, but is not limited to, the power to invest in commingled or pooled funds, partnerships, or mortgage pools. In the event of any such investment, the board shall keep separate detailed records of the assets invested. Any decision to commingle or pool assets is subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

SECTION 186. IC 5-10.2-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18. (a) As used in this section, "high growth company" means a sole proprietorship, firm, corporation, partnership, limited liability company, limited liability partnership, joint venture, trust, syndicate, or other business unit or association that:**

(1) is primarily focused on commercialization of research and development, technology transfers, or the application of new technology or is determined by the department of commerce to have significant potential to:

- (A) bring substantial capital into Indiana;**
- (B) create jobs;**
- (C) diversify the business base of Indiana; or**
- (D) significantly promote the purposes of this chapter in any other way;**

(2) has had an average annual net worth of less than twenty million dollars (\$20,000,000) in each of the last two (2) calendar years; and

(3) is not engaged in a business involving:

- (A) real estate;**
- (B) real estate development;**
- (C) insurance;**
- (D) professional services provided by an accountant, a lawyer, or a physician;**
- (E) retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or**
- (F) gas and oil exploration.**

A company that meets the definition of a high growth company

under this subsection shall be considered to meet the definition even if affiliated with one (1) or more other companies that do not meet the definition and regardless of whether any of the affiliated companies is engaged in a business involving the matters described in subdivision (3).

(b) As used in this section, "Indiana high growth company" means a high growth company as defined in subsection (a) that:

(1) has its headquarters in Indiana; and

(2) has:

(A) at least fifty percent (50%) of its employees residing in Indiana; or

(B) at least seventy-five percent (75%) of its assets located in Indiana.

(c) If the board decides to allocate part of the fund assets to funds investing in high growth companies, the board is strongly encouraged to establish the following:

(1) A goal for investment in funds investing in Indiana high growth companies of at least twenty-five percent (25%) of the amount allocated to funds investing in high growth companies.

(2) A preference for investments described in subdivision (1) that are started in or assisted by Indiana universities and colleges.

(d) The board has five (5) years after the date the goals in subsection (c) are adopted to achieve the goal percentages.

(e) The board is not required to achieve the goal percentages under subsection (c) if the board, exercising financial and fiduciary prudence, determines that sufficient appropriate investments in privately held equity or debt assets are not available in Indiana.

(f) This section expires July 1, 2013.

SECTION 187. IC 5-10.3-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board shall also diversify such investments in accordance with prudent investment standards, **subject to the limitations and restrictions set forth in IC 5-10.2-2-18.**

(b) The board may invest up to five percent (5%) of the excess of its

cash working balance in debentures of the corporation for innovation development subject to IC 30-4-3-3.

(c) The board is not subject to IC 4-13, IC 4-13.6, and IC 5-16 when managing real property as an investment. Any management agreements entered into by the board must ensure that the management agent acts in a prudent manner with regard to the purchase of goods and services. Contracts for the management of investment property shall be submitted to the governor, the attorney general, and the budget agency for approval. A contract for management of real property as an investment:

(1) may not exceed a four (4) year term and must be based upon guidelines established by the board;

(2) may provide that the property manager may collect rent and make disbursements for routine operating expenses such as utilities, cleaning, maintenance, and minor tenant finish needs;

(3) must establish, consistent with the board's duty under IC 30-4-3-3(c), guidelines for the prudent management of expenditures related to routine operation and capital improvements; and

(4) may provide specific guidelines for the board to purchase new properties, contract for the construction or repair of properties, and lease or sell properties without individual transactions requiring the approval of the governor, the attorney general, the Indiana department of administration, and the budget agency. However, each individual contract involving the purchase or sale of real property is subject to review and approval by the attorney general at the specific request of the attorney general.

(d) Whenever the board takes bids in managing or selling real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:

(1) Each beneficiary of the trust.

(2) Each settlor empowered to revoke or modify the trust.

SECTION 188. IC 21-6.1-3-9, AS AMENDED BY P.L.1-2002, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The board shall invest its assets with the care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims. The board shall also

diversify such investments in accordance with prudent investment standards, **subject to the limitations and restrictions set forth in IC 5-10.2-2-18.**

(b) The board may:

- (1) make or have made investigations concerning investments; and
- (2) contract for and employ investment counsel to advise and assist in the purchase and sale of securities.

(c) The board is not subject to IC 4-13, IC 4-13.6, or IC 5-16 when managing real property as an investment. Any management agreements entered into by the board must ensure that the management agent acts in a prudent manner with regard to the purchase of goods and services. Contracts for the management of investment property shall be submitted to the governor, the attorney general, and the budget agency for approval. A contract for the management of real property as an investment:

- (1) may not exceed a four (4) year term and must be based upon guidelines established by the board;
- (2) may provide that the property manager may collect rent and make disbursements for routine operating expenses such as utilities, cleaning, maintenance, and minor tenant finish needs;
- (3) shall establish, consistent with the board's duty under IC 30-4-3-3(c), guidelines for the prudent management of expenditures related to routine operation and capital improvements; and
- (4) may provide specific guidelines for the board to purchase new properties, contract for the construction or repair of properties, and lease or sell properties without individual transactions requiring the approval of the governor, the attorney general, the Indiana department of administration, and the budget agency. However, each individual contract involving the purchase or sale of real property is subject to review and approval by the attorney general at the specific request of the attorney general.

(d) Whenever the board takes bids in managing or selling real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:

- (1) Each beneficiary of the trust.
- (2) Each settlor empowered to revoke or modify the trust.

SECTION 189. [EFFECTIVE JULY 1, 2003] IC 5-10.2-2-18, as added by this act, applies only to investments made after June 30, 2003.

SECTION 190. [EFFECTIVE JULY 1, 2003] (a) For purposes of this SECTION, "boards" refers to the board of trustees of the Indiana state teachers' retirement fund and the board of trustees of the public employees' retirement fund.

(b) In order to seek and enhance investment opportunities under IC 5-10.2-2-2.5, IC 5-10.3-5-3, and IC 21-6.1-3-9, all as amended by this act, the boards shall seek funding from:

- (1) a private foundation;**
- (2) the federal government;**
- (3) an institution of higher education; or**
- (4) any other entity;**

to develop a fellowship program to work with the Indiana future fund to enhance venture capital investment opportunities in Indiana technology and advanced manufacturing companies.

(c) The investment opportunities must be designed to enhance investment in companies in Indiana and must be designed to:

- (1) enhance the venture capital community;**
- (2) train future venture capitalists; and**
- (3) support the development of high potential, startup, and early stage companies in the areas of technology and advanced manufacturing.**

(d) The fellowship program must be designed to last for two (2) years.

(e) An applicant for the fellowship must:

- (1) be a resident of Indiana;**
- (2) hold a graduate degree, preferably with a business or technical major; and**
- (3) have at least three (3) years of practical experience.**

(f) The department of commerce shall assist the boards in developing and administering the grant. The boards shall create a committee, including:

- (1) one (1) individual appointed by the board of trustees of the public employees' retirement fund;**
- (2) one (1) individual appointed by the teachers' retirement fund; and**
- (3) three (3) individuals appointed by the department of**

commerce.

(g) The committee established in subsection (f) shall:

- (1) review the grant application before it is submitted;**
- (2) review applicants for the fellowship program; and**
- (3) set the stipend for participants in the program.**

(h) This SECTION expires July 1, 2007.

SECTION 191. IC 6-3.1-4-6, AS AMENDED BY P.L.192-2002(ss), SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, ~~2004~~ **2013**. Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred.

SECTION 192. IC 6-3.1-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The economic development for a growing economy board is established. The board consists of the following seven (7) members:

- (1) The director or, upon the director's designation, the executive director of the department of commerce.
- (2) The director of the budget agency.
- (3) The commissioner of the department of state revenue.
- (4) Four (4) members appointed by the governor, not more than two (2) of whom may be members of the same political party.

(b) The director shall serve as chairperson of the board. Four (4) members of the board constitute a quorum to transact and vote on the business of the board.

(c) The department of commerce shall assist the board in carrying out the board's duties under this chapter **and IC 6-3.1-26**.

SECTION 193. IC 6-3.1-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter **and IC 6-3.1-26**, including paying for the costs of administering this chapter **and IC 6-3.1-26**. The fund shall be administered by the department of commerce.

(b) The fund consists of collected fees, appropriations from the

general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency.

SECTION 194. IC 6-3.1-19-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 1.5. As used in this chapter, "pass through entity" means:**

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);**
- (2) a partnership;**
- (3) a limited liability company; or**
- (4) a limited liability partnership.**

SECTION 195. IC 6-3.1-19-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 2.5. As used in this chapter, "taxpayer" means an individual or entity that has any state and local tax liability.**

SECTION 196. IC 6-3.1-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) Subject to section 5 of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax

return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by**
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.**

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

SECTION 197. IC 6-3.1-26 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 26. Hoosier Business Investment Tax Credit

Sec. 1. As used in this chapter, "base state tax liability" means a taxpayer's state tax liability in the taxable year immediately preceding the taxable year in which a taxpayer makes a qualified investment.

Sec. 2. As used in this chapter, "board" has the meaning set forth in IC 6-3.1-13-1.

Sec. 3. As used in this chapter, "director" has the meaning set forth in IC 6-3.1-13-3.

Sec. 4. As used in this chapter, "full-time employee" has the meaning set forth in IC 6-3.1-13-4.

Sec. 5. As used in this chapter, "highly compensated employee" has the meaning set forth in Section 414(q) of the Internal Revenue Code.

Sec. 6. As used in this chapter, "new employee" has the meaning set forth in IC 6-3.1-13-6.

Sec. 7. As used in this chapter, "pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);**
- (2) partnership;**
- (3) trust;**
- (4) limited liability company; or**
- (5) limited liability partnership.**

Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures for:

- (1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing equipment;**
- (2) the purchase of new computers and related equipment;**
- (3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;**
- (4) onsite infrastructure improvements;**
- (5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;**
- (6) costs associated with retooling existing machinery and equipment; and**
- (7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry;**

that are certified by the board under this chapter as being eligible for the credit under this chapter.

(b) The term does not include property that can be readily moved outside Indiana.

Sec. 9. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);**
- (2) IC 27-1-18-2 (the insurance premiums tax); and**
- (3) IC 6-5.5 (the financial institutions tax);**

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 10. As used in this chapter, "state tax liability growth" means the difference between a taxpayer's state tax liability in a

taxable year minus the greater of:

- (1) the taxpayer's state tax liability in the most recent prior taxable year in which the taxpayer claimed part of a credit under this chapter; or
- (2) the taxpayer's base state tax liability;

before the application of a credit under this chapter.

Sec. 11. As used in this chapter, "taxpayer" means an individual, a corporation, a partnership, or other entity that has state tax liability.

Sec. 12. The board may make credit awards under this chapter to foster job creation and higher wages in Indiana.

Sec. 13. A taxpayer that:

- (1) is awarded a tax credit under this chapter by the board; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the board and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year.

Sec. 14. (a) The total amount of a tax credit claimed under this chapter equals thirty percent (30%) of the amount of a qualified investment made by the taxpayer in Indiana.

(b) In the taxable year in which a taxpayer makes a qualified investment, the taxpayer may claim a credit under this chapter in an amount equal to the lesser of:

- (1) thirty percent (30%) of the amount of the qualified investment; or
- (2) the taxpayer's state tax liability growth.

The taxpayer may carry forward any unused credit.

Sec. 15. (a) A taxpayer may carry forward an unused credit for not more than nine (9) consecutive taxable years beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment.

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the lesser of the following:

- (1) The taxpayer's state tax liability growth.
- (2) The unused part of a credit allowed under this chapter.
- (c) A taxpayer may:

(1) claim a tax credit under this chapter for a qualified investment; and

(2) carry forward a remainder for one (1) or more different qualified investments;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed thirty percent (30%) of the qualified investment for which the tax credit is claimed.

Sec. 16. If a pass through entity does not have state tax liability growth against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

Sec. 17. A person that proposes a project to create new jobs or increase wage levels in Indiana may apply to the board before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The director shall prescribe the form of the application.

Sec. 18. After receipt of an application, the board may enter into an agreement with the applicant for a credit under this chapter if the board determines that all the following conditions exist:

(1) The applicant has conducted business in Indiana for at least one (1) year immediately preceding the date the application is received.

(2) The applicant's project will raise the total earnings of employees of the applicant in Indiana.

(3) The applicant's project is economically sound and will benefit the people of Indiana by increasing opportunities for employment and strengthening the economy of Indiana.

(4) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project and not receiving the tax credit will result in the applicant not raising the total earnings of employees in Indiana.

(5) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(6) The credit is not prohibited by section 19 of this chapter.

(7) The average wage that will be paid by the taxpayer to its employees (excluding highly compensated employees) at the location after the credit is given will be at least equal to one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

Sec. 19. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. Determinations under this section shall be made by the board.

Sec. 20. The board shall certify the amount of the qualified investment that is eligible for a credit under this chapter. In determining the credit amount that should be awarded, the board shall grant a credit only for the amount of the qualified investment that is directly related to expanding the workforce in Indiana.

Sec. 21. The board shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The first taxable year for which the credit may be claimed.

(3) The amount of the taxpayer's state tax liability for each tax in the taxable year of the taxpayer that immediately preceded the first taxable year in which the credit may be claimed.

(4) The maximum tax credit amount that will be allowed for each taxable year.

(5) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.

(6) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(7) A requirement that the taxpayer shall annually report to the board the number of new employees who are performing jobs not previously performed by an employee, the average wage of the new employees, the average wage of all employees at the location where the qualified investment is made, and any other information the director needs to perform the

director's duties under this chapter.

(8) A requirement that the director is authorized to verify with the appropriate state agencies the amounts reported under subdivision (7), and that after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(9) A requirement that the taxpayer shall pay an average wage to all its employees other than highly compensated employees in each taxable year that a tax credit is available that equals at least one hundred fifty percent (150%) of the hourly minimum wage under IC 22-2-2-4 or its equivalent.

(10) A requirement that the taxpayer will keep the qualified investment property that is the basis for the tax credit in Indiana for at least the lesser of its useful life for federal income tax purposes or ten (10) years.

(11) A requirement that the taxpayer will maintain at the location where the qualified investment is made during the term of the tax credit a total payroll that is at least equal to the payroll level that existed before the qualified investment was made.

(12) A requirement that the taxpayer shall provide written notification to the director and the board not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(13) Any other performance conditions that the board determines are appropriate.

Sec. 22. A taxpayer claiming a credit under this chapter shall submit to the department of state revenue a copy of the director's certificate of verification under this chapter for the taxable year. However, failure to submit a copy of the certificate does not invalidate a claim for a credit.

Sec. 23. If the director determines that a taxpayer who has received a credit under this chapter is not complying with the requirements of the tax credit agreement or all the provisions of this chapter, the director shall, after giving the taxpayer an opportunity to explain the noncompliance, notify the department of commerce and the department of state revenue of the noncompliance and request an assessment. The department of state

revenue, with the assistance of the director, shall state the amount of the assessment, which may not exceed the sum of any previously allowed credits under this chapter. After receiving the notice, the department of state revenue shall make an assessment against the taxpayer under IC 6-8.1.

Sec. 24. On or before March 31 each year, the director shall submit a report to the board on the tax credit program under this chapter. The report must include information on the number of agreements that were entered into under this chapter during the preceding calendar year, a description of the project that is the subject of each agreement, an update on the status of projects under agreements entered into before the preceding calendar year, and the sum of the credits awarded under this chapter. A copy of the report shall be delivered to the executive director of the legislative services agency for distribution to the members of the general assembly.

Sec. 25. On a biennial basis, the board shall provide for an evaluation of the tax credit program, giving first priority to using the Indiana economic development council established under IC 4-3-14. The evaluation must include an assessment of the effectiveness of the program in creating new jobs and increasing wages in Indiana and of the revenue impact of the program and may include a review of the practices and experiences of other states with similar programs. The director shall submit a report on the evaluation to the governor, the president pro tempore of the senate, and the speaker of the house of representatives after June 30 and before November 1 in each odd-numbered year.

Sec. 26. Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for a qualified investment made after December 31, 2005. However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2006, forward to a taxable year beginning after December 31, 2005, in the manner provided by section 15 of this chapter.

SECTION 198. [EFFECTIVE JANUARY 1, 2004] Subject to carryovers authorized by IC 6-3.1-26-15, as added by this act, IC 6-3.1-26, as added by this act, applies to taxable years beginning after December 31, 2003, and ending before January 1, 2006.

SECTION 199. IC 6-3.1-27 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 27. Blended Biodiesel Tax Credits

Sec. 1. As used in this chapter, "biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats that meets American Society for Testing and Materials specification D6751-02 for biodiesel fuel (B100) blend stock distillate fuels.

Sec. 2. As used in this chapter, "blended biodiesel" refers to a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater). The term does not include biodiesel (B100).

Sec. 3. As used in this chapter, "dealer" has the meaning set forth in IC 6-6-1.1-103.

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "service station" means a retail outlet where a dealer sells a motor fuel through a metered pump.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.5 (the state gross retail and use tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-5.5 (the financial institutions tax); and
- (4) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 7. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 8. (a) A taxpayer that produces biodiesel at a facility located in Indiana is entitled to a credit against the taxpayer's state tax liability equal to the product of:

- (1) one dollar (\$1); multiplied by
- (2) the number of gallons of biodiesel:
 - (A) produced at the Indiana facility during the taxable

year; and

(B) used to produce blended biodiesel.

(b) The credit provided by this section shall be reduced by any credit or subsidy that the taxpayer is entitled to receive from the federal government for the production of biodiesel by the taxpayer.

(c) The total amount of credits allowed under this section may not exceed one million dollars (\$1,000,000) for all taxpayers and all taxable years.

Sec. 9. (a) A taxpayer that produces blended biodiesel at a facility located in Indiana is entitled to a credit against the taxpayer's state tax liability equal to the product of:

(1) two cents (\$0.02); multiplied by

(2) the number of gallons of blended biodiesel:

(A) produced at the Indiana facility; and

(B) blended with biodiesel produced at a facility located in Indiana.

(b) The credit provided by this section shall be reduced by any credit or subsidy that the taxpayer is entitled to receive from the federal government for the production of blended biodiesel by the taxpayer.

(c) The total amount of credits allowed under this section may not exceed one million dollars (\$1,000,000) for all taxpayers and all taxable years.

Sec. 10. (a) A taxpayer that:

(1) is a dealer; and

(2) operates a service station in Indiana at which blended biodiesel is sold and dispensed through a metered pump in a taxable year;

is entitled to a credit against the taxpayer's state tax liability.

(b) The amount of the credit allowed under this section is the product of:

(1) one cent (\$0.01); multiplied by

(2) the total number of gallons of blended biodiesel sold and dispensed through all the metered pumps located at a service station described in subsection (a)(2).

(c) The credit allowed under this section must be computed separately for each service station operated by the taxpayer that meets the requirements of subsection (a)(2).

(d) The total amount of credits allowed under this section may

not exceed one million dollars (\$1,000,000) for all taxpayers and all taxable years.

Sec. 11. If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 12. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 13. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department proof of all information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 200. IC 6-3.1-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 28. Ethanol Production Tax Credit

Sec. 1. As used in this chapter, "board" refers to the Indiana recycling and energy development board created by IC 4-23-5.5-2.

Sec. 2. As used in this chapter, "ethanol" means agriculturally derived ethyl alcohol.

Sec. 3. As used in this chapter, "facility" refers to a facility for the production of ethanol that satisfies all the following:

- (1) The facility is located in Indiana.
- (2) The facility has a capacity to produce at least forty million (40,000,000) gallons of ethanol a year.

(3) The facility, after December 31, 2003, increased its ethanol production capacity by at least forty million (40,000,000) gallons a year.

Sec. 4. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company; or
- (4) a limited liability partnership.

Sec. 5. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.5 (the state gross retail and use tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-5.5 (the financial institutions tax); and
- (4) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has any state tax liability.

Sec. 7. Subject to section 11 of this chapter, a taxpayer that produces ethanol at a facility is entitled to a credit against the taxpayer's state tax liability equal to the product of:

- (1) twelve and one-half cents (\$.125); multiplied by
- (2) the number of gallons of ethanol produced at the Indiana facility.

Sec. 8. If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

Sec. 9. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the

credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 10. To receive the credit provided by this chapter, a taxpayer must do the following:

- (1) Claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department.
- (2) Provide a copy of the board's certificate finding that the facility is a qualified facility under IC 4-23-5.5-17.
- (3) Submit to the department proof of all information that the department determines is necessary for the calculation of the credit provided by this chapter.

Sec. 11. (a) The total amount of credits allowed a taxpayer under this chapter may not exceed a total of five million dollars (\$5,000,000) for all taxable years.

(b) The total amount of credits allowed under this chapter may not exceed ten million dollars (\$10,000,000) for all taxpayers and all taxable years.

SECTION 201. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote the agricultural, industrial and commercial development of the state, and to provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port on Lake Michigan and/or the Ohio River, and/or the Wabash River, system with terminal facilities to accommodate water, rail, truck, and air-borne, and other forms of transportation, the Indiana Port Commission is hereby authorized and empowered to construct, maintain and operate, in cooperation with the federal government, or otherwise, at such location on Lake Michigan and/or the Ohio River, and/or the Wabash River, locations as shall be approved by the governor, projects, including without limitation public ports with terminal facilities and traffic exchange points throughout Indiana for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from the St. Lawrence Seaway, all forms of transportation, and to issue port revenue bonds of the state payable solely from revenues, to

pay the cost of such projects. **The commission's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.**

SECTION 202. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the Indiana Port Commission created by section 3 of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include **any combination of:**

(1) any place or places on Lake Michigan, the Ohio River, and the Wabash River, or other water bodies, natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded or accommodated; **and**

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The words ~~port word~~ "project" shall include:

(1) any facilities, adjuncts and appurtenances necessary or useful to operate a modern port, whether or not permanently situated at the port, including:

(A) the dredging of approaches thereto, and including, among other things, but not limited to to a port; and

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries,

maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the commission, and other buildings and facilities which the commission may deem necessary for the operation of the port; **and**

(2) any other project located in Indiana, other than at a port, that the commission finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or port project shall ~~shall~~ **embrace means:**

- (1) the cost of construction;
- (2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the commission for ~~such~~ construction;
- (3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved;
- (4) the cost of relocating public roads;
- (5) the cost of land or easements therefor, for roads;**
- (6) the cost of all machinery and equipment;
- (7) financing charges;
- (8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;
- (9) **the** cost of engineering and legal expenses, plans, specifications, surveys, **and** estimates of cost, traffic and revenues;
- (10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
- (11) administrative expense; ~~and such~~
- (12) other expenses as may be necessary or incident to the acquisition or construction of the project, the financing of such the acquisition or construction, and the placing of the project in operation, including the amount authorized in the resolution**

of the port commission providing for the issuance of port commission revenue bonds to be paid into any special funds from the proceeds of the bonds; and

(13) any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of port commission revenue bonds as authorized by this chapter.

(e) The word "owner" shall include all individuals, copartnerships, associations or corporations having any title or interest in any property, rights, easements and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys and all other funds coming into the possession or under the control of the commission by virtue of the terms and provisions of this ~~chapter, article~~, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township or other political subdivision.

SECTION 203. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and beimpleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this ~~chapter article~~ in the construction, operation and maintenance of a port **or** project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state,

and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965 and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977 for one (1) member and July 1, 1979 for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any ~~port~~ revenue bonds under the provisions of this ~~chapter~~, **article**, each appointed member of the commission shall give a surety bond to the state in the penal sum of twenty-five thousand dollars (\$25,000) and the secretary-treasurer shall give a surety bond to the state in the penal sum of fifty thousand dollars (\$50,000). Each such surety bond ~~to~~ **must** be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an

annual salary of seven thousand, five hundred dollars (\$7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence. ~~The governor shall, however, appoint said members as herein provided within a period of sixty (60) days following the effective date of this chapter.~~

(e) Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

(f) All expenses incurred in carrying out the provisions of this ~~chapter article~~ shall be payable solely from funds provided under the authority of this ~~chapter article~~ and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this ~~chapter article~~.

SECTION 204. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under the provisions of this ~~chapter article~~ shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized in this ~~chapter article~~, unless such bonds are refunded by refunding bonds, issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out the provisions of this ~~chapter article~~ shall be payable solely from funds provided under the authority of this ~~chapter article~~ and nothing in this ~~chapter article~~ contained shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

SECTION 205. IC 8-10-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. Except as specifically authorized by the general assembly, the commission may not pledge, in any form, to:**

- (1) seek funding from the state in the event of any default in the payment of revenue bonds; or**
- (2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.**

SECTION 206. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) The Indiana port commission may:**

- (1) prepare sketches, plans, and descriptive material relating to ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote ~~such public port or port~~ the ports or projects and deems to be in the public interest;
- (2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;
- (3) locate and acquire a suitable ~~site~~ sites for ~~such public port or port~~ ports or projects;
- (4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the commission, best serve the commercial, industrial, and agricultural interests of the state;
- (5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and
- (6) provide a traffic exchange point for all forms of transportation,

giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any port **or** project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 207. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is authorized and empowered **to do the following:**

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal which shall not be the seal of the state of Indiana.

(3) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(4) To sue and be sued, and to plead and be impleaded in its own name. However, actions at law against the commission shall be brought in the circuit court of the county in which the principal office of the commission is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the commission by leaving a copy thereof at the principal office of the commission with the person in charge thereof or with the secretary of the commission. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

(5) To acquire, lease, construct, maintain, repair, police, and operate a port **or port** project as provided in this chapter, and to establish rules and regulations for the use of **such the port or port** project, and other property subject to the jurisdiction and control of the commission.

(6) To issue **port both taxable and tax exempt** revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port **or port** project.

(7) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares,

merchandise, or articles of commerce in, on, or around the port or port project.

(8) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or port project.

(9) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(10) To designate the location and establish, limit, and control points of ingress to and egress from ~~the a port property:~~ **or project.**

(11) To lease to others for development or operation such portions of any port or port project, on such terms and conditions as the commission shall deem advisable.

(12) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars (\$25,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in ~~Marion County, Indiana,~~ **the county where the construction will occur** and in such other publications as the commission shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety as shall be approved by the commission, shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(13) To construct, assemble, or otherwise build, own, lease,

operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(13)~~ **(14)** To employ an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation, but no compensation of any employee of the commission shall exceed the compensation of the highest paid officer or employee of the state. ~~However, the employment of an attorney shall be subject to such approval of the attorney general as may be required by law.~~

~~(14)~~ **(15)** To receive and accept from any federal agency grants for or in aid of the construction of any port or ~~port~~ project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(15)~~ **(16)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(16)~~ **(17)** To do all acts and things necessary or proper to carry out the powers expressly granted in this ~~chapter~~ **and article**.

~~(17)~~ **(18)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the commission.

SECTION 208. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission shall find it necessary to change the location of any portion of any public road, **highway**, railroad, or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility,

shall be ascertained and paid by the commission as a part of the cost of ~~such the~~ port or ~~port~~ project. The commission shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or ~~port~~ project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are necessary or proper for the purposes of this ~~chapter,~~ **article,** and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by it, including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or ~~port~~ project, provided adequate compensation is made for such use. The commission shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (referred to in this section as "public utility facilities") of any public utility in, on, along, over, or under any port or ~~port~~ project. Whenever the commission shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on,

along, over, or under any ~~such~~ port or ~~port~~ project should be relocated or should be removed from ~~such the~~ port or ~~port~~ project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the commission. ~~provided;~~ However, ~~that~~ the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the commission as a part of the cost of ~~such the~~ port or ~~port~~ project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

SECTION 209. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall have power to adopt such by-laws, rules and regulations as it may deem advisable for the control and regulation of any port or ~~port~~ project or traffic on any port or ~~port~~ project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the commission shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the commission without the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the commission commits a Class C infraction.

SECTION 210. IC 8-10-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The commission is hereby authorized and empowered to acquire by purchase whenever it shall deem such purchase expedient, any land, property, rights, right-of-ways, franchises, easements and other interests in lands, including lands under water and riparian rights, as it may deem necessary or convenient for the construction and operation of any port or port project, upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the commission and the owner thereof, and to take title thereto in the name of the state.

(b) The commission is hereby further authorized and empowered to sell, transfer and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. ~~and it~~ **The commission** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or port project, or as otherwise required under the provisions of this ~~chapter. Provided, That~~ **article. However**, no such sale shall be made without **first obtaining** the approval of the governor, ~~first obtained~~ and **a sale may not be made at** ~~not~~ less than the appraised value established by three (3) independent appraisers appointed by the governor. The commission shall be authorized to restrict the use of any land so sold by it and provide for a reversion to the commission in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The commission shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the commission, on such terms as the commission shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the commission shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ~~the port and ports~~, terminal facilities, **and projects** under the jurisdiction or control of the commission. In the event the commission shall lease to others a building or structure financed by the issuance of

revenue bonds **under IC 8-10-4**, the rental shall be in an amount at least sufficient to pay the interest on and principal of the amount of such bonds representing the cost of such building or structure to the extent such interest and principal is payable during the term of the lease, as well as to pay the cost of maintenance, repair and insurance for such building and a reasonable portion of the commission's administrative expense incurred during the term of the lease which is allocable to such building or structure.

(d) No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the commission, a port, a project, or the state, unless a written agreement entered into by the commission expressly provides:

- (1) the exact nature and extent of the right, claim, title, or interest;**
- (2) all the conditions under which the right, claim, title, or interest is granted; and**
- (3) a legal or complete description of the specific property.**

SECTION 211. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any port or ~~port~~ project. The commission shall also be empowered to exercise such powers of eminent domain as may be conferred upon the commission by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the commission to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein shall authorize the commission to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or

duplication of such property or facilities elsewhere at the sole cost of the commission excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 212. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the **following:**

(1) Acquisition of land including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition. ~~and for~~

(2) Studies in connection with the port **or project.** ~~and including~~

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

(5) Administrative expenses of the commission. ~~Said~~

The fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars (\$100,000) shall be

expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of port revenue bonds for any port **or project**, the funds expended from the Indiana port fund in connection with the development of such **port or project** and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such **port or project** shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 213. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of port revenue bonds of the state for the purpose of paying all or any part of the cost of a port **or project under this chapter or IC 8-10-4**. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding fifty (50) years from the date thereof, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be

such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) All bonds issued under this ~~chapter~~ **article** shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, **except as provided in IC 8-10-4.**

(g) No action to contest the validity of any bonds issued by the commission under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

SECTION 214. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port **or** project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the commission may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port **or** project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive

bonds when such bonds shall have been executed and are available for delivery. The commission may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. **Bonds and any other instruments or the security for the bonds and other instruments that are authorized by this article** may be issued under the provisions of this ~~chapter~~ **article** without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 215. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is hereby authorized to provide by resolution for the issuance of ~~port revenue~~ refunding bonds of the state payable solely from revenues for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of **section 13 of this chapter or IC 8-10-4-2**, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the commission, for the additional purpose of constructing improvements, extensions, or enlargements of the port ~~or~~ project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the commission in respect of the same, shall be governed by the provisions of this ~~chapter~~ **article** insofar as the same may be applicable.

SECTION 216. IC 8-10-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of the commission any bonds issued under the provisions of this act may be secured by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, **except as provided in IC 8-10-4**. Any resolution adopted by the commission providing for the issuance of **revenue** bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the commission except such part as may be necessary to pay the cost of the commission's administrative expenses, operation, maintenance and repair and to provide reserves

therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the commission, but the commission shall not convey or mortgage any port ~~port or~~ project or any part thereof, **except for self liquidating projects under IC 8-10-4.** In authorizing the issuance of bonds for any particular port ~~or~~ project, ~~undertaken in connection with the development of the port,~~ the commission may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the commission may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port ~~or~~ project on account of which the original bonds were issued, or to provide funds to pay the cost of additional ~~port~~ projects undertaken in connection with the development of the port ~~or~~ **project**, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the commission pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the commission shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the commission. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the port ~~or~~ project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals or other charges, to be

collected for the use of the project, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the commission, to furnish such indemnifying bonds or to pledge such securities as may be required by the commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port **or** project.

SECTION 217. IC 8-10-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission shall be authorized to fix, review, charge and collect fees, tolls, rentals and other charges for the use of the ~~port, port project, ports, projects,~~ terminal facilities and lands under the jurisdiction or control of the commission or services rendered by the commission, and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance and repair of the port **or project** and terminal facilities, including the administration expenses of the commission, and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of ~~such the~~ port **or project** shall be paid into the state general fund.

SECTION 218. IC 8-10-1-19 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the commission or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port or ~~port~~ project.

SECTION 219. IC 8-10-1-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~ project, as defined in section 2 of this chapter, when constructed and ~~opened to traffic~~ **placed in operation** shall be maintained and kept in good condition and repair by the commission. Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the commission may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 220. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real **or personal** property owned by any such municipality or governmental subdivision which may be necessary or

convenient to the effectuation of the authorized purposes of the commission.

SECTION 221. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. **(a)** The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~project.~~ **commission's ports and projects.** The accounts, books and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~port project.~~ **commission's ports and projects.**

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor. Each member of the general assembly shall receive a copy of the report by making a request for it to the chairman of the commission. Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 222. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds issued by the commission under the provisions of this ~~chapter~~ **article** shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. **The bonds are also made securities that may be deposited with and received by all public officers and bodies of Indiana or any agency or political subdivision of Indiana and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of Indiana is now or may be later authorized by law.**

SECTION 223. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of the powers granted by this ~~chapter~~ **article** will be in all respects for the

benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port **or** project by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any port **or** project or any property acquired or used by the commission under the provisions of this ~~chapter~~ **article** or upon the income therefrom. The bonds issued by the commission, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the commission is exempt from property taxation. **However, an exemption under this subsection is not available for land not located at a port.**

SECTION 224. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 30. The state pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.**

SECTION 225. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. (a)** In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, whenever it finds that the

economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the commission further finds will increase the ~~water-borne~~ traffic into or out of the ~~port~~ **project**. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the commission shall have all the powers granted to it by this article, in connection with a ~~port~~ project, and the term "~~port~~" project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the Indiana port commission to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The Indiana port commission shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 226. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "self-liquidating ~~port~~ project" shall mean a ~~port~~ project for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of such bonds to be issued to finance the cost of such ~~port~~ project and further providing for the payment by the lessee or lessees of all costs of maintenance, repair, and insurance of such ~~port~~ project.

(b) Other words and terms used in this chapter shall have the same

meaning as in other provisions of this article, unless otherwise specifically provided.

SECTION 227. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating port project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(a) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(b) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be sold in such manner, either at public or private sale, as the commission may determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

(c) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project.

SECTION 228. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a port project may provide that the lessee, as its reasonable portion of the commission's administrative expense incurred during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the commission for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the commission.

SECTION 229. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any port project may include, instead of the cost of the acquisition of the land constituting the site of such port project, the value of such land as determined by the commission. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana

port fund.

SECTION 230. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may contract for the use of any license, process or device, whether patented or not, which the commission finds is necessary for the operation of any port project, and may permit the use thereof by any lessee on such terms and conditions as the commission may determine. The cost of such license, process or device may be included as part of the cost of the port project.

SECTION 231. IC 8-10-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. The following provisions apply to this chapter:**

- (1) IC 8-10-1-4.
- (2) IC 8-10-1-10.
- (3) IC 8-10-1-13.
- (4) IC 8-10-1-14.
- (5) IC 8-10-1-15.
- (6) IC 8-10-1-16.
- (7) IC 8-10-1-19.
- (8) IC 8-10-1-25.
- (9) IC 8-10-1-27.
- (10) IC 8-10-1-30.

SECTION 232. IC 36-7-13-1.6, AS AMENDED BY P.L.174-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.6. As used in this chapter, "district" refers to a community revitalization enhancement district designated under section 10.5, ~~or~~ 12, **or 12.1** of this chapter.

SECTION 233. IC 36-7-13-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.6. **(a) Except as provided in subsection (b),** as used in this chapter, "gross retail incremental amount" means the remainder of:

- (1) the aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in a district during a state fiscal year; minus
- (2) the gross retail base period amount;

as determined by the department of state revenue under section 14 of this chapter.

(b) For purposes of a district designated under section 12.1 of

this chapter, "gross retail incremental amount" means seventy-five percent (75%) of the amount described in subsection (a).

SECTION 234. IC 36-7-13-3, AS AMENDED BY P.L.113-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) For purposes of this chapter, "improve" means to construct, reconstruct, or repair public ways, sidewalks, sewers, drains, fences, or buildings, and to do all other things that would enhance the value of real property and make it more suitable to industrial use.

(b) A unit may acquire by purchase, gift, or devise, and own, improve, maintain, sell, lease, convey, contract for, or otherwise deal in, real property for the development of industrial parks or industrial sites.

(c) A municipality may exercise powers granted by subsection (b) in areas within five (5) miles outside its corporate boundaries.

(d) When a district is designated under section 12(e) of this chapter, a unit may expend funds for the purposes set forth in subsections (a) and (b) for the development of or to enhance the value of real property used for retail purposes.

(e) When a district is designated under section 12.1 of this chapter, a unit may expend funds for the purposes set forth in section 12.1(b) of this chapter for the development of or to enhance the value of real property used for retail purposes and to make it more suitable to industrial or retail use.

SECTION 235. IC 36-7-13-3.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.4. **(a) Except as provided in subsection (b),** as used in this chapter, "income tax incremental amount" means the remainder of:

- (1) the aggregate amount of state and local income taxes paid by employees employed in a district with respect to wages earned for work in the district for a particular state fiscal year; minus
- (2) the income tax base period amount;

as determined by the department of state revenue under section 14 of this chapter.

(b) For purposes of a district designated under section 12.1 of this chapter, "income tax incremental amount" means seventy-five percent (75%) of the amount described in subsection (a).

SECTION 236. IC 36-7-13-10.1 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10.1. (a) This section applies to a:**

- (1) first class city; or**
- (2) second class city.**

(b) After approval by ordinance or resolution of the legislative body of a city described in subsection (a), the executive of the city may submit an application to an advisory commission on industrial development requesting that one (1) area within the city be designated as a district under section 12.1 of this chapter. However, the total number of districts designated in a city under this chapter after June 30, 2003, (excluding districts designated before July 1, 2003) may not exceed one (1).

SECTION 237. IC 36-7-13-11, AS AMENDED BY P.L.174-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. If a municipal or county executive submits an application requesting an area to be designated as a district under this chapter, the advisory commission on industrial development shall do the following:

- (1) Compile information necessary to make a determination concerning whether the area meets the conditions necessary for designation as a district.
- (2) Prepare maps showing the boundaries of the proposed district.
- (3) Prepare a plan describing the ways in which the development obstacles described in section 12(b)(3), 12(c), 12(d), ~~or 12(e), or 12.1(a)~~ of this chapter in the proposed district will be addressed.

SECTION 238. IC 36-7-13-12, AS AMENDED BY P.L.170-2002, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

- (b) For an area located in a county having a population of more than

one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least one million (1,000,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant due to the relocation of an employer.
- (2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.
- (4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).
- (5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than two (2) areas as districts. An advisory commission may designate an area as a district only after finding the following:

- (1) The area meets either of the following conditions:
 - (A) The area contains a building with at least seven hundred ninety thousand (790,000) square feet, and at least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is ~~ten~~ (10)

fifteen (15) years previous to the current year.

(B) The area contains a building with at least four hundred forty thousand (440,000) square feet, and at least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is ~~ten (10)~~ **fifteen (15)** years previous to the current year.

- (2) The area is located in or is adjacent to an industrial park.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.

(4) The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

- (1) The area contains a building or buildings:
 - (A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and
 - (B) that is or are vacant or will become vacant.
- (2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.
- (3) There are significant obstacles to redevelopment of the area due to any of the following problems:
 - (A) Obsolete or inefficient buildings.
 - (B) Aging infrastructure or inefficient utility services.
 - (C) Utility relocation requirements.
 - (D) Transportation or access problems.
 - (E) Topographical obstacles to redevelopment.
 - (F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or

pledged at least one hundred thousand dollars (\$100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least eight hundred thousand (800,000) gross square feet; and

(B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.

(2) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.

(B) Transportation or access problems.

(C) Environmental contamination.

(3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.

(5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).

(6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district, but the duration may not exceed fifteen (15) years (at the time of designation).

(g) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency.

(h) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(i) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the budget agency approves the resolution.

SECTION 239. IC 36-7-13-12.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.1. (a) If the executive of a city described in section 10.1(a) of this chapter has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it finds the following:**

(1) That the redevelopment of the area in the district will:

(A) promote significant opportunities for the gainful employment of its citizens;

(B) attract a major new business enterprise to the area; or

(C) retain or expand a significant business enterprise within the area.

(2) That there are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or ineffective utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(G) Lack of development or cessation of growth.

(H) Deterioration of improvements or character of occupancy, age, obsolescence, or substandard buildings.

(I) Other factors that have impaired values or prevent a normal development of property or use of property.

(b) To address the obstacles identified in subsection (a)(2), the city may make expenditures for:

- (1) the acquisition of land;**
- (2) interests in land;**
- (3) site improvements;**
- (4) infrastructure improvements;**
- (5) buildings;**
- (6) structures;**
- (7) rehabilitation, renovation, and enlargement of buildings and structures;**
- (8) machinery;**
- (9) equipment;**
- (10) furnishings;**
- (11) facilities;**
- (12) administration expenses associated with such a project;**
- (13) operating expenses; or**
- (14) substance removal or remedial action to the area.**

(c) In addition to the findings described in subsection (a), an advisory commission must also find that the city described in section 10.1(a) of this chapter has expended, appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars (\$250,000) for purposes of addressing the redevelopment obstacles described in subsection (a)(2).

(d) The advisory commission shall designate the duration of the district, but the duration may not exceed fifteen (15) years (at the time of designation).

(e) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency.

(f) When considering a resolution, the budget committee and the budget agency must make the following findings:

- (1) The area to be designated as a district meets the conditions necessary for designation as a district.**
- (2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases**

and tax revenues for at least the duration of the district.

(g) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the budget agency approves the resolution.

SECTION 240. IC 36-7-13-13, AS AMENDED BY P.L.174-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) If an advisory commission on industrial development designates a district under section 12 **or 12.1** of this chapter or if the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall send a certified copy of the resolution or ordinance designating the district to the department of state revenue by certified mail and shall include with the resolution a complete list of the following:

- (1) Employers in the district.
- (2) Street names and the range of street numbers of each street in the district.

The advisory commission, or the legislative body in the case of a district designated under section 10.5 of this chapter, shall update the list before July 1 of each year.

(b) Not later than sixty (60) days after receiving a copy of the resolution or ordinance designating a district, the department of state revenue shall determine the gross retail base period amount and the income tax base period amount.

SECTION 241. IC 36-7-13-15, AS AMENDED BY P.L.192-2002(ss), SECTION 175, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) If an advisory commission on industrial development designates a district under this chapter or the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the treasurer of state shall establish an incremental tax financing fund for the ~~county-~~ **district**. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for the ~~county~~ **district** under subsection (a):

- (1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the district.
 - (2) The aggregate amount of state and local income taxes paid by employees employed in the district with respect to wages earned for work in the district, until the amount of state and local income taxes deposited equals the income tax incremental amount.
- (c) The aggregate amount of revenues that is:
- (1) attributable to:
 - (A) the state gross retail and use taxes established under IC 6-2.5; and
 - (B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and
 - (2) deposited during any state fiscal year in each incremental tax financing fund established for a ~~county~~ **district**;
- may not exceed one million dollars (\$1,000,000) per ~~county~~ **district designated under section 10.5 or 12 of this chapter and seven hundred fifty thousand dollars (\$750,000) per district for a district designated under section 10.1 or 12.1 of this chapter.**
- (d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a ~~county~~ **district** shall be distributed to the district's advisory commission on industrial development for deposit in the industrial development fund of the unit that requested designation of the district.

SECTION 242. IC 36-7-13-16, AS AMENDED BY P.L.174-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A unit may issue bonds or other obligations to finance the costs of addressing the development obstacles described in section 12(b)(3), 12(c), 12(d)(3), ~~or~~ 12(e)(2), ~~or~~ **12.1(a)** of this chapter in the district.

(b) The district bonds are special obligations of indebtedness of the district. The district bonds issued under this section, and interest on the district bonds, are payable solely out of amounts deposited in the industrial development fund under this chapter.

SECTION 243. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] **IC 6-3.1-19-1.5 and IC 6-3.1-19-2.5, both as added by this act, and IC 6-3.1-19-3, as amended by this act, apply**

to taxable years beginning after December 31, 2002.

SECTION 244. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "commission" refers to the government efficiency commission established by subsection (c).

(b) As used in this SECTION, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

(c) The government efficiency commission is established.

(d) The commission consists of the following members:

(1) One (1) co-chairperson appointed before July 16, 2003, by the president pro tempore of the senate.

(2) One (1) co-chairperson appointed before July 16, 2003, by the speaker of the house of representatives.

(3) Ten (10) members appointed before August 16, 2003, by the president pro tempore of the senate, five (5) of those members appointed with the advice and consent of the minority leader of the senate.

(4) Ten (10) members appointed before August 16, 2003, by the speaker of the house of representatives, five (5) of those members appointed with the advice and consent of the minority leader of the house of representatives.

(e) The following may not be members of the commission:

(1) An elected or appointed state or local official.

(2) An employee or a person receiving a pension or other retirement benefit related to service to any of the following:

(A) A state educational institution.

(B) A school corporation or a charter school.

(C) The state or any agency of the state.

(3) A person who has a direct business relationship with any of the following:

(A) A state educational institution.

(B) A public school corporation.

(C) The state or any agency of the state.

(D) An elected or appointed state agency official.

(E) The general assembly or any of its members.

(f) A member of the commission is not entitled to a salary per diem.

(g) A member of the commission is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the legislative

council's travel policies and procedures.

(h) The commission shall meet upon the call of the co-chairpersons.

(i) The co-chairpersons may advise the president pro tempore of the senate, the minority leader of the senate, the speaker of the house of representatives, and the minority leader of the house of representatives concerning the appointment of other members of the commission.

(j) A quorum of the commission must be present to conduct business. A quorum consists of a majority of the voting members appointed to the commission.

(k) The commission may not take an official action unless the official action has been approved by at least a majority of the voting members appointed to serve on the commission.

(l) The co-chairpersons shall establish and appoint commission members to four (4) subcommittees as follows:

- (1) The K-12 education subcommittee.
- (2) The higher education subcommittee.
- (3) The Medicaid and human services subcommittee.
- (4) The general government subcommittee.

(m) The co-chairpersons shall name the chairperson of each subcommittee.

(n) The commission shall do the following:

- (1) Review all state funded agencies, departments, and programs.
- (2) Make recommendations to improve efficiency and reduce waste or other unnecessary costs associated with any state funded agency, department, or program.

(o) The commission may accept donations to carry out the purposes of this SECTION.

(p) The following persons shall serve as staff advisers to the commission:

- (1) The state budget director.
- (2) The commissioner of the commission for higher education.
- (3) The Indiana state board of education administrator.
- (4) The executive director of the legislative services agency.

(q) The commission shall provide its final recommendations before December 31, 2004, to the following:

- (1) The governor.

(2) The general assembly.

(r) This SECTION expires January 1, 2005.

SECTION 245. IC 4-4-5.1-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. The board shall submit an annual report to the legislative council before September 1. The report must contain the following information concerning fund activity in the preceding state fiscal year:**

(1) The name of each entity receiving a grant from the fund.

(2) The location of each entity sorted by:

(A) county, in the case of an entity located in Indiana; or

(B) state, in the case of an entity located outside Indiana.

(3) The amount of each grant awarded to each entity.

SECTION 246. IC 6-1.1-18.5-13, AS AMENDED BY P.L.192-2002(ss), SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.** With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to reallocate the amount set aside as a property tax replacement credit as required by IC 6-3.5-1.1 for a purpose other than property tax relief. However, whenever this occurs, the local government tax control board shall also state the amount to be reallocated.

(2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues

available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence. (4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the civil taxing unit's total assessed value of all taxable property in the particular calendar year, divided by the civil taxing unit's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the total assessed value of all taxable property of all civil taxing units in the particular calendar year, divided by the total assessed value of all taxable property of all civil taxing units in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

In addition, before the local government tax control board may recommend the relief allowed under this subdivision, the civil taxing unit must show a need for the increased levy because of special circumstances, and the local government tax control board

must consider other sources of revenue and other means of relief.

(5) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(6) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and

contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(7) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(8) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(9) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$0.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(10) Permission for a county:

(A) having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of

the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991;

(B) that operates a county jail or juvenile detention center that is subject to an order that:

(i) was issued by a federal district court; and

(ii) has not been terminated;

(C) that operates a county jail that fails to meet:

(i) American Correctional Association Jail Construction Standards; and

(ii) Indiana jail operation standards adopted by the department of correction; or

(D) that operates a juvenile detention center that fails to meet standards equivalent to the standards described in clause (C) for the operation of juvenile detention centers.

Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or a juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or a juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second

time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(12) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(13) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under subdivision (1) in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned to have reallocated in 2001 under subdivision (1) for a purpose other than property tax relief.

SECTION 247. IC 6-3.5-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A county income tax council of a county in which the county option income tax is in effect may adopt an ordinance to increase the percentage credit allowed for homesteads in its county under IC 6-1.1-20.9-2.

(b) A county income tax council may not increase the percentage credit allowed for homesteads by an amount that exceeds ~~eight percent (8%)~~: **the amount determined in the last STEP of the following formula:**

STEP ONE: Determine the amount of the sum of all property tax levies for all taxing units in a county which are to be paid in the county in 2003 as reflected by the auditor's abstract for the 2002 assessment year, adjusted, however, for any postabstract adjustments which change the amount of the levies.

STEP TWO: Determine the amount of the county's estimated property tax replacement under IC 6-1.1-21-3(a) for property taxes first due and payable in 2003.

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the amount of the county's total county levy (as defined in IC 6-1.1-21-2(g)) for property taxes first due and payable in 2003.

STEP FIVE: Subtract the STEP FOUR amount from the STEP ONE amount.

STEP SIX: Subtract the STEP FIVE result from the STEP THREE result.

STEP SEVEN: Divide the STEP THREE result by the STEP SIX result.

STEP EIGHT: Multiply the STEP SEVEN result by eight-hundredths (0.08).

STEP NINE: Round the STEP EIGHT product to the nearest one thousandth and express the result as a percentage.

(c) The increase of the homestead credit percentage must be uniform for all homesteads in a county.

(d) In the ordinance that increases the homestead credit percentage, a county income tax council may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after January 1 but before June 1 of a calendar year.

(f) An ordinance adopted under this section takes effect on January 1 of the next succeeding calendar year.

(g) Any ordinance adopted under this section for a county is repealed for a year if on January 1 of that year the county option income tax is not in effect.

SECTION 248. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 6-3.5-6-13, as amended by this act, or any other law, a county income tax council of a county in which the county option income tax is in effect may adopt an ordinance to increase the percentage credit allowed for homesteads in its county under IC 6-1.1-20.9-2 for property taxes first due and payable in 2003 and each year thereafter.

(b) An ordinance may be adopted under this SECTION before July 1, 2003.

(c) Property tax statements mailed under IC 6-1.1-22 before July 1, 2003, in a county adopting an ordinance under this SECTION are superseded by property tax statements recalculated to implement this SECTION.

(d) The department of local government finance shall assist a county adopting an ordinance under this SECTION in implementing this SECTION.

(e) This SECTION expires January 1, 2004.

SECTION 249. IC 6-9-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) For purposes of this section, "person" includes a sole proprietorship, a partnership, an association, a corporation, a limited liability company, a fiduciary, or an individual.

(b) The board may:

- (1) accept and use gifts, grants, and contributions from any public or private source, under terms and conditions which the board deems necessary and desirable;
- (2) sue and be sued;
- (3) enter into contracts and agreements;
- (4) make rules and regulations necessary for the conduct of its business and the accomplishment of its purposes; ~~and~~
- (5) receive and approve, alter, or reject requests and proposals for funding by organizations; **and**

(6) either:

(A) finance facilities; or

(B) enter into contracts with a person to assist in the

financing of facilities;

to be used by the board or a person to promote the development and growth of the convention and tourism industry in the county.

(c) By resolution of the board and by ordinance of the county fiscal body, the board and the county may jointly:

(1) pledge tax revenues received under this chapter to pay:

(A) the principal of or interest on bonds;

(B) the lease rental payments on leases; or

(C) other obligations of the county;

to finance facilities described in subsection (b)(6); or

(2) require financial or other reports from:

(A) any organization that receives funds under this chapter; or

(B) any person who receives assistance to finance facilities under this chapter.

(d) The board may pledge tax revenues received under this chapter to pay the interest on obligations entered into by a person with whom the board has entered into a contract to assist in financing facilities under subsection (b)(6).

(e) A pledge of revenues under this section is enforceable under IC 5-1-14-4.

SECTION 250. IC 6-9-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) There is imposed a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodging, or accommodations in any hotel, motel, inn, university residence hall, tourist camp, or tourist cabin located in the county. However, the tax is not imposed on the renting or furnishing of rooms, lodgings, or accommodations to a person for a period of thirty (30) days or more, or on the renting or furnishing of any room, lodging, or accommodations in a university or college residence hall to a student participating in a course of study for which the student receives college credit from a college or university located in the county.

(b) The tax shall be imposed at the rate of three percent (3%) on the gross income derived from lodging income only. **Except as provided in subsection (g)**, the fiscal body of the county may increase the tax rate up to a maximum rate of five percent (5%). The tax is in addition

to the state gross retail tax imposed on such persons by IC 6-2.5.

(c) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected pursuant to IC 6-2.5.

(d) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration shall be applicable to the imposition and administration of the tax imposed by this section except to the extent such provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. Specifically, and not in limitation of the foregoing sentence, the terms "person" and "gross income" have the same meaning in this section as they have in IC 6-2.5, except that "person" does not include state supported educational institutions.

(e) If the tax is paid to the department of state revenue, the returns to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax, as the department of state revenue may by rule determine.

(f) If the tax is paid to the department of state revenue, the amounts received from such tax shall be paid quarterly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

(g) In addition to the rates authorized in subsection (b), the county fiscal body may adopt an ordinance to increase the tax by an additional rate of one percent (1%) on the gross income derived from lodging income, up to a maximum rate of six percent (6%), only to provide funds for the purposes described in section 5(b)(6) of this chapter.

(h) A tax rate imposed under subsection (g) may not be imposed for a time greater than is necessary to:

- (1) pay the costs of financing facilities; or**
- (2) assist a person with whom the board has contracted to finance facilities;**

described in section 5(b)(6) of this chapter.

(i) The county fiscal body may not take action to rescind the additional tax imposed under subsection (g) if:

- (1) the principal of or interest on any bonds;**
- (2) the lease rentals due under any leases; or**
- (3) any other obligation;**

remains unpaid.

SECTION 251. IC 6-9-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) The county treasurer shall establish a convention and tourism fund and shall deposit in the fund all money he the county treasurer receives under section 6 of this chapter.**

(b) The county treasurer shall establish an account of the fund into which the treasurer shall deposit all tax revenues received from the imposition of the additional tax rate under section 6(g) of this chapter. Money in the account shall be expended to pay:

- (1) debt service on bonds issued by the county to finance facilities described in section 5(b)(6) of this chapter; or**
- (2) interest on obligations entered into by a person with whom the board has entered into a contract to assist in financing facilities described in section 5(b)(6) of this chapter.**

(c) Money in the fund shall be expended by the board to develop and promote the convention and tourism industry.

SECTION 252. IC 6-9-10-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a) A county described in section 1 of this chapter has been presented a unique opportunity to enter into a public-private partnership to develop conference facilities that will serve to develop and promote the convention and tourism industry in the county.**

(b) A county described in section 1 of this chapter is uniquely positioned to develop and promote its convention and tourism industry due to its geographic location as a gateway to the state and the presence of at least two (2) national highways traversing its boundaries.

SECTION 253. IC 6-9-10-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **With respect to:**

- (1) bonds, leases, or other obligations for which the county has pledged tax revenues under section 5 of this chapter; or**
- (2) bonds issued by a lessor that are payable from lease rentals;**

the general assembly covenants with the county, the purchasers or owners of the bonds or other obligations described in subdivision (1), and the owners of bonds described in subdivision (2) that this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter if the principal of any bonds, the interest on any bonds, or the lease rentals due under any lease remain unpaid.

SECTION 254. IC 6-3.5-7-5, AS AMENDED BY P.L.192-2002(ss), SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

- (1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;
- (2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or
- (3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), ~~and~~ (p), **and (r)** the county economic development income tax may be imposed at a rate of:

- (1) one-tenth percent (0.1%);
- (2) two-tenths percent (0.2%);
- (3) twenty-five hundredths percent (0.25%);
- (4) three-tenths percent (0.3%);
- (5) thirty-five hundredths percent (0.35%);
- (6) four-tenths percent (0.4%);

(7) forty-five hundredths percent (0.45%); or

(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g) or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year."

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:

(A) fifteen-hundredths percent (0.15%);

(B) two-tenths percent (0.2%); or

(C) twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

- (1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and
- (2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect

on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900); except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

SECTION 255. IC 6-3.5-7-12, AS AMENDED BY P.L.192-2002(ss), SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) Except as provided in sections 23, 25, ~~and 26, and 27~~ of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

(1) The amount of the certified distribution for that month; multiplied by

(2) A fraction. The numerator of the fraction equals the sum of the following:

(A) Total property taxes that are first due and payable to the county, city, or town during the calendar year in which the month falls; plus

(B) For a county, an amount equal to:

(i) the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; plus

(ii) after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund, and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

- (1) The ordinance is effective January 1 of the following year.
 - (2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:
 - (A) the amount of the certified distribution for the month; multiplied by
 - (B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.
 - (3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.
- (d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:
- (1) The county.
 - (2) A city or town in the county.
 - (3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.
- (e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.
- (f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.
- (g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.
- (h) In a county having a consolidated city, only the consolidated city

is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

SECTION 256. IC 6-3.5-7-13.1, AS AMENDED BY P.L.192-2002(ss), SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13.1.(a) The fiscal officer of each county, city, or town for a county in which the county economic development tax is imposed shall establish an economic development income tax fund. Except as provided in sections 23, 25, **and 26, and 27** of this chapter, the revenue received by a county, city, or town under this chapter shall be deposited in the unit's economic development income tax fund.

(b) Except as provided in sections 15, 23, 25, **and 26, and 27** of this chapter, revenues from the county economic development income tax may be used as follows:

(1) By a county, city, or town for economic development projects, for paying, notwithstanding any other law, under a written agreement all or a part of the interest owed by a private developer or user on a loan extended by a financial institution or other lender to the developer or user if the proceeds of the loan are or are to be used to finance an economic development project, for the retirement of bonds under section 14 of this chapter for economic development projects, for leases under section 21 of this chapter, or for leases or bonds entered into or issued prior to the date the economic development income tax was imposed if the purpose of the lease or bonds would have qualified as a purpose under this chapter at the time the lease was entered into or the bonds were issued.

(2) By a county, city, or town for:

(A) the construction or acquisition of, or remedial action with respect to, a capital project for which the unit is empowered to issue general obligation bonds or establish a fund under any statute listed in IC 6-1.1-18.5-9.8;

(B) the retirement of bonds issued under any provision of Indiana law for a capital project;

(C) the payment of lease rentals under any statute for a capital project;

(D) contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning

- and implementing economic development projects;
- (E) operating expenses of a governmental entity that plans or implements economic development projects;
- (F) to the extent not otherwise allowed under this chapter, funding substance removal or remedial action in a designated unit; or
- (G) funding of a revolving fund established under IC 5-1-14-14.

(c) As used in this section, an economic development project is any project that:

- (1) the county, city, or town determines will:
 - (A) promote significant opportunities for the gainful employment of its citizens;
 - (B) attract a major new business enterprise to the unit; or
 - (C) retain or expand a significant business enterprise within the unit; and
- (2) involves an expenditure for:
 - (A) the acquisition of land;
 - (B) interests in land;
 - (C) site improvements;
 - (D) infrastructure improvements;
 - (E) buildings;
 - (F) structures;
 - (G) rehabilitation, renovation, and enlargement of buildings and structures;
 - (H) machinery;
 - (I) equipment;
 - (J) furnishings;
 - (K) facilities;
 - (L) administrative expenses associated with such a project, including contract payments authorized under subsection (b)(2)(D);
 - (M) operating expenses authorized under subsection (b)(2)(E);
 or
 - (N) to the extent not otherwise allowed under this chapter, substance removal or remedial action in a designated unit;

or any combination of these.

SECTION 257. IC 6-3.5-7-27 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) This section applies to a county that:**

- (1) operates a courthouse that is subject to an order that:**
 - (A) is issued by a federal district court;**
 - (B) applies to an action commenced before January 1, 2003; and**
 - (C) requires the county to comply with the American with Disabilities Act; and**
- (2) has insufficient revenues to finance the construction, acquisition, improvement, renovation, equipping, and operation of the courthouse facilities and related facilities.**

(b) A county described in this section possesses unique fiscal challenges in financing, renovating, equipping, and operating the county courthouse facilities and related facilities because the county consistently has one of the highest unemployment rates in Indiana. Maintaining low property tax rates is essential to economic development in the county. The use of economic development income tax revenues under this section for the purposes described in subsection (c) promotes that purpose.

(c) In addition to actions authorized by section 5 of this chapter, a county council may, using the procedures set forth in this chapter, adopt an ordinance to impose an additional county economic development income tax on the adjusted gross income of county taxpayers. The ordinance imposing the additional tax must include a finding that revenues from additional tax are needed to pay the costs of:

- (1) constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities;**
- (2) repaying any bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities; and**
- (3) economic development projects described in the county's capital improvement plan.**

(d) The tax rate imposed under this section may not exceed twenty-five hundredths percent (0.25%).

(e) If the county council adopts an ordinance to impose an additional tax under this section, the county auditor shall immediately send a certified copy of the ordinance to the

department by certified mail. The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in subsection (c)(1) and (c)(2). The amount of county economic development income tax revenues derived from the tax rate imposed under this section that are necessary to pay the costs described in subsection (c)(1) and (c)(2) shall be deposited into the county facilities revenue fund before a certified distribution is made under section 12 of this chapter. The remainder shall be deposited into the economic development income tax funds of the county's units.

(f) County economic development income tax revenues derived from the tax rate imposed under this section may not be used for purposes other than those described in this section.

(g) County economic development income tax revenues derived from the tax rate imposed under this section that are deposited into the county facilities revenue fund may not be considered by the department of local government finance in determining the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

(h) Notwithstanding section 5 of this chapter, and ordinance may be adopted under this section at any time. If the ordinance is adopted before June 1 of a year, a tax rate imposed under this section takes effect July 1 of that year. If the ordinance is adopted after May 31 of a year, a tax rate imposed under this section takes effect on the January 1 immediately following adoption of the ordinance.

(i) For a county adopting an ordinance before June 1 in a year, in determining the certified distribution under section 11 of this chapter for the calendar year beginning with the immediately following January 1 and each calendar year thereafter, the department shall take into account the certified ordinance mailed to the department under subsection (e). For a county adopting an ordinance after May 31, the department shall issue an initial or revised certified distribution for the calendar year beginning with the immediately following January 1. Except for a county adopting an ordinance after May 31, a county's certified distribution shall be distributed on the dates specified under section 16 of this chapter. In the case of a county adopting an ordinance after May 31, the county, beginning with the calendar year beginning on the

immediately following January 1, shall receive the entire certified distribution for the calendar year on November 1 of the year.

(j) Notwithstanding any other law, funds accumulated from the county economic development income tax imposed under this section and deposited into the the county facilities revenue fund or any other revenues of the county may be deposited into a nonreverting fund of the county to be used for operating costs of the courthouse facilities, juvenile detention facilities, or related facilities. Amounts in the county nonreverting fund may not be used by the department of local government finance to reduce the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

SECTION 258. IC 6-3.5-7-22.5, AS AMENDED BY P.L.90-2002, SECTION 299, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.5. (a) This section applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500).

(b) In addition to the rates permitted by section 5 of this chapter, the county council may impose the county economic development income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (c).

(c) In order to impose the county economic development income tax as provided in this section, the county council must adopt an ordinance finding and determining that revenues from the county economic development income tax are needed to pay the costs of:

(1) financing ~~constructing, acquiring, renovating, and equipping the county courthouse~~ and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions, including the repayment of bonds issued, or leases entered into for ~~constructing, acquiring, renovating, and equipping the county courthouse~~ and renovating the former county hospital for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions;

(2) financing constructing, acquiring, renovating, and equipping buildings for a volunteer fire department (as

defined in IC 36-8-12-2) that provides services in any part of the county; and

(3) financing constructing, acquiring, and renovating firefighting apparatus or other related equipment for a volunteer fire department (as defined in IC 36-8-12-2) that provides services in any part of the county.

The revenues from the county economic development income tax imposed under this section may not be used to pay the costs of financing constructing, acquiring, renovating, and equipping the county courthouse.

(d) If the county council makes a determination under subsection (c), the county council may adopt a tax rate under subsection (b). The tax rate may not be imposed at a rate or for a time greater than is necessary to pay ~~the costs of financing, constructing, acquiring, renovating, and equipping the county courthouse and renovating the former county hospital for additional office space; educational facilities; nonsecure juvenile facilities; and other county functions.~~ **for the purposes described in this section.**

(e) The county treasurer shall establish a county ~~courthouse~~ **option tax** revenue fund to be used only for the purposes described in this section. County economic development income tax revenues derived from the tax rate imposed under this section shall be deposited in the county ~~courthouse~~ **option tax** revenue fund before making a certified distribution under section 11 of this chapter.

(f) County economic development income tax revenues derived from the tax rate imposed under this section:

- (1) may only be used for the purposes described in this section;
- (2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy limit under IC 6-1.1-18.5; and
- (3) may be pledged to the repayment of bonds issued, or leases entered into, for the purposes described in subsection (c).

(g) A county described in subsection (a) possesses:

- (1) unique fiscal challenges to finance the operations of county government due to the county's ongoing obligation to repay amounts received by the county due to an overpayment of the county's certified distribution under IC 6-3.5-1.1-9 for a prior year; and

(2) unique capital financing needs due to the imminent transfer from the governing board of the county hospital of facilities no longer needed for hospital purposes and the need to undertake immediate improvements in order to make those facilities suitable for use by the county for additional office space, educational facilities, nonsecure juvenile facilities, and other county functions: **related to the purposes described in subsection (c).**

SECTION 259. IC 6-1.1-19-10.5, AS AMENDED BY P.L.90-2002, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 10.5. Notwithstanding the order of the department of local government finance in the matter of the excessive levy appeal for emergency financial relief for Jay County School Corporation, the department shall grant approval of an excessive levy to a school corporation that has requested the excessive levy as a result of an intercept action. Such relief shall be granted as an advance of state funds to be paid back to the treasurer of state in ~~one~~ **two** hundred ~~twenty~~ ~~(+20)~~ **forty (240)** payments of:

- (1) thirteen thousand eight hundred eighty-two dollars (\$13,882) beginning on January 15, 2001, and ending **May 15, 2003; and**
- (2) **equal installment amounts beginning June 15, 2003, and ending** with final payment on December 31, ~~2010~~ **2020.**

SECTION 260. IC 4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 1.5. ECONOMIC DEVELOPMENT

Chapter 1. Purpose

Sec. 1. The purpose of this article is to improve the quality of life for the citizens of Indiana by encouraging:

- (1) the diversification of Indiana's economy;
- (2) the creation of new jobs;
- (3) the retention of existing jobs;
- (4) the growth and modernization of existing industry; and
- (5) the promotion of the state.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Board" refers to the board of the corporation established by IC 4-1.5-4-1.

Sec. 3. "Corporation" refers to the Indiana economic development corporation established by IC 4-1.5-3-1.

Sec. 4. "Economic development" refers to the purposes described in IC 4-1.5-1-1.

Sec. 5. "Office" refers to the office of economic development established by IC 4-1.5-7-1.

Chapter 3. Indiana economic development corporation

Sec. 1. The Indiana economic development corporation is established.

Sec. 2. The corporation is a body politic and corporate, not a state agency but an independent instrumentality exercising essential public functions.

Sec. 3. Employees of the corporation are not employees of the state.

Chapter 4. Corporation Board

Sec. 1. The corporation shall be governed by a board.

Sec. 2. The board is composed of the following twenty-three (23) members, none of whom may be members of the general assembly:

(1) Three (3) persons appointed by the governor who must be employed in or retired from the private or nonprofit sector.

(2) The lieutenant governor.

(3) Three (3) persons appointed by the speaker of the house of representatives who must be employed in or retired from the private or nonprofit sector.

(4) Three (3) persons appointed by the minority leader of the house of representatives who must be employed in or retired from the private or nonprofit sector.

(5) Three (3) persons appointed by the president pro tempore of the senate who must be employed in or retired from the private or nonprofit sector.

(6) Three (3) persons appointed by the minority leader of the senate who must be employed in or retired from the private or nonprofit sector.

(7) One (1) person appointed by the president of Indiana University who must be employed in or retired from the private or nonprofit sector or academia.

(8) One (1) person appointed by the president of Purdue University who must be employed in or retired from the private or nonprofit sector or academia.

(9) One (1) person appointed by the president of Indiana State University who must be employed in or retired from the private or nonprofit sector or academia.

(10) One (1) person appointed by the president of Ball State University who must be employed in or retired from the private or nonprofit sector or academia.

(11) One (1) person appointed by the president of the University of Southern Indiana who must be employed in or retired from the private or nonprofit sector or academia.

(12) One (1) person appointed by the president of Ivy Tech State College who must be employed in or retired from the private or nonprofit sector or academia.

(13) One (1) person appointed by the president of Vincennes University who must be employed in or retired from the private or nonprofit sector or academia.

Sec. 3. Subject to section 4 of this chapter, the terms of office of the members of the board are as follows:

(1) Members appointed by the governor, president pro tempore of the senate, or minority leader of the senate serve for terms of four (4) years.

(2) Members appointed by the speaker of the house of representatives, the minority leader of the house of representatives, or the president of a university or college serve for terms of two (2) years.

Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. Members are eligible for reappointment.

Sec. 4. The initial members of the board must be appointed before July 16, 2003. Each member shall hold office for the term of appointment and shall continue to serve after expiration of the appointment until a successor is appointed and qualified. The terms of the initial board members expire July 1, 2005. Members are eligible for reappointment.

Sec. 5. The lieutenant governor shall serve as chairperson of the board.

Sec. 6. The members of the board are entitled to a salary per diem for attending meetings equal to the per diem provided by law for members of the general assembly. The members of the board

are entitled to receive reimbursement for actual and necessary expenses on the same basis as state employees.

Sec. 7. Fifteen (15) members constitute a quorum for the transaction of business. The affirmative vote of at least twelve (12) members is necessary for any action to be taken by the board. Members may vote by written proxy delivered in advance to any other member who is present at the meeting.

Sec. 8. Meetings of the board shall be held at the call of the chairperson or whenever any six (6) members request a meeting. The members shall meet at least once every three (3) months to attend to the business of the board.

Chapter 5. General Powers

Sec. 1. Beginning July 1, 2005, the corporation shall carry out the economic development functions of the state in conformity with the laws enacted by the general assembly. Until July 1, 2005, the board of the corporation shall serve as an advisory board to the state on economic development matters.

Sec. 2. The corporation is granted all powers necessary or appropriate to carry out and effectuate the corporation's public and corporate purposes under this chapter.

Sec. 3. The corporation may, without the approval of the attorney general or any other state officer, employ bond counsel (after June 30, 2005), other legal counsel, technical experts, and other officers, agents, and employees, permanent or temporary, the corporation considers necessary to carry out the efficient operation of the corporation.

Sec. 4. The corporation shall determine qualifications, duties, compensation, and terms of service for persons employed by the corporation as employees or as independent contractors.

Sec. 5. After June 30, 2005, the corporation may incur debt. Debt incurred by the corporation does not represent or constitute a debt of the state within the meaning of the Constitution of the State of Indiana or Indiana statutes.

Chapter 6. Duties; Oversight

Sec. 1. On July 1, 2005, the following entities become subsidiaries or agencies of the corporation:

- (1) Indiana small business development corporation established under IC 4-3-12-1.
- (2) Indiana economic development council established under

IC 4-3-14.

(3) Indiana development finance authority established by IC 4-4-11-4.

(4) The Indiana twenty-first century research and technology fund established under IC 4-4-5.1.

(5) The Indiana venture fund established under IC 4-4-11.7.

Sec. 2. Beginning July 1, 2005, the corporation is responsible for overseeing the operations of the entities described in section 1 of this chapter.

Sec. 3. The corporation shall do the following:

(1) Create and regularly update a strategic economic development plan.

(2) Establish strategic benchmarks and performance measures.

(3) Monitor and report on Indiana's economic performance.

(4) Market Indiana to businesses worldwide.

(5) Assist Indiana businesses that want to grow.

(6) Solicit funding from the private sector for selected initiatives.

Chapter 7. Office of Economic Development

Sec. 1. The office of economic development is established within the corporation.

Sec. 2. The office shall staff the board.

Sec. 3. The office shall carry out the functions of the corporation under the direction of the board.

SECTION 261. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to energy policy are transferred to the office of energy policy on July 1, 2005.

(b) The rules adopted by the department of commerce concerning energy policy before July 1, 2005, are considered, after June 30, 2005, rules of the office of energy policy until the office of energy policy adopts replacement rules.

(c) On July 1, 2005, the office of energy policy becomes the owner of all property relating to energy policy of the department of commerce.

(d) Any appropriations to the department of commerce relating to energy policy and any funds relating to energy policy under the control or supervision of the department of commerce on June 30, 2005, are transferred to the control or supervision of the office

of energy policy on July 1, 2005.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the office of energy policy by this act.

(f) This SECTION expires January 1, 2006.

SECTION 262. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to tourism and community development are transferred to the department of tourism and community development on July 1, 2005.

(b) The rules adopted by the department of commerce concerning tourism and community development before July 1, 2005, are considered, after June 30, 2005, rules of the department of tourism and community development until the department of tourism and community development adopts replacement rules.

(c) On July 1, 2005, the department of tourism and community development becomes the owner of all property relating to tourism promotion and community development of the department of commerce.

(d) Any appropriations to the department of commerce relating to tourism and community development and funds relating to tourism and community development under the control or supervision of the department of commerce on June 30, 2005, are transferred to the control or supervision of the department of tourism and community development on July 1, 2005.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the department of tourism and community development by this act.

(f) This SECTION expires January 1, 2006.

SECTION 263. [EFFECTIVE JULY 1, 2003] (a) The duties conferred on the department of commerce relating to economic development in Indiana, except those relating to energy policy or tourism and community development, are transferred to the Indiana economic development corporation established by IC 4-1.5-3-1, as added by this act, on July 1, 2005.

(b) The rules and policies adopted by the department of commerce related to economic development, except those related

to energy policy and tourism and community development, before July 1, 2005, are considered, after June 30, 2005, policies of the Indiana economic development corporation until the corporation adopts replacement policies.

(c) On July 1, 2005, the Indiana economic development corporation becomes the owner of all property and obligations of the department of commerce that are associated with the economic development activities of the department of commerce, except property and obligations related to energy policy and tourism and community development.

(d) Any appropriations to the department of commerce and funds under the control or supervision of the department of commerce related to its economic development functions, except appropriations and funds related to energy policy and tourism and community development, on June 30, 2005, are transferred to the Indiana economic development corporation on January 1, 2005.

(e) Any reference in a law or other document to the department of commerce or director of the department of commerce made before July 1, 2005, and relating to its economic development function shall be treated after June 30, 2005, as a reference to the Indiana economic development corporation established by this act.

(f) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities to the Indiana economic development corporation by this act.

(g) This SECTION expires January, 2006.

SECTION 264. [EFFECTIVE JULY 1, 2003] The following bodies corporate and politic are transferred to the Indiana economic development corporation to be operated as separate corporate entities under the supervision of the Indiana economic development corporation on July 1, 2005:

- (1) Indiana small business development corporation established under IC 4-3-12-1.
- (2) Indiana economic development council established under IC 4-3-14.
- (3) Indiana development finance authority established by IC 4-4-11-4.

SECTION 265. IC 5-1-14-12.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. Notwithstanding any other law, an issuer may purchase any obligations on terms the issuer finds reasonable and may issue its obligations to effectuate that purpose on terms that the issuer finds reasonable.**

SECTION 266. IC 6-1.1-10-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.5. (a) As used in this section, "airport development zone" means an airport development zone designated under IC 8-22-3.5-5.**

(b) As used in this section, "allocated tax proceeds" refers to property taxes allocated under IC 8-22-3.5-9.

(c) As used in this section, "commission" has the meaning set forth in IC 8-22-3.5-2.

(d) As used in this section, "qualified airport development project" has the meaning set forth in IC 8-22-3.5-3.

(e) Before a person maintaining commercial passenger aircraft that is not subject to the aircraft excise tax under IC 6-6-6.5 may claim an exemption from property taxation for the commercial passenger aircraft, the commission must adopt a resolution authorizing the exemption for the commercial passenger aircraft.

(f) After the commission adopts a resolution described in subsection (e), a person maintaining a commercial passenger aircraft that is not subject to the aircraft excise tax under IC 6-6-6.5 may claim an exemption from property taxation for the commercial passenger aircraft if the following conditions exist when the commission adopts the resolution:

(1) The person is:

(A) a tenant or subtenant of any portion of the qualified airport development project; and

(B) a current user of all or any portion of the qualified airport development project.

(2) For purposes of maintenance, the aircraft will be located in the airport development zone.

(3) If bonds have been issued, either:

(A) the pledge of allocated tax proceeds to the payment of any bonds issued under IC 8-22-3-18.1 to finance any portion of the costs of the qualified airport development project has been discharged; or

(B) any bonds to which allocated tax proceeds were pledged have been paid in full in accordance with the documents under which the bonds were issued.

If this subdivision applies, the person may not claim the exemption for a period longer than the original term of the bonds.

SECTION 267. IC 8-22-3.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** As used in this chapter, "qualified airport development project" means an airport development project that has a cost of the project (as defined in IC 4-4-10.9-5) greater than:

- (1) five hundred million dollars (\$500,000,000), if the project is to be located in a county having a consolidated city;
- (2) two hundred fifty thousand dollars (\$250,000), if the project is to be located in a city described in section 1(2) of this chapter or in a county described in section 1(3) or 1(4) of this chapter;
- (3) five hundred thousand dollars (\$500,000), if the project is to be located in a county described in section 1(5) of this chapter and is on the airport property; or
- (4) two million dollars (\$2,000,000) if the project is to be located in a county described in section 1(5) of this chapter and is located outside of the airport property but within the area described in IC 8-22-3.5-5(f).

Except as provided by subsection (b), the term includes any portion or expansion of the original qualified airport development project used by one (1) or more successor tenants.

(b) For purposes of section 9 of this chapter, the definition of "qualified airport development project" does not include any portion of, or expansion of, the original qualified airport development project used by a successor tenant unless the commission adopts a resolution to amend the definition to include that portion or expansion.

SECTION 268. IC 8-22-3.5-15, AS AMENDED BY P.L.192-2002(ss), SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. **(a)** As used in this section, "state income tax liability" means a tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax); or

(2) any other tax imposed by this state and based on or measured by either gross income or net income.

(b) The attraction **or retention** of qualified airport development projects to a consolidated city within Indiana is a governmental function of general public benefit for all the citizens of Indiana.

(c) As an incentive to attract **or retain** qualified airport development projects to Indiana, for a period of thirty-five (35) years, beginning January 1, 1991, persons that locate and operate a qualified airport development project in an airport development zone in a consolidated city shall not incur, notwithstanding any other law, any state income tax liability as a result of:

(1) activities associated with locating **or retaining** the qualified airport development project in the consolidated city;

(2) the construction, **modification, alteration**, or completion of the qualified airport development project;

(3) the employment of personnel or the ownership or rental of property at or in conjunction with the qualified airport development project; or

(4) the operation of, or the activities at or in connection with, the qualified airport development project.

(d) The department of state revenue shall adopt rules under IC 4-22-2 to implement this section.

SECTION 269. IC 36-7-14-25.1, AS AMENDED BY P.L.90-2002, SECTION 473, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25.1. (a) In addition to other methods of raising money for property acquisition or redevelopment in a blighted area, and in anticipation of the special tax to be levied under section 27 of this chapter, the taxes allocated under section 39 of this chapter, or other revenues of the district, or any combination of these sources, the redevelopment commission may, by resolution **and subject to subsection (p)**, issue the bonds of the special taxing district in the name of the unit. The amount of the bonds may not exceed the total, as estimated by the commission, of all expenses reasonably incurred in connection with the acquisition and redevelopment of the property, including:

(1) the total cost of all land, rights-of-way, and other property to be acquired and redeveloped;

(2) all reasonable and necessary architectural, engineering, legal,

financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and redevelopment of the property or the issuance of bonds;

(3) capitalized interest permitted by this chapter and a debt service reserve for the bonds to the extent the redevelopment commission determines that a reserve is reasonably required; and

(4) expenses that the redevelopment commission is required or permitted to pay under IC 8-23-17.

(b) If the redevelopment commission plans to acquire different parcels of land or let different contracts for redevelopment work at approximately the same time, whether under one (1) or more resolutions, the commission may provide for the total cost in one (1) issue of bonds.

(c) The bonds must be dated as set forth in the bond resolution and negotiable, subject to the requirements of the bond resolution for registering the bonds. The resolution authorizing the bonds must state:

(1) the denominations of the bonds;

(2) the place or places at which the bonds are payable; and

(3) the term of the bonds, which may not exceed fifty (50) years.

The resolution may also state that the bonds are redeemable before maturity with or without a premium, as determined by the redevelopment commission.

(d) The redevelopment commission shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds, **subject to subsection (p)**. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(e) The bonds must be executed by the appropriate officer of the unit, and attested by the municipal or county fiscal officer.

(f) The bonds are exempt from taxation for all purposes.

(g) The municipal or county fiscal officer shall give notice of the sale of the bonds by publication in accordance with IC 5-3-1. The municipal fiscal officer, or county fiscal officer or executive, shall sell the bonds to the highest bidder, but may not sell them for less than ninety-seven percent (97%) of their par value. However, bonds payable solely or in part from tax proceeds allocated under section 39(b)(2) of this chapter, or other revenues of the district may be sold at a private negotiated sale.

(h) Except as provided in subsection (i), a redevelopment commission may not issue the bonds when the total issue, including bonds already issued and to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the special taxing district, as determined under IC 36-1-15.

(i) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are payable, as set forth in the bond resolution of the redevelopment commission:

- (1) from a special tax levied upon all of the property in the taxing district, as provided by section 27 of this chapter;
- (2) from the tax proceeds allocated under section 39(b)(2) of this chapter;
- (3) from other revenues available to the redevelopment commission; or
- (4) from a combination of the methods stated in subdivisions (1) through (3).

If the bonds are payable solely from the tax proceeds allocated under section 39(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources, they may be issued in any amount without limitation.

(j) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(k) All laws relating to the giving of notice of the issuance of bonds, the giving of notice of a hearing on the appropriation of the proceeds of the bonds, the right of taxpayers to appear and be heard on the proposed appropriation, and the approval of the appropriation by the department of local government finance apply to all bonds issued under this chapter that are payable from the special benefits tax levied pursuant to section 27 of this chapter or from taxes allocated under section 39 of this chapter.

(l) All laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers to remonstrate against the issuance of bonds apply to bonds issued under this chapter, except for bonds payable solely from tax proceeds allocated under section 39(b)(2) of this chapter, other revenues of the redevelopment commission, or any combination of these sources.

(m) If a debt service reserve is created from the proceeds of bonds,

the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(n) Any amount remaining in the debt service reserve after all of the bonds of the issue for which the debt service reserve was established have matured shall be deposited in the allocation fund established under section 39(b)(2) of this chapter.

(o) If bonds are issued under this chapter that are payable solely or in part from revenues to the redevelopment commission from a project or projects, the redevelopment commission may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects, but may not convey or mortgage any project or parts of a project. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the redevelopment commission. The redevelopment commission may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the redevelopment commission that are payable solely from revenues of the commission shall contain a statement to that effect in the form of bond.

(p) If the total principal amount of bonds authorized by a resolution of the redevelopment commission is equal to or greater than three million dollars (\$3,000,000), the bonds may not be issued without the approval, by resolution, of the legislative body of the unit.

SECTION 270. IC 20-1-20.5-8, AS ADDED BY P.L.146-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The roundtable shall provide recommendations on subjects related to education to the following:

- (1) The governor.
- (2) The superintendent of public instruction.
- (3) The general assembly.
- (4) The board.

(b) Before providing a recommendation under subsection (a), the roundtable shall prepare an analysis of the fiscal impact that

the recommendation will have on the state, political subdivisions, and private schools affected by the recommendation. The analysis must be submitted with the recommendation under subsection (a).

(c) Whenever the roundtable provides a recommendation under subsection (a) and the fiscal impact prepared under subsection (b) indicates that the impact of the recommendation will be at least five hundred thousand dollars (\$500,000), the roundtable shall submit a copy of the recommendation and the fiscal impact prepared under subsection (b) to the legislative services agency for review. Not more than forty-five (45) days after receiving a copy of the recommendation and fiscal analysis, the legislative services agency shall prepare a fiscal analysis concerning the effect that compliance with the recommendation will have on:

- (1) the state; and
- (2) political subdivisions and private schools affected by the proposed recommendation.

The fiscal analysis must contain an estimate of the direct fiscal impact of the recommendation and a determination concerning the extent to which the recommendation creates an unfunded mandate on the state, a political subdivision, or a private school affected by the proposed recommendation. The fiscal analysis is a public document. The legislative services agency shall make the fiscal analysis available to interested parties upon request. The roundtable shall provide the legislative services agency with the information necessary to prepare the fiscal analysis. The legislative services agency may also receive and consider applicable information from the entities affected by the recommendation in preparation of the fiscal analysis. The legislative services agency shall provide copies of its fiscal analysis to each of the persons described in subsection (a).

SECTION 271. IC 4-4-10.9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The definitions in this chapter apply throughout this chapter, ~~and~~ IC 4-4-11, ~~and~~ IC 4-4-31.

SECTION 272. IC 4-4-10.9-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. "Covered taxes" refers to any of the following:

- (1) The state gross retail tax imposed under IC 6-2.5-2-1 or

the use tax imposed under IC 6-2.5-3-2.

(2) The adjusted gross income tax imposed under IC 6-3-2-1.

SECTION 273. IC 4-4-10.9-6.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6.1. "Distressed area" means a county in which:**

(1) the average annualized unemployment rate in each of the two (2) calendar years immediately preceding the current calendar year exceeded the statewide average annualized unemployment rate for each of the same calendar years by at least two percent (2%); or

(2) the average annualized unemployment rate in the immediately preceding calendar year was at least double the statewide average annualized unemployment rate for the same period;

as determined by the department of workforce development and published in the report required by IC 4-4-31-1.

SECTION 274. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31. Funding of Industrial Development Projects in Distressed Counties

Sec. 1. After June 30 and before July 15 of each year, the department of workforce development shall provide the authority with a list of the counties that qualify as distressed areas as of the date of the report. A copy of the list also shall be distributed to the department of commerce for use under IC 4-4-20.

Sec. 2. (a) The authority may adopt a resolution designating an industrial development project as a tax allocation project if the industrial development project is located in an area that is designated in the latest report issued under section 1 of this chapter as a distressed area. The authority shall designate in the resolution the boundaries of the tax allocation project area. The resolution designating a tax allocation project must provide for:

(1) allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax allocation project area to an industrial development project area fund established for the industrial development project;

(2) use of money in the industrial development project area

fund solely for payments related to bonds, loans, or leases issued under this article to pay for the costs of the project; and

(3) termination of the industrial development project area fund upon payment of all obligations described in subdivision (2).

(b) A resolution adopted under this section may not apply to an industrial development project that will result in the loss of employment in any part of Indiana.

(c) The authority shall incorporate the resolution adopted under this section into the financing agreement entered into between the developer of the industrial development project and the authority.

Sec. 3. Subject to the approval of the budget agency under section 4 of this chapter, a resolution adopted under section 2 of this chapter authorizes the allocation of the following covered taxes (in excess of the base allocation amount and not exceeding an amount that will result in an allocation in the county from all industrial development projects in the county of not more than five hundred thousand dollars (\$500,000)) to the industrial development project area fund for an industrial development project:

(1) Covered taxes incurred by a developer as a consequence of the development of the industrial development project, including gross retail taxes collectible by a retail merchant on goods or services provided to the developer for the industrial development project.

(2) Covered taxes that:

(A) are incurred by an individual or entity that leases, controls, uses, or operates in; and

(B) are attributable to a taxable event related to or earned through lease, control, use, or operations in;

facilities developed through an industrial development project, including gross retail taxes collectible by a retail merchant on goods or services provided to the individual or entity.

(3) Covered taxes that:

(A) are incurred by an individual or entity that is a partner, shareholder, or member of an entity that leases, controls, uses, or operates in; and

(B) are attributable to a taxable event related to or earned through lease, control, use, or operations in; facilities developed through an industrial development project.

(4) Four percent (4%) of covered taxes on wages or other compensation earned by persons employed or providing services at facilities financed through an industrial development project, including services related to the construction, reconstruction, improvement, or repair of the facilities.

The power to allocate money under this section expires not later than two (2) years after the beginning date specified by the authority.

Sec. 4. (a) The authority shall provide the department of state revenue, the auditor of state, and the budget agency with a copy of any resolution adopted under section 2 of this chapter and the related financing agreement.

(b) A resolution adopted under section 2 of this chapter is subject to the approval of the budget agency. The budget agency shall notify the authority, the department of state revenue, and the auditor of state of its decision concerning the resolution.

(c) Upon receipt of notification that the budget agency has approved the resolution:

(1) the auditor of state shall establish an industrial development project area fund for the industrial development project;

(2) the department of state revenue shall compute the base allocation amount for the industrial development project area;

(3) the department of state revenue shall annually deposit the covered taxes subject to the resolution (to the extent that the amount exceeds the base allocation amount) in the industrial development project area fund for the industrial development project; and

(4) the auditor of state shall make payments from the industrial development project area fund in accordance with the resolution and the financing agreement for the industrial development project.

Sec. 5. The department of state revenue shall estimate the base

allocation amount from the data available to the department and any other data supplied by the authority. The base allocation amount is equal to the amount of covered taxes deposited from taxable events occurring, or from wages or other compensation earned, in the tax allocation project area in the calendar year immediately preceding the calendar year in which the resolution is adopted under section 2 of this chapter.

Sec. 6. An industrial development project area fund established under section 4 of this chapter shall be treated as a trust fund. Money in an industrial development project area fund is annually appropriated for purposes of the industrial development project for which it was created and may be used only for the purposes specified in the resolution and financing agreement for the industrial development project. Money in the industrial development project area fund at the end of a state fiscal year does not revert to the state general fund. However, unencumbered money remaining in an industrial development project area fund upon payment of all obligations for which the fund was created reverts to the state general fund.

Sec. 7. The department of state revenue may adopt rules under IC 4-22-2 and prescribe forms to carry out its responsibilities under this chapter, including the establishment of requirements concerning the filing of informational returns necessary to identify tax receipts that are to be deposited in an industrial development project area fund.

Sec. 8. This chapter expires July 1, 2005.

SECTION 275. [EFFECTIVE JULY 1, 2003] (a) The department of state revenue may adopt rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to carry out its responsibilities under IC 4-4-31, as added by this act. A rule adopted under this SECTION expires on the latest of the following:

- (1) The date specified by the department of state revenue in a rule.
- (2) The date the department of state revenue adopts a temporary or permanent rule to replace another rule adopted under this SECTION.
- (3) July 1, 2005.

(b) This SECTION expires July 2, 2005.

SECTION 276. IC 5-13-9-10 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. (a) The investing officers of two (2) or more political subdivisions located within a county may establish a joint investment fund by entering into a written master agreement that defines the rights and obligations of the participating political subdivisions.**

(b) An investing officer of a political subdivision that enters into a written master agreement under subsection (a) may pay funds that are held by the investing officer and that are available for investment into the joint investment fund.

(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political subdivisions and which must be an instrumentality of the participating political subdivisions. Each officer of a political subdivision located within the county who is designated in section 1 of this chapter may pay funds that are held by the officer and available for investment into a joint fund known as a joint investment fund. The fund is administered by a board comprised of the investing officer of each of the participating political subdivisions and is an instrumentality of the participating political subdivisions.

(d) A joint investment fund must be invested and reinvested as a separate and individual fund.

(e) A written master agreement under subsection (a) must provide the following:

(1) A political subdivision may participate in a joint investment fund only with the written authorization of its local board of finance.

(2) A political subdivision may participate in a joint investment fund only if its legislative body approves the written master agreement.

(3) The board of a joint investment fund shall establish written policies for the investment and reinvestment of joint investment funds in the manner provided by IC 30-4-3-3.

(4) A fund shall be invested and reinvested as prescribed in subdivision (3).

(5) A custodian bank or trust company located in Indiana must:

(A) be selected and contracted by the board of a joint

investment fund to hold the securities and other investments of the joint investment fund;

(B) collect the income and other receipts from the securities and other investments; and

(C) provide any other services appropriate and customary for a custodian;

subject to the direction of the board of a joint investment fund.

(6) The board of a joint investment fund may select and contract with a fund administrator to provide investment advice to the board and any other services determined by the board to be appropriate and necessary for the efficient administration and accounting of the joint investment fund. The fund administrator shall agree to recommend only securities and other investments as prescribed in the written policies established by the board in rendering investment advice to the board and shall agree to be responsible, accountable, and liable for any breach of this provision. The fund administrator must have experience in the investment of public funds for governmental entities and must be either of the following:

(A) A financial institution located in Indiana.

(B) Registered as an investment adviser with the United States Securities and Exchange Commission under the Investment Advisors Act of 1940, as amended (15 U.S.C. 80a-9 et seq.), with public funds under management in the amount of at least one hundred million dollars (\$100,000,000).

(7) A joint investment fund must be audited at least annually by an independent auditing firm, with a copy of the audit provided to each participating political subdivision.

(8) The administrative expenses of a joint investment fund, including fees for the fund administrator, custodian, auditor, and other professional services, must be paid from the fund's interest earnings.

(9) The interest earnings that exceed the administrative expenses of a joint investment fund must be credited to each political subdivision participating in the joint investment fund in a manner that equitably reflects the differing amounts and

terms of the political subdivision's investment in the joint investment fund.

(10) Each participating political subdivision shall receive reports, including a daily transaction confirmation reflecting any activity in the political subdivision's account and monthly reports reflecting its investment activity in the joint investment fund and the performance and composition of the joint investment fund itself.

(11) The board of a joint investment fund shall meet at least annually to review the operation and performance of the joint investment fund, the custodian, the fund administrator, the auditor, and any other professional retained by the board.

(12) The board of a joint investment fund shall provide for any other policies that are necessary for the efficient administration and accounting of the joint investment fund and are consistent with the law governing the investment, management, deposit, and safekeeping of public funds of political subdivisions.

SECTION 277. IC 8-1-2.6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telephone industry.

(b) The committee is composed of the members of ~~the a~~ house commerce standing committee selected by the speaker of the house of representatives and ~~the a~~ senate commerce standing committee selected by the president pro tempore of the senate. In selecting standing committees under this subsection, the speaker and president pro tempore shall determine which standing committee of the house of representatives and the senate, respectively, has subject matter jurisdiction that most closely relates to the electricity, gas, energy policy, and telecommunications jurisdiction of the regulatory flexibility committee. The ~~chairman~~ chairpersons of each of those ~~the~~ standing committees selected under this subsection shall co-chair the regulatory flexibility committee.

(c) The commission shall, by July 1 ~~1993~~, and of each year, ~~thereafter~~, prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition on universal service and on pricing of all telephone services under the jurisdiction of the

commission.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 ~~1993, and of~~ each year ~~thereafter~~ that is based on a review of the following issues:

- (1) The effects of competition in the telephone industry and impact of competition on available subsidies used to maintain universal service.
- (2) The status of modernization of the public telephone network in Indiana and the incentives required to further enhance this infrastructure.
- (3) The effects on economic development and educational opportunities of this modernization.
- (4) The current method of regulating telephone companies and the method's effectiveness.
- (5) The economic and social effectiveness of current telephone service pricing.
- (6) All other telecommunications issues the committee deems appropriate.

(e) The regulatory flexibility committee shall meet on the call of the ~~co-chairmen~~ **co-chairpersons** to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 278. IC 4-12-1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:** **Sec. 11.5. For purposes of any statute that requires budget committee review before an action may be taken by a state agency or other entity, budget committee review is considered to have taken place when the action requiring review has been included on an approved agenda of the budget committee in the part of the agenda concerning review items.**

SECTION 279. IC 6-1.1-12.3 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:**

Chapter 12.3. Intrastate Aircraft Deduction

Sec. 1. This chapter applies only to the following:

(1) Aircraft that:

- (A) have a seating capacity of not less than nine (9) passengers;**
- (B) are used in the air transportation of passengers or passengers and property; and**
- (C) are owned or operated by a person that is:**
 - (i) an air carrier certified under Federal Aviation Regulation Part 121; or**
 - (ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.**

(2) Aircraft that:

- (A) are used to transport only property, regardless of whether the aircraft is operated as a common carrier for compensation; and**
- (B) are owned or operated by a person that is:**
 - (i) an air carrier certified under Federal Aviation Regulation Part 121; or**
 - (ii) a scheduled air taxi operator certified under Federal Aviation Regulation Part 135.**

Sec. 2. As used in this chapter "abatement property" refers to aircraft described in section 1 of this chapter.

Sec. 3. As used in this chapter, "aircraft" has the meaning set forth in 49 U.S.C. 40102.

Sec. 4. As used in this chapter, "air transportation" means transportation of passengers or property by aircraft as a common carrier for compensation.

Sec. 5. As used in this chapter, "business entity" refers to a corporation (as defined in IC 6-3-1-10) or partnership (as defined in IC 6-3-1-19).

Sec. 6. As used in this chapter, "intrastate airline service" means service provided in Indiana by an aircraft that is used during a service period in which ground time is determined for purposes of calculating ad valorem property taxes to fly:

(1) either directly:

(A) between:

- (i) a qualifying medium hub airport; and**
- (ii) at least two (2) qualifying underserved airports; or**

(B) between:

- (i) two (2) qualifying commercial service airports, one (1) of which is not a qualifying underserved airport; or
- (ii) a qualifying medium hub airport and a qualifying commercial service airport other than a qualifying underserved airport; and

(2) a route described in subdivision (1)(A) or (1)(B) at least five (5) times per week in each week during the service period immediately preceding an assessment date.

Sec. 7. As used in this chapter, "qualifying commercial service airport" means a commercial service airport (as defined in 14 CFR 158.3, as effective January 1, 2003) that is located in Indiana.

Sec. 8. As used in this chapter, "qualifying medium hub airport" means a medium hub airport (as defined in 14 CFR 398.2, as effective January 1, 2003) that is located in Indiana.

Sec. 9. As used in this chapter, "qualifying underserved airport" means a qualifying commercial service airport that serves a municipality that is not directly connected by an interstate highway with a municipality served by a qualifying medium hub airport.

Sec. 10. As used in this chapter, "service period" means a period beginning March 1 in a year immediately preceding an assessment date and ending on February 28 in the year containing an assessment date.

Sec. 11. As used in this chapter, "taxpayer" means a business entity that is liable under IC 6-1.1-2-4, as applied under IC 6-1.1-3 or IC 6-1.1-8, for ad valorem property taxes on abatement property.

Sec. 12. A taxpayer is entitled to a deduction from the assessed value of abatement property that is used to provide intrastate airline service between locations described in section 6(1)(A) of this chapter.

Sec. 13. A taxpayer is entitled to a deduction from the assessed value of abatement property used to provide intrastate airline service between at least two (2) locations described in section 6(1)(B) of this chapter only if the same or another taxpayer provides intrastate airline service between locations described in section 6(1)(A) of this chapter during the same service period.

Sec. 14. The deduction applies to ad valorem property taxes calculated using aircraft ground times. The amount of a deduction available under section 12 or 13 of this chapter is equal to the

product of:

- (1) one hundred percent (100%) of the assessed value of the abatement property; multiplied by**
- (2) with respect to the ground time determined for purposes of calculating ad valorem property taxes for the aircraft, the quotient of:**
 - (A) the ground time that immediately precedes a flight to an Indiana destination; divided by**
 - (B) the total ground time.**

Sec. 15. (a) Any part of an ad valorem property tax assessment attributable to ground times during a week:

- (1) in which the requirements of section 6(2) of this chapter are not met; and**
- (2) for which noncompliance is not waived under section 16 of this chapter;**

may not be deducted under section 12 or 13 of this chapter.

(b) Any part of an ad valorem property tax assessment attributable to ground times during a week in which intrastate air service described in section 6(1)(A) of this chapter is not also available may not be deducted under section 13 of this chapter.

Sec. 16. Based on:

- (1) extraordinary circumstances that prevent a taxpayer from using abatement property to meet the requirements under section 6(2) of this chapter; or**
- (2) the start-up of service after the beginning of a service period;**

the airport operator of the airports (other than a qualifying medium hub airport) that were directly affected by reduced service may waive compliance with section 6(2) of this chapter during all or part of the period in which the circumstances preventing regular service occurred. A taxpayer shall be treated as in compliance with section 6(2) of this chapter to the extent that compliance with the provision is waived under this section.

Sec. 17. To qualify for the deduction, the taxpayer must claim the deduction, in the manner prescribed by the department of local government finance, on the taxpayer's personal property tax return filed under IC 6-1.1-3 or IC 6-1.1-8 (or an amended return filed within the time allowed under this article) for the abatement property to which the deduction applies.

SECTION 280. IC 6-6-6.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Sec. 12. (a) Effective January 1, 1976, there is hereby imposed an annual license excise tax upon taxable aircraft, which tax shall be in lieu of the ad valorem property tax levied for state or local purposes. No taxable aircraft shall be assessed as personal property for the purpose of the assessment and levy of personal property or shall be subject to ad valorem taxes, beginning with taxes for the year of 1975 payable in 1976 and thereafter.

(b) Eligibility of aircraft for a deduction under IC 6-1.1-12.3 does not exempt a taxpayer from the tax imposed under this chapter on the aircraft.

SECTION 281. IC 8-22-3-25, AS AMENDED BY P.L.1-1999, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) **Subject to subsection (c)**, the board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport ~~and~~ needed to carry out this chapter **and to facilitate and support commercial intrastate air transportation.**

(b) The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

- (1) thirty-three hundredths of one cent (\$0.0033) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly with an eligible entity that is not a city;
- (2) one and thirty-three hundredths cents (\$0.0133) on each one hundred dollars (\$100) of assessed value of taxable property within the district, if the authority was established under IC 19-6-3 (before its repeal on April 1, 1980); and
- (3) for any other district not described in subdivision (1) or (2), the following:

Total Assessed Property Valuation	Rate Per \$100 Of Assessed Valuation
\$300 million or less	\$0.0167
More than \$300 million	

but not more than \$450 million	\$0.0133
More than \$450 million	
but not more than \$600 million	\$0.01
More than \$600 million	
but not more than \$900 million	\$0.0067
More than \$900 million	\$0.0033

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general fund but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by section 11 and section 23 of this chapter.

(c) Spending under subsection (a) to facilitate and support commercial intrastate air transportation is subject to a maximum of one million dollars (\$1,000,000) cumulatively for all years in which money is spent under that subsection.

SECTION 282. [EFFECTIVE JANUARY 1, 2004] IC 6-3.1-27 and 6-3.1-28, both as added by this act, apply to taxable years beginning after December 31, 2003.

SECTION 283. [EFFECTIVE JULY 1, 2002 (RETROACTIVE)] Notwithstanding IC 4-33-13-5(a)(1), before July 1, 2003, the first thirty-three million dollars (\$33,000,000) of tax revenues collected in a state fiscal year under IC 4-33-13 shall be deposited in the state general fund.

SECTION 284. [EFFECTIVE UPON PASSAGE] (a) The provisions of this act are severable in the manner provided by IC 1-1-1-8(b).

(b) If a provision of this act is found by a court of competent jurisdiction to be in violation of Article 4, Section 23 of the Constitution of the State of Indiana, it is the intent of the general assembly that the provision be given general application.

SECTION 285. An emergency is declared for this act.

[H.1082. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-48-1-9.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.3. (a) "Controlled substance analog" means a substance:**

(1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or

(2) that a person represents or intends to have;

a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) The definition set forth in subsection (a) does not include:

(1) a controlled substance;

(2) a substance for which there is an approved new drug application;

(3) a substance for which an exemption is in effect for investigational use by a person under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), to the extent that conduct with respect to the substance is permitted under the exemption; or

(4) a substance to the extent not intended for human consumption before an exemption takes effect regarding the substance.

SECTION 2. IC 35-48-4-0.5 IS ADDED TO THE INDIANA CODE

AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. For purposes of this chapter, a "controlled substance analog" is considered to be a controlled substance in schedule I if the analog is in whole or in part intended for human consumption.**

SECTION 3. IC 35-48-4-4.6, AS AMENDED BY P.L.150-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.6. (a) A person who knowingly or intentionally:

- (1) manufactures;
- (2) finances the manufacture of;
- (3) advertises;
- (4) distributes; or
- (5) possesses with intent to manufacture, finance the manufacture of, advertise, or distribute;

a substance described in section 4.5 of this chapter commits a Class C felony.

(b) A person who knowingly or intentionally possesses a substance described in section 4.5 of this chapter commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous conviction under this section.

(c) In any prosecution brought under this section it is not a defense that the person believed the substance actually was a controlled substance.

(d) This section does not apply to the following:

- (1) The manufacture, financing the manufacture of, processing, packaging, distribution, or sale of noncontrolled substances to licensed medical practitioners for use as placebos in professional practice or research.
- (2) Persons acting in the course and legitimate scope of their employment as law enforcement officers.
- (3) The retention of production samples of noncontrolled substances produced before September 1, 1986, where such samples are required by federal law.

(e) In addition to any other penalty imposed for conviction of an offense under this section, a court shall order restitution pursuant to IC 35-50-5-3 to cover the costs of an environmental cleanup incurred by a law enforcement agency or other person as a result of the offense.

(f) The amount collected under subsection (e) shall be used to

reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (e):

SECTION 4. IC 35-48-4-13.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13.3. A person who recklessly, knowingly, or intentionally takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a building, structure, vehicle, or other place that is being used by any person to:**

- (1) unlawfully possess drugs or controlled substances; or**
- (2) unlawfully:**
 - (A) manufacture;**
 - (B) keep;**
 - (C) offer for sale;**
 - (D) sell;**
 - (E) deliver; or**
 - (F) finance the delivery of;**

drugs or controlled substances; commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

SECTION 5. IC 35-48-4-14.5, AS AMENDED BY P.L.17-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:**

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.

- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.

(b) A person who possesses **more than ten (10) grams of ephedrine, pseudoephedrine or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams** commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing more ten (10) grams of ephedrine, pseudoephedrine or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or phenylpropanolamine or a combination of any of these substances exceeding ten (10) grams; or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, the salts, isomers or salts of isomers of ephedrine, pseudoephedrine, or phenylpropanolamine, or a combination of any of these substances exceeding ten (10) grams in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine, a

schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(d) Subsection (b) does not apply to a:

(1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or

(2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

- (A) the location in which the substance is stored;**
- (B) the possession of the substance in a variety of:**
 - (i) strengths;**
 - (ii) brands; or**
 - (iii) types; or**
- (C) the possession of the substance:**
 - (i) with different expiration dates; or**
 - (ii) in forms used for different purposes.**

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

- (1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;
- (2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;
- (3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

(f) An offense under subsection **(e)** is a Class C felony if the person possessed:

- (1) a firearm while possessing two (2) or more chemical reagents

or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:

- (A) school property;
- (B) a public park;
- (C) a family housing complex; or
- (D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.

SECTION 6. IC 35-48-4-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17. (a) In addition to any other penalty imposed for conviction of an offense under this chapter involving the manufacture or intent to manufacture methamphetamine, a court shall order restitution under IC 35-50-5-3 to cover the costs, if necessary, of an environmental cleanup incurred by a law enforcement agency or other person as a result of the offense.**

(b) The amount collected under subsection (a) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (a).

SECTION 7. [EFFECTIVE JULY 1, 2003] **(a) IC 35-48-4-13.3, as added by this act, and IC 35-48-4-14.5, as amended by this act, apply only to acts committed after June 30, 2003.**

(b) IC 35-48-1-9.3 and IC 35-48-4-0.5, both as added by this act, apply only to a controlled substance offense under IC 35-48-4 that occurs after June 30, 2003.

P.L.226-2003

[H.1135. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-8-5-15.6, AS AMENDED BY P.L.81-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15.6. (a) As used in this section, "coverage of services for a mental illness" includes the services defined under the policy of accident and sickness insurance. ~~(as defined in IC 27-8-5-1)~~. However, the term does not include services for the treatment of substance abuse or chemical dependency.

(b) This section applies to a policy of accident and sickness insurance ~~(as defined in IC 27-8-5-1)~~ that:

- (1) is issued on an individual basis or a group basis;
- (2) is issued, entered into, or renewed after December 31, 1999;
- and
- (3) is issued to an employer that employs more than fifty (50) full-time employees.

(c) This section does not apply to the following:

- (1) An insurance policy listed under IC 27-8-15-9(b).
- (2) A legal business entity that has obtained an exemption under ~~IC 27-8-5-15.7~~. **section 15.7 of this chapter.**

(d) A group or individual insurance policy or agreement may not permit treatment limitations or financial requirements on the coverage of services for a mental illness if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(e) An insurer that issues a policy of accident and sickness insurance that provides coverage of services for the treatment of substance abuse and chemical dependency when the services are required in the treatment of a mental illness shall offer to provide the coverage without treatment limitations or financial requirements if similar limitations or requirements are not

imposed on the coverage of services for other medical or surgical conditions.

(f) This section does not require a group or individual insurance policy or agreement to offer mental health benefits.

(f) (g) The benefits delivered under this section may be delivered under a managed care system.

SECTION 2. IC 27-13-7-14.8, AS AMENDED BY P.L.81-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.8. (a) As used in this section, "coverage of services for a mental illness" includes the services defined under the contract with the health maintenance organization. However, the term does not include services for the treatment of substance abuse or chemical dependency.

(b) This section applies to a group or individual contract with a health maintenance organization that:

(1) is issued, entered into, or renewed after December 31, 1999; and

(2) is issued to an employer that employs more than fifty (50) full-time employees.

(c) This section does not apply to a legal business entity that has obtained an exemption under IC 27-8-5-15.7.

(d) A group or individual contract with a health maintenance organization may not permit treatment limitations or financial requirements on the coverage of services for a mental illness if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(e) A health maintenance organization that enters into an individual contract or a group contract that provides coverage of services for the treatment of substance abuse and chemical dependency when the services are required in the treatment of a mental illness shall offer to provide the coverage without treatment limitations or financial requirements if similar limitations or requirements are not imposed on the coverage of services for other medical or surgical conditions.

(f) This section does not require a group or individual contract with a health maintenance organization to offer mental health benefits.

SECTION 3. [EFFECTIVE JULY 1, 2003] **(a) IC 27-8-5-15.6, as amended by this act, applies to a policy of accident and sickness**

insurance that is issued, delivered, amended, or renewed after June 30, 2003.

(b) IC 27-13-7-14.8, as amended by this act, applies to a group or an individual contract with a health maintenance organization that is entered into, delivered, amended, or renewed after June 30, 2003.

P.L.227-2003

[H.1140. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-28-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The fee for a license as a health facility under this chapter is ~~one hundred dollars (\$100)~~ **two hundred dollars (\$200)** for the first fifty (50) beds available and ~~two dollars and fifty cents (\$2.50)~~ **ten dollars (\$10)** for each additional bed available.

P.L.228-2003

[H.1148. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-33-14-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The board shall budget and appropriate annually to the fund an amount equivalent to

ten percent (10%) of the annual cost of maintenance for the works of improvement as the cost is:

(1) stated in the district plan; **or**

(2) **adjusted under section 8 of this chapter.**

(b) Money accumulated in the fund may be used for emergency or unusually expensive maintenance of the works of improvement.

SECTION 2. IC 14-33-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) If an amount equivalent to two (2) times the annual cost of maintenance of the works of improvement, as stated in the district plan **or as the cost is adjusted under section 8 of this chapter**, has accumulated in the fund, appropriations to the fund shall be suspended until the year that the amount in the fund is not more than equal to the annual cost of maintenance of the works of improvement as stated in the plan **or the adjusted annual cost.**

(b) The money **in the fund** may be invested and reinvested in whole or in part in accordance with IC 5-13-9.

SECTION 3. IC 14-33-14-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) **As used in this section, "cost index source" refers to the Engineering News Record Construction Cost Index, as published by McGraw Hill Construction or its successor.**

(b) **Before January 1, 2006, the board of a district may elect to adjust the annual cost of maintenance of the works of improvement as stated in the plan, as calculated in subsection (d), if the following conditions are met:**

(1) **The board has at a meeting adopted a resolution that sets forth:**

(A) **the annual cost of maintenance of the works of improvement as stated in the plan, and the year when the annual cost was stated in the plan; and**

(B) **the new, adjusted annual cost of maintenance of the works of improvement.**

(2) **The calculation under subsection (d) has been verified by either the state conservation engineer for the Natural Resources Conservation Service of the United States Department of Agriculture or a professional engineer licensed under IC 25-31-1.**

(3) The board has provided a copy of the resolution to the department of local government finance (established by IC 6-1.1-30-1.1) within sixty (60) days of adoption.

(c) If the board of a district adopts a resolution under section (b)(1), a copy of the resolution must be included in the district's annual report, and a copy of the annual report must be provided to the local circuit court and the department of natural resources.

(d) The annual cost of maintenance of the works of improvement as stated in the plan of a district may be adjusted to an amount not to exceed the amount determined as follows:

STEP ONE: Determine the cost index from the cost index source for the most recent year.

STEP TWO: Determine the cost index from the cost index source for the year that the annual cost of maintenance of the works of improvement was stated in the plan.

STEP THREE: Divide the number determined in STEP ONE by the number determined in STEP TWO.

STEP FOUR: Multiply the result of STEP THREE by the annual cost of maintenance of the works of improvement that is stated in the plan.

P.L.229-2003

[H.1154. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 10-11-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 8. Retailer Education Program

Sec. 1. As used in this chapter, "chemical reagents or precursors" has the meaning set forth in IC 35-48-4-14.5.

Sec. 2. As used in this chapter, "law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

Sec. 3. As used in this chapter, "superintendent" refers to the superintendent of the state police department.

Sec. 4. The superintendent, with input from other law enforcement agencies, may develop and maintain a program to inform retailers about illicit methamphetamine production, distribution, and use in Indiana.

Sec. 5. The superintendent, with input from other law enforcement agencies, may develop procedures and forms for retailers to use to report to any law enforcement agency suspicious purchases, thefts, or other transactions involving any product under the retailers' control that contains chemical reagents or precursors.

Sec. 6. A retailer or retailer's employee is not required to report under this chapter.

Sec. 7. A retailer or retailer's employee who makes a good faith report to any law enforcement agency under this chapter is immune from civil liability for making the report. This section does not apply to acts or omissions amounting to gross negligence or willful or wanton misconduct.

SECTION 2. IC 34-30-2-35.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 35.5. IC 10-11-8-7 (Concerning a retailer who makes a good faith report relating to the sale of a methamphetamine chemical reagent or precursor).**

P.L.230-2003

[H.1219. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) On or before June 20th and December 20th of each year, the county auditor and the county treasurer shall meet in the office of the county auditor. Before each semi-annual meeting, the county auditor shall complete an audit of the county treasurer's monthly reports required under IC 36-2-10-16. In addition, the county auditor shall:

(1) prepare a certificate of settlement on the form prescribed by the state board of accounts; and ~~he shall~~

(2) deliver the certificate of settlement to the county treasurer at least two (2) days before each semi-annual meeting.

(b) If any county treasurer or auditor refuses, neglects, or fails to distribute tax money due to a tax unit on or before the ~~first fifty-first day of the month~~ immediately following ~~the appropriate settlement~~ **each property tax due date prescribed in subsection (a); under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies**, the county treasurer and auditor shall pay to the taxing unit from the county general fund interest on the taxing unit's undistributed tax money if the county treasurer and auditor invest undistributed tax money in an interest bearing investment. The amount of interest to be paid equals the taxing unit's proportionate share of the actual amount of interest which is received from investments of the undistributed tax money from the ~~second fifty-second day of the month~~ immediately following ~~the appropriate settlement~~ **property tax due date under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies**, to the date that the tax money is distributed.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) **The definitions in IC 6-1.1-1 apply throughout this SECTION.**

(b) **For purposes of this SECTION:**

- (1) "commissioner" refers to the commissioner of the department of local government finance;
- (2) "provisional statement" refers to a provisional property tax statement under subsection (c);
- (3) "property taxes" include special assessments;
- (4) "reconciling statement" refers to a reconciling property tax statement under subsection (g); and
- (5) "tax liability" includes liability for special assessments and refers to liability for property taxes after the application of all allowed deductions and credits.

(c) With respect to property taxes payable under IC 6-1.1 on assessments determined for the 2002 assessment date, the county treasurer may use a provisional statement under this SECTION if the county auditor fails to deliver the abstract to the county treasurer under IC 6-1.1-22-5 before March 16, 2003. The provisional statement must:

- (1) be on a form approved by the state board of accounts;
- (2) except as provided in emergency rules adopted under subsection (p), indicate tax liability in the amount of:
 - (A) fifty percent (50%); or
 - (B) subject to subsection (o), if the county auditor requests in writing that the commissioner approve a greater percentage not to exceed seventy percent (70%), the percentage approved by the commissioner;of the tax liability payable in 2002 for the property for which the provisional statement is issued;
- (3) indicate:
 - (A) that the tax liability under the provisional statement is determined as described in subdivision (2); and
 - (B) that property taxes billed on the provisional statement:
 - (i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8; and
 - (ii) will be credited against a reconciling statement;
- (4) include the following statement:

"Under Indiana law, this provisional statement is sent to property owners in counties that elected to send provisional statements because the county did not complete the general reassessment of real property before March 16, 2003. The statement is due to be paid not later than (insert date). The

statement is based on (insert percentage) of your tax liability for taxes payable in 2002. After the general reassessment of real property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in 2003, minus the amount you pay under this provisional statement. The due date for taxes under the reconciling statement will be after November 9, 2003.";

(5) indicate liability for:

- (A) delinquent:
 - (i) taxes; and
 - (ii) special assessments;
- (B) penalties; and
- (C) interest;

eligible to appear on the tax statement under IC 6-1.1-22-8 for the May, 2003, installment of property taxes; and

(6) include any other information the county treasurer requires.

(d) Property taxes billed on a provisional statement are due:

- (1) in one (1) installment on June 15, 2003; or
- (2) if the county treasurer requests in writing that the commissioner designate one (1) or two (2) installment dates, on the date or dates designated by the commissioner.

(e) If a provisional tax statement is used:

(1) notice of the provisional statement, including disclosure of the percentage of the tax liability payable in 2002 to be used in determining the tax liability to be indicated on the provisional statement under subsection (c), shall be published one (1) time:

- (A) in the form prescribed by the department of local government finance; and
- (B) in the manner described in IC 6-1.1-22-4(b); and
- (2) IC 6-1.1-22-4 applies to the reconciling statement.

(f) As soon as possible after the receipt of the abstract referred to in subsection (c), the county treasurer shall:

- (1) give the notice required by IC 6-1.1-22-4; and
- (2) mail or transmit reconciling statements under subsection (g).

(g) Each reconciling statement must indicate:

- (1) the actual property tax liability under IC 6-1.1 on the

assessment determined for the 2002 assessment date for the property for which the reconciling statement is issued;
 (2) the total amount paid under the provisional statement for the property for which the reconciling statement is issued;
 (3) if the amount under subdivision (1) exceeds the amount under subdivision (2), that the excess is payable by the taxpayer:

(A) as a final reconciliation of the tax liability; and

(B) not later than:

(i) thirty (30) days after the date of the reconciling statement; or

(ii) if the county treasurer requests in writing that the commissioner designate a later date, the date designated by the commissioner; and

(4) if the amount under subdivision (2) exceeds the amount under subdivision (1), that the taxpayer may claim a refund of the excess under IC 6-1.1-26.

(h) Taxpayers shall make all payments under this SECTION to the county treasurer. The board of county commissioners may authorize the county treasurer to open temporary offices to receive payments under this SECTION in municipalities in the county other than the county seat.

(i) Not later than sixty (60) days after the due date of a provisional or reconciling statement under this SECTION, the county auditor shall:

(1) file with the auditor of state a report of settlement; and

(2) distribute tax collections to the appropriate taxing units.

(j) If a county auditor fails to make a distribution of tax collections under subsection (i), a taxing unit that was to receive a distribution may recover interest on the undistributed tax collections at the same rate and in the same manner that interest may be recovered under IC 6-1.1-27-1(b).

(k) IC 6-1.1-15:

(1) does not apply to a provisional statement; and

(2) applies to a reconciling statement.

(l) IC 6-1.1-37-10 applies to:

(1) a provisional statement; and

(2) a reconciling statement;

in the same manner that IC 6-1.1-37-10 applies to an installment of

property taxes.

(m) For purposes of IC 6-1.1-24-1(a)(1):

(1) a provisional statement is considered to be the May 2003 spring installment of property taxes; and

(2) payment on a reconciling statement is considered to be due before the May 2004 installment of property taxes is due.

(n) IC 6-1.1 applies to this SECTION to the extent IC 6-1.1 does not conflict with this SECTION.

(o) The commissioner may approve different percentages for different classes of property in response to a request under subsection (c)(2)(B).

(p) For purposes of a provisional statement under subsection (c), the department of local government finance may adopt emergency rules under IC 4-22-2-37.1 to provide a methodology for a county treasurer to issue provisional statements with respect to real property taking into account new construction of improvements placed on the real property after March 1, 2001, and before March 2, 2002.

(q) This SECTION expires January 1, 2005.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) The commissioner of the department of local government finance may designate a rule adopted by the department under IC 6-1.1-31-1(b) as an emergency rule.

(b) Except as provided in subsection (c), IC 4-22-2-37.1 applies to a rule referred to in subsection (a).

(c) Subject to subsection (d), a rule referred to in subsection (a) may be extended for three (3) extension periods referred to in IC 4-22-2-37.1(g).

(d) A rule referred to in subsection (a) expires on the earlier of:

(1) the expiration date of the rule under IC 4-22-2-37.1; or

(2) December 31, 2004.

(e) This SECTION expires January 1, 2005.

SECTION 4. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 20-5-4-8(c) and IC 20-5-4-8(d), the amount of principal of temporary loans maturing under IC 20-5-4-8 on or before December 31, 2005, shall not exceed the lesser of:

(1) the highest cash flow deficit (not to exceed the amount permitted by Internal Revenue Service arbitrage regulations) estimated by the governing body of the school corporation for

the year ending December 31; or

(2) eighty percent (80%) of the total approved budget for the fund for which the loan is made.

(b) If the governing board of a school corporation determines that an emergency exists that requires an extension of the prescribed maturity date for a temporary loan referred to in subsection (a), the prescribed maturity date may be extended for not more than six (6) months after the budget year for which the temporary loan is made if the governing board does the following:

(1) Passes a resolution that contains:

(A) a statement determining that an emergency exists;

(B) a brief description of the grounds for the determination that an emergency exists; and

(C) the date the loan will be repaid that is not more than six (6) months after the budget year for which the temporary loan is made.

(2) Immediately forwards the resolution to:

(A) the state board of accounts; and

(B) the department of local government finance.

(c) This SECTION expires July 1, 2005.

SECTION 5. An emergency is declared for this act.

P.L.231-2003

[H.1221. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-14-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) **Except as provided in section 9 of this chapter**, if a person who is affected by a rule adopted by a board believes that the imposition of the rule would impose an undue hardship or burden upon the person, the person may apply to the commissioner for a variance from the rule.

(b) The commissioner may hold a public hearing on an application submitted under subsection (a).

(c) If the commissioner determines that immediate compliance with the rule would impose an undue hardship or burden upon the applicant, the commissioner, except as provided in section 9 of this chapter, may grant a variance from the rule for any period not exceeding one (1) year.

(d) Upon the request of an applicant, the commissioner may renew an expired variance if the commissioner determines that compliance with the rule would continue to impose an undue hardship or burden upon the applicant. Except as provided in section 9 of this chapter, each renewal may be granted for a period not exceeding one (1) year.

SECTION 2. IC 13-14-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) ~~This section applies to~~ A variance granted under section 8 of this chapter or ~~IC 13-7-7-6 (before its repeal)~~ from a water quality standard that is at least in part the basis of a National Pollutant Discharge Elimination System permit issued under this title **must meet the conditions specified in:**

- (1) 40 CFR Part 132, Appendix F, Procedure 2.C; and
- (2) rules adopted by the board.

(b) Except as provided in subsection (c), a variance from a water quality standard of the water pollution control board under section 8 of this chapter or IC 13-7-7-6 (before its repeal) may be:

- (1) granted for not more than five (5) years; and
- (2) renewed for not more than five (5) years.

(c) A variance granted under section 8 of this chapter or IC 13-7-7-6 (before its repeal) from a water quality standard that is at least in part the basis of a National Pollutant Discharge Elimination System permit:

- (1) issued under this title; and
- (2) extended under IC 13-15-3-6 or IC 13-7-10-2(e) (before its repeal);

remains in effect until the National Pollutant Discharge Elimination System permit expires.

SECTION 3. IC 13-21-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Except as provided in subsection (c) and section 14.5 of this chapter, the powers of a district do not include the following:

- (1) The power of eminent domain.
- (2) Except as provided in subsection (b), the power to exclusively control the collection or disposal of any solid waste or recyclables within the district by means that include the following:
 - (A) Franchising.
 - (B) Establishing a territory or territories within the district in which a person may provide service.
- (3) The power to establish the type of service that a person must provide for the collection or disposal of solid waste or recyclables within the district.
- (4) The power to establish fees that a person must charge for the collection or disposal of solid waste or recyclables within the district.
- (5) The power to issue permits for an activity that is already permitted by a state agency, except as expressly granted by statute.**

(b) If one (1) or more of the governmental entities in a district, at the time of the formation of the district, is a party to a contract providing that the persons contracted with have the exclusive right to collect or dispose of solid waste within the jurisdiction of the governmental entity, the district may enter into an extension of that contract.

(c) Subsection (a) does not apply to activities conducted as part of a household hazardous waste collection and disposal project.

SECTION 4. [EFFECTIVE DECEMBER 31, 2000 (RETROACTIVE)] (a) As used in this SECTION, "board" refers to the water pollution control board established by IC 13-18-1.

(b) All waters designated under 327 IAC 2-1.5-19(b) as outstanding state resource waters shall be maintained and protected in their present quality in accordance with the antidegradation implementation procedures for the outstanding state resource waters established by the board for waters in the Great Lakes system. This SECTION does not affect the authority of the board to amend 327 IAC 5-2-11.7. Any rule adopted by the board contrary to this standard is void.

(c) All waters designated as outstanding state resource waters under 327 IAC 2-1-2(3) and waters designated as exceptional use waters under 327 IAC 2-1-6(i) shall be maintained and protected in accordance with 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2). If a

permittee seeks a new or increased discharge for which a new or increased permit limit is required and that amounts to a significant lowering of water quality, the permittee shall demonstrate an overall improvement in water quality in the outstanding state resource water or exceptional use water, subject to:

(1) the approval of the department of environmental management; and

(2) IC 13-18-3-2(m)(2)(A) and IC 13-18-3-2(m)(2)(B).

(d) Any rule adopted by the board before the effective date of this SECTION is void to the extent that it:

(1) is inconsistent with this SECTION; or

(2) requires protection of waters beyond the protection required by 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2).

(e) Before July 1, 2004, the board shall amend 327 IAC 2-1-2, 327 IAC 2-1-6, and 327 IAC 2-1.5-4 to reflect this SECTION.

(f) This SECTION expires on the earlier of:

(1) the effective date of the rule amendments adopted by the board under subsection (e); or

(2) July 1, 2006.

SECTION 5. [EFFECTIVE DECEMBER 31, 2002 (RETROACTIVE)] (a) Until July 1, 2004, the following apply to a water body designated before October 1, 2002, as an exceptional use water:

(1) The water body is subject to the overall water quality improvement provisions of IC 13-18-3-2(l).

(2) The water body is not subject to a standard of having its water quality maintained and protected without degradation consistent with the provisions of P.L.140-2000.

(b) Before July 1, 2004, the water pollution control board established under IC 13-18-1 shall:

(1) determine whether, effective July 1, 2004, to designate as an outstanding state water each water designated before October 1, 2002, as an exceptional use water under 327 IAC 2-1-11; and

(2) complete rulemaking to make any designation determined under subdivision (1).

(c) This SECTION expires July 1, 2006.

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) Before July 1, 2005, the:

(1) air pollution control board, water pollution control board, or solid waste management board may not adopt a new rule; and

(2) department of environmental management may not adopt a new policy;

if the new rule or policy would require any industry described in subsection (b) that experienced at least a ten percent (10%) job loss or a ten percent (10%) decline in production during calendar years 2001 and 2002 to comply with a standard of conduct that exceeds the standard established in a related federal regulation or regulatory policy.

(b) The following are the industries referred to in subsection (a) functioning under the following primary Standard Industrial Classification (SIC) codes:

(1) Blast furnaces and steel mills (3312).

(2) Gray and ductile iron foundries (3321).

(3) Malleable iron foundries (3322).

(4) Steel investment foundries (3324).

(5) Steel foundries (3325).

(6) Aluminum foundries (3365).

(7) Copper foundries (3366).

(8) Nonferrous foundries (3369).

(c) This SECTION expires July 1, 2005.

SECTION 7. An emergency is declared for this act.

P.L.232-2003

[H.1325. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-44-2-2, AS AMENDED BY SEA 257-2003, SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) As used in this section, "misconduct" means a violation of a departmental rule or procedure of a law enforcement agency.

~~(b)~~ **(c)** A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

~~(c)~~ **(d)** A person who:

(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;

(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;

(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false; ~~or~~

(4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or gives false information in the official investigation of a missing child knowing the report or information to be false; ~~or~~

(5) makes a complaint against a law enforcement officer to the state or municipality (as defined in IC 8-1-13-3) that employs the officer:

(A) alleging the officer engaged in misconduct while performing the officer's duties; and

(B) knowing the complaint to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.

SECTION 2. IC 35-47-4.5-4, AS ADDED BY P.L.70-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 4. A person who knowingly or intentionally directs light amplified by the stimulated emission of radiation that is visible to the human eye or any other electromagnetic radiation from a laser pointer at a public safety officer **or a state police motor carrier inspector** without the consent of the public safety officer **or state police motor carrier inspector** commits a Class B misdemeanor.

SECTION 3. [EFFECTIVE JULY 1, 2003] **IC 35-44-2-2 and IC 35-47-4.5-4, both as amended by this act, apply only to offenses committed after June 30, 2003.**



P.L.233-2003

[H.1336. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning natural and cultural resources and to make an appropriation.

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

SECTION 1. IC 6-6-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) In addition to paying the boat excise tax, a boat owner shall complete a form and pay a department of natural resources fee for each boat required to have boat excise decals. The fee is five dollars (\$5) for each boating year. However, the fee is waived for the boating year in which the registration fee prescribed by IC 9-29-15 is paid for that boat. The revenue from the fees collected under this chapter shall be transferred to the department of natural resources, as provided in section 29 of this chapter.

(b) In addition to the boat excise tax and the department of natural resources fee, a boat owner shall pay to the department of natural resources a ~~five dollar~~ (\$5) lake and river enhancement fee for each boat required to have boat excise decals **in the amount set forth in the following table:**

Value of the Boat	Amount of the Fee
Less than \$1,000	\$ 5

At least \$1,000, but less than \$3,000	\$10
At least \$3,000, but less than \$5,000	\$15
At least \$5,000, but less than \$10,000	\$20
At least \$10,000	\$25

(c) The revenue from the lake and river enhancement fee **imposed under subsection (b)** shall be deposited in the **following manner**:

(1) **Two-thirds (2/3) of the money shall be deposited in the lake and river enhancement fund established by section 12.5 of this chapter.**

(2) **One-third (1/3) of the money shall be deposited in the conservation officers marine enforcement fund established by IC 14-9-8-21.5.**

SECTION 2. IC 6-6-11-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. (a) The lake and river enhancement fund is established **and allocated** for the ~~purpose of paying~~ **following purposes**:

(1) **One-half (1/2) of the fund shall be used to pay costs incurred by the department of natural resources in implementing the lake and river enhancement projects required by IC 14-32-7-12(b)(7).**

(2) **One-half (1/2) of the fund shall be used by the department of natural resources to pay for lake projects, including projects to:**

(A) **remove sediment; or**

(B) **control exotic or invasive plants or animals.**

(b) The fund shall be administered by the director of the department of natural resources.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of the revenue from the lake and river enhancement fee paid by boat owners **and deposited** under ~~IC 6-6-11-12(b)~~: **section 12(c)(1) of this chapter.**

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

(f) With the approval of the governor and the budget agency, **the** money in the fund **allocated under subsection (a)(1)** may be used to augment and supplement the funds appropriated for the implementation of lake and river enhancement projects required by

IC 14-32-7-12(b)(7).

SECTION 3. IC 14-8-2-107, AS AMENDED BY P.L.145-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 107. "Fund" has the following meaning:

(1) For purposes of IC 14-9-5, the meaning set forth in IC 14-9-5-1.

(2) For purposes of IC 14-9-8-21, the meaning set forth in IC 14-9-8-21.

(3) For purposes of IC 14-9-8-21.5, the meaning set forth in IC 14-9-8-21.5.

(4) For purposes of IC 14-9-9, the meaning set forth in IC 14-9-9-3.

~~(4)~~ **(5)** For purposes of IC 14-12-1, the meaning set forth in IC 14-12-1-1.

~~(5)~~ **(6)** For purposes of IC 14-12-2, the meaning set forth in IC 14-12-2-2.

~~(6)~~ **(7)** For purposes of IC 14-12-3, the meaning set forth in IC 14-12-3-2.

~~(7)~~ **(8)** For purposes of IC 14-13-1, the meaning set forth in IC 14-13-1-2.

~~(8)~~ **(9)** For purposes of IC 14-13-2, the meaning set forth in IC 14-13-2-3.

~~(9)~~ **(10)** For purposes of IC 14-19-4, the meaning set forth in IC 14-19-4-1.

~~(10)~~ **(11)** For purposes of IC 14-19-5, the meaning set forth in IC 14-19-5-1.

~~(11)~~ **(12)** For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-3.

~~(12)~~ **(13)** For purposes of IC 14-20-11, the meaning set forth in IC 14-20-11-2.

~~(13)~~ **(14)** For purposes of IC 14-22-3, the meaning set forth in IC 14-22-3-1.

~~(14)~~ **(15)** For purposes of IC 14-22-4, the meaning set forth in IC 14-22-4-1.

~~(15)~~ **(16)** For purposes of IC 14-22-5, the meaning set forth in IC 14-22-5-1.

~~(16)~~ **(17)** For purposes of IC 14-22-8, the meaning set forth in IC 14-22-8-1.

- ~~(17)~~ **(18)** For purposes of IC 14-22-34, the meaning set forth in IC 14-22-34-2.
- ~~(18)~~ **(19)** For purposes of IC 14-23-3, the meaning set forth in IC 14-23-3-1.
- ~~(19)~~ **(20)** For purposes of IC 14-23-8, the meaning set forth in IC 14-23-8-1.
- ~~(20)~~ **(21)** For purposes of IC 14-25-2-4, the meaning set forth in IC 14-25-2-4.
- ~~(21)~~ **(22)** For purposes of IC 14-25-10, the meaning set forth in IC 14-25-10-1.
- ~~(22)~~ **(23)** For purposes of IC 14-25-11-19, the meaning set forth in IC 14-25-11-19.
- ~~(23)~~ **(24)** For purposes of IC 14-25.5, the meaning set forth in IC 14-25.5-1-3.
- ~~(24)~~ **(25)** For purposes of IC 14-28-5, the meaning set forth in IC 14-28-5-2.
- ~~(25)~~ **(26)** For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-5.
- ~~(26)~~ **(27)** For purposes of IC 14-25-12, the meaning set forth in IC 14-25-12-1.
- ~~(27)~~ **(28)** For purposes of IC 14-33-14, the meaning set forth in IC 14-33-14-3.
- ~~(28)~~ **(29)** For purposes of IC 14-33-21, the meaning set forth in IC 14-33-21-1.
- ~~(29)~~ **(30)** For purposes of IC 14-34-6-15, the meaning set forth in IC 14-34-6-15.
- ~~(30)~~ **(31)** For purposes of IC 14-34-14, the meaning set forth in IC 14-34-14-1.
- ~~(31)~~ **(32)** For purposes of IC 14-37-10, the meaning set forth in IC 14-37-10-1.

SECTION 4. IC 14-9-8-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 21.5. (a) As used in this section, "fund" refers to the conservation officers marine enforcement fund established by this section.**

(b) The conservation officers marine enforcement fund is established. The department shall administer the fund. The department may expend the money in the fund exclusively for

marine enforcement efforts associated with recreational boating on Indiana waters, including uses described in IC 14-9-9-5.

(c) The fund consists of money from the lake and river enhancement fee paid by boat owners and deposited under IC 6-6-11-12(c)(2). Money deposited in the fund is annually appropriated and allotted to the department to carry out the purposes of this section. The expenses of administering the fund shall be paid from money in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, the department may transfer from the fund to the counties with special boat patrol needs fund (IC 14-9-9-5) an amount that does not exceed twenty percent (20%) of money deposited into the fund.

SECTION 5. IC 14-9-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The counties with special boat patrol needs fund is established exclusively to provide grants to certain counties to provide law enforcement services on lakes located within the counties.

(b) The department shall administer the fund. Money in the fund includes money transferred from the conservation officers marine enforcement fund (IC 14-9-8-21.5). Money in the fund is annually appropriated to the department and shall be used exclusively for the enforcement of laws pertaining to watercraft on lakes located in counties with special boat patrol needs as described in this chapter.

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

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

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

P.L.234-2003

[H.1410. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-8-1.1-43.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43.1. (a) ~~The bureau, at the direction of~~ The commissioner may adopt rules requiring all employers having eleven (11) or more employees employed to make and retain records of, and to make reports on, all work related deaths, injuries, and illnesses.

(b) ~~Such rules shall specifically include all of the reporting provisions of IC 22-3-4-13 and IC 22-3-7-37.~~

(c) ~~(b)~~ Deaths and disasters shall be reported directly to the commissioner within ~~forty-eight (48)~~ **eight (8)** hours. "Disaster" is any incident which results in the hospitalization of ~~five (5)~~ **three (3)** or more persons.

P.L.235-2003

[H.1535. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.1-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana

department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.

(9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.

(11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.

(12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency

rule expires.

(15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(20) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(22) After December 31, 2003, an emergency rule adopted by the office of Medicaid policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.

(23) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(24) An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

(25) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(26) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

(27) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be

submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

- (1) accept the rule for filing; and
- (2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

- (1) The effective date of the statute delegating authority to the agency to adopt the rule.
- (2) The date and time that the rule is accepted for filing under subsection (e).
- (3) The effective date stated by the adopting agency in the rule.
- (4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or
- (2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

- (1) The expiration date stated by the adopting agency in the rule.
- (2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this

section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. IC 6-1.1-4-32, AS AMENDED BY P.L.151-2002, SECTION 2, AND P.L.178-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) As used in this section, "contract" refers to a contract entered into under this section.

(b) As used in this section, "contractor" refers to a firm that enters into a contract with the department of local government finance under this section.

(c) As used in this section, "qualifying county" means a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(d) Notwithstanding sections 15 and 17 of this chapter, a township assessor in a qualifying county may not appraise property, or have property appraised, for the general reassessment of real property to be completed for the March 1, 2002, assessment date. Completion of that general reassessment in a qualifying county is instead governed by this section. The only duty of:

- (1) a township assessor in a qualifying county; or
- (2) a county assessor of a qualifying county;

with respect to that general reassessment is to provide to the department of local government finance or the department's contractor under subsection (e) any support and information requested by the department or the contractor. This subsection expires June 30, 2004.

(e) **Subject to section 33 of this chapter**, the department of local government finance shall select and contract with a certified public accounting firm with expertise in the appraisal of real property to appraise property for the general reassessment of real property in a qualifying county to be completed for the March 1, 2002, assessment date. The department of local government finance may enter into additional contracts to provide software or other auxiliary services to be used for the appraisal of property for the general reassessment. The contract applies for the appraisal of land and improvements with respect to all classes of real property in the qualifying county. The contract must include:

- (1) a provision requiring the appraisal firm to:
 - (A) prepare a detailed report of:

- (i) expenditures made after July 1, 1999, and before the date of the report from the qualifying county's reassessment fund under section 28 of this chapter (repealed); and
 - (ii) the balance in the reassessment fund as of the date of the report; and
- (B) file the report with:
- (i) the legislative body of the qualifying county;
 - (ii) the prosecuting attorney of the qualifying county;
 - (iii) the department of local government finance; and
 - (iv) the attorney general;
- (2) a fixed date by which the appraisal firm must complete all responsibilities under the contract;
 - (3) subject to subsection (t), a provision requiring the appraisal firm to use the land values determined for the qualifying county under section 13.6 of this chapter;
 - (4) a penalty clause under which the amount to be paid for appraisal services is decreased for failure to complete specified services within the specified time;
 - (5) a provision requiring the appraisal firm to make periodic reports to the department of local government finance;
 - (6) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision (5) are to be made;
 - (7) a precise stipulation of what service or services are to be provided;
 - (8) a provision requiring the appraisal firm to deliver a report of the assessed value of each parcel in a township in the qualifying county to the department of local government finance; and
 - (9) any other provisions required by the department of local government finance.

After December 31, 2001, the department of local government finance has all the powers and duties of the state board of tax commissioners provided under a contract entered into under this subsection (as effective before January 1, 2002) before January 1, 2002. The contract is valid to the same extent as if it were entered into by the department of local government finance. However, a reference in the contract to the state board of tax commissioners shall be treated as a reference to the department of local government finance. The contract shall be

treated for all purposes, including the application of IC 33-3-5-2.5, as the contract of the department of local government finance. If the department of local government finance terminates a contract before completion of the work described in this subsection, the department shall contract for completion of the work as promptly as possible under IC 5-22-6. This subsection expires June 30, 2004.

(f) At least one (1) time each month, the contractors that will make physical visits to the site of real property for reassessment purposes shall publish a notice under IC 5-3-1 describing the areas that are scheduled to be visited within the next thirty (30) days and explaining the purposes of the visit. The notice shall be published in a way to promote understanding of the purposes of the visit in the affected areas. After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (e), the department of local government finance shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of reassessment:

(1) is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance apply to an appeal under this subsection. A determination by the Indiana board of an appeal under this subsection is subject to appeal to the tax court under IC 6-1.1-15. This subsection expires on the later of June 30, 2004, or the date a final determination is entered in the last pending appeal filed under this subsection.

(g) In order to obtain a review by the Indiana board under subsection (f), the taxpayer must file a petition for review with the appropriate county assessor within forty-five (45) days after the notice of the department of local government finance is given to the taxpayer under subsection (f). This subsection expires June 30, 2004. under section 34 of this chapter; and

(2) must include a statement of the taxpayer's rights under sections 33 and 34 of this chapter.

(h) (g) The department of local government finance shall mail the notice required by subsection (f) within ninety (90) days after the department receives the report for a parcel from the professional appraisal firm. This subsection expires June 30, 2004.

(†)(h) The qualifying county shall pay the cost of any contract under this section which shall be without appropriation from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under a contract. However, the maximum amount that the qualifying county is obligated to pay for all contracts entered into under subsection (e) for the general reassessment of real property in the qualifying county to be completed for the March 1, 2002, assessment date is twenty-five million five hundred thousand dollars (\$25,500,000). Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

- (1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;
- (2) obtains from the department of local government finance:
 - (A) approval of the form and amount of the bill; and
 - (B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and
- (3) files with the county auditor of the qualifying county:
 - (A) a duplicate copy of the bill submitted to the department of local government finance;
 - (B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and
 - (C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than

three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection. This subsection expires June 30, 2004.

~~(j)~~ **(i)** Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department of local government finance under this section:

- (1) The commissioner of the Indiana department of administration.
- (2) The director of the budget agency.
- (3) The attorney general.
- (4) The governor.

~~(k)~~ **(j)** With respect to a general reassessment of real property to be completed under section 4 of this chapter for an assessment date after the March 1, 2002, assessment date, the department of local government finance shall initiate a review with respect to the real property in a qualifying county or a township in a qualifying county, or a portion of the real property in a qualifying county or a township in a qualifying county. The department of local government finance may contract to have the review performed by an appraisal firm. The department of local government finance or its contractor shall determine for the real property under consideration and for the qualifying county or township the variance between:

- (1) the total assessed valuation of the real property within the qualifying county or township; and
- (2) the total assessed valuation that would result if the real property within the qualifying county or township were valued in the manner provided by law.

~~(l)~~ **(k)** If:

(1) the variance determined under subsection ~~(k)~~ (j) exceeds ten percent (10%); and

(2) the department of local government finance determines after holding hearings on the matter that a special reassessment should be conducted;

the department shall contract for a special reassessment by an appraisal firm to correct the valuation of the property.

~~(m)~~ (l) If the variance determined under subsection ~~(k)~~ (j) is ten percent (10%) or less, the department of local government finance shall determine whether to correct the valuation of the property under:

(1) sections 9 and 10 of this chapter; or

(2) IC 6-1.1-14-10 and IC 6-1.1-14-11.

~~(n)~~ (m) The department of local government finance shall give notice by mail to a taxpayer of a hearing concerning the department's intent to cause the taxpayer's property to be reassessed under this section. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed. The department of local government finance may conduct a single hearing under this section with respect to multiple properties. The notice must state:

(1) the time of the hearing;

(2) the location of the hearing; and

(3) that the purpose of the hearing is to hear taxpayers' comments and objections with respect to the department of local government finance's intent to reassess property under this chapter.

~~(o)~~ (n) If the department of local government finance determines after the hearing that property should be reassessed under this section, the department shall:

(1) cause the property to be reassessed under this section;

(2) mail a certified notice of its final determination to the county auditor of the qualifying county in which the property is located; and

(3) notify the taxpayer by mail of its final determination.

~~(p)~~ (o) A reassessment may be made under this section only if the notice of the final determination under subsection ~~(n)~~ (m) is given to the taxpayer within the same period prescribed in IC 6-1.1-9-3 or IC 6-1.1-9-4.

~~(q)~~ (p) If the department of local government finance contracts for a special reassessment of property under this section, the qualifying

county shall pay the bill, without appropriation, from the county property reassessment fund. A contractor may periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

- (1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;
- (2) obtains from the department of local government finance:
 - (A) approval of the form and amount of the bill; and
 - (B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and
- (3) files with the county auditor of the qualifying county:
 - (A) a duplicate copy of the bill submitted to the department of local government finance;
 - (B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and
 - (C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this

subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(†) (q) A qualifying official (as defined in IC 33-3-5-2.5) shall provide information requested in writing by the department of local government finance or the department's contractor under this section not later than seven (7) days after receipt of the written request from the department or the contractor. If a qualifying official (as defined in IC 33-3-5-2.5) fails to provide the requested information within the time permitted in this subsection, the department of local government finance or the department's contractor may seek an order of the tax court under IC 33-3-5-2.5 for production of the information.

(‡) (r) The provisions of this section are severable in the manner provided in IC 1-1-1-8(b).

(†) (s) A contract entered into under subsection (e) is subject to this subsection. A contractor shall use the land values determined for the qualifying county under section 13.6 of this chapter to the extent that the contractor finds that the land values reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. If the contractor finds that the land values determined for the qualifying county under section 13.6 of this chapter do not reflect the true tax value of land, the contractor shall determine land values for the qualifying county that reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. The land values determined by the contractor shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The contractor shall notify the county assessor and the township assessors in the qualifying county of the land values as modified under this subsection. This subsection expires June 30, 2004.

(†) (t) A contractor acting under a contract under subsection (e) may notify the department of local government finance if:

- (1) the county auditor fails to:
 - (A) certify the bill;
 - (B) publish the claim;

(C) submit the claim to the county executive; or

(D) issue a warrant or check;

as required in subsection ~~(i)~~ **(h)** at the first opportunity the county auditor is legally permitted to do so;

(2) the county executive fails to allow the claim as required in subsection ~~(i)~~ **(h)** at the first opportunity the county executive is legally permitted to do so; or

(3) a person or entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts the process under this section for payment of a bill submitted by a contractor under subsection ~~(i)~~: **(h)**.

This subsection expires June 30, 2004.

~~(v)~~ **(u)** The department of local government finance, upon receiving notice under subsection ~~(u)~~ **(t)** from the contractor, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection ~~(b)(1)~~ **(t)(1)** or ~~(b)(2)~~; **(t)(2)**; or

(B) a person or entity acted or failed to act as described in subsection ~~(b)(3)~~; **(t)(3)**; and

(2) provide to the treasurer of state the department of local government finance's approval under subsection ~~(i)(2)(A)~~ **(h)(2)(A)** of the bill with respect to which the contractor gave notice under subsection ~~(u)~~: **(t)**.

This subsection expires June 30, 2004.

~~(w)~~ **(v)** Upon receipt of the approval of the department of local government finance under subsection ~~(v)~~; **(u)**, the treasurer of state shall pay the contractor the amount of the bill approved by the department of local government finance from money in the possession of the state that would otherwise be available for distribution to the qualifying county, including distributions from the property tax replacement fund or distributions of admissions taxes or wagering taxes. This subsection expires June 30, 2004.

~~(x)~~ **(w)** The treasurer of state shall withhold from the part attributable to the county of the next distribution to the county treasurer under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b), or another law the amount of any payment made by the treasurer of state to the contractor

under subsection ~~(w)~~ **(v)**. Money shall be deducted first from money payable under IC 6-1.1-21.4(b) and then from all other funds payable to the qualifying county. This subsection expires June 30, 2004.

~~(y)~~ **(x)** Compliance with subsections ~~(t)~~ **(t)** through ~~(x)~~ **(w)** shall be treated as compliance with IC 5-11-10. This subsection expires June 30, 2004.

~~(z)~~ **(y)** IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections ~~(t)~~ **(t)** through ~~(x)~~ **(w)**. This subsection and subsections ~~(t)~~ **(t)** through ~~(y)~~ **(x)** shall be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county under this section are paid. Nothing in this subsection or subsections ~~(t)~~ **(t)** through ~~(y)~~ **(x)** shall be construed to create a debt of the state. This subsection expires June 30, 2004.

(z) This section expires December 31, 2006.

SECTION 3. IC 6-1.1-4-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 33. (a) This section applies if the department of local government finance entered into a contract under section 32(e) of this chapter before January 1, 2003.**

(b) Subject to other requirements of this section, the department of local government finance may negotiate an addendum to the contract referred to in subsection (a) to require the contractor to:

(1) afford to each taxpayer in the county an opportunity to attend an informal hearing to:

- (A) discuss the specifics of the taxpayer's reassessment;**
- (B) review the taxpayer's property record card;**
- (C) explain to the taxpayer how the reassessment was determined;**
- (D) provide to the taxpayer information about the statutes, rules, and guidelines that govern the determination of the reassessment;**
- (E) note and consider objections of the taxpayer;**
- (F) consider all errors alleged by the taxpayer; and**
- (G) otherwise educate the taxpayer about:

 - (i) the taxpayer's reassessment;**
 - (ii) the reassessment process; and**
 - (iii) the reassessment appeal process under section 34 of****

this chapter; and

(2) represent the department of local government finance in appeals initiated under section 34 of this chapter.

(c) Following an informal hearing referred to in subsection (b), the contractor shall:

(1) make a recommendation to the department of local government finance as to whether a change in the reassessment is warranted; and

(2) if recommending a change under subdivision (1), provide to the department a statement of:

(A) how the changed reassessment was determined; and

(B) the amount of the changed reassessment.

(d) To preserve the right to appeal under section 34 of this chapter, a taxpayer must initiate the informal hearing process by notifying the department of local government finance or its designee of the taxpayer's intent to participate in an informal hearing referred to in subsection (b) not later than forty-five (45) days after the department of local government finance gives notice under section 32(f) of this chapter to taxpayers of the amount of the reassessment.

(e) The informal hearings referred to in subsection (b) must be conducted:

(1) in the county where the property is located; and

(2) in a manner determined by the department of local government finance.

(f) The department of local government finance shall:

(1) consider the recommendation of the contractor under subsection (c); and

(2) if the department accepts a recommendation that a change in the reassessment is warranted, accept or modify the recommended amount of the changed reassessment.

(g) The department of local government finance shall send a notice of the result of each informal hearing to:

(1) the taxpayer;

(2) the county auditor;

(3) the county assessor; and

(4) the township assessor of the township in which the property is located.

(h) A notice under subsection (g) must:

- (1) state whether the reassessment was changed as a result of the informal hearing; and**
 - (2) if the reassessment was changed as a result of the informal hearing:

 - (A) indicate the amount of the changed reassessment; and**
 - (B) provide information on the taxpayer's right to appeal under section 34 of this chapter.****
 - (i) If the department of local government finance does not send a notice under subsection (g) not later than two hundred seventy (270) days after the date the department gives notice of the amount of the reassessment under section 32(f) of this chapter:

 - (1) the department may not change the amount of the reassessment under the informal hearing process described in this section; and**
 - (2) the taxpayer may appeal the reassessment under section 34 of this chapter.****
 - (j) The department of local government finance may adopt emergency rules to establish procedures for informal hearings under this section.**
 - (k) Payment for an addendum to a contract under subsection (a):

 - (1) is made in the same manner as payment for the contract under section 32(e) of this chapter; and**
 - (2) is not subject to the maximum compensation under section 32(h) of this chapter.****
 - (l) This section expires December 31, 2005.**
- SECTION 4. IC 6-1.1-4-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 34. (a) As used in this section, "special master" refers to a person designated by the Indiana board under subsection (e).**
- (b) The notice of reassessment under section 32(f) of this chapter is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance do not apply to an appeal under this subsection. The Indiana board may establish applicable procedures and time limitations under subsection (l).**
 - (c) In order to appeal under subsection (b), the taxpayer must:**

- (1) request and participate as required in the informal hearing process under section 33 of this chapter not later than forty-five (45) days after the date of the notice of reassessment under section 32(f) of this chapter;**
 - (2) except as provided in section 33(i) of this chapter, receive a notice of changed reassessment under section 33(g) of this chapter; and**
 - (3) file a petition for review with the appropriate county assessor not later than thirty (30) days after the notice of the department of local government finance is given to the taxpayer under section 32(f) of this chapter.**
- (d) The Indiana board may develop a form for petitions under subsection (c) that:**
- (1) outlines:**
 - (A) the appeal process;**
 - (B) the burden of proof; and**
 - (C) evidence necessary to warrant a change to a reassessment; and**
 - (2) describes:**
 - (A) the increase in the property tax replacement credit; and**
 - (B) other changes to the property tax system; under P.L.192-2002(ss) that reduced the effect of general reassessment on property tax liability.**
- (e) The Indiana board may contract with, appoint, or otherwise designate the following to serve as special masters to conduct evidentiary hearings and prepare reports required under subsection (g):**
- (1) Independent, licensed appraisers.**
 - (2) Attorneys.**
 - (3) Certified level two Indiana assessor-appraisers (including administrative law judges employed by the Indiana board).**
 - (4) Other qualified individuals.**
- (f) Each contract entered into under subsection (e) must specify the appointee's compensation and entitlement to reimbursement for expenses. The compensation and reimbursement for expenses are paid from the county property reassessment fund. Payments under this subsection from the county property reassessment fund may not exceed five hundred thousand dollars (\$500,000).**

(g) With respect to each petition for review filed under subsection (c), the special masters shall:

- (1) set a hearing date;**
- (2) give notice of the hearing at least thirty (30) days before the hearing date, by mail, to:**
 - (A) the taxpayer;**
 - (B) the department of local government finance;**
 - (C) the township assessor; and**
 - (D) the county assessor;**
- (3) conduct a hearing and hear all evidence submitted under this section; and**
- (4) make evidentiary findings and file a report with the Indiana board.**

(h) At the hearing under subsection (g):

- (1) the taxpayer shall present:**
 - (A) its evidence that the reassessment is incorrect;**
 - (B) the method by which the taxpayer contends the reassessment is correctly determined; and**
 - (C) comparable sales, appraisals, or other pertinent information concerning valuation as required by the Indiana board; and**
- (2) the department of local government finance shall present its evidence that the reassessment is correct.**

(i) The Indiana board may dismiss a petition for review filed under subsection (c) if the evidence and other information required under subsection (h)(1) is not provided at the hearing under subsection (g).

(j) The township assessor and the county assessor may attend and participate in the hearing under subsection (g).

(k) The Indiana board may:

- (1) consider the report of the special masters under subsection (g)(4);**
- (2) make a final determination based on the findings of the special masters without:**
 - (A) conducting a hearing; or**
 - (B) any further proceedings; and**
- (3) incorporate the findings of the special masters into the board's findings in resolution of the appeal.**

(l) The Indiana board may adopt emergency rules under

IC 4-22-2-37.1 to:**(1) establish procedures to expedite:**

- (A) the conduct of hearings under subsection (g); and**
- (B) the issuance of determinations of appeals under subsection (b); and**

(2) establish deadlines:

- (A) for conducting hearings under subsection (g); and**
- (B) for issuing determinations of appeals under subsection (b).**

(m) A determination by the Indiana board of an appeal under subsection (b) is subject to appeal to the tax court under IC 6-1.1-15.

(n) This section expires December 31, 2005.

SECTION 5. An emergency is declared for this act.



P.L.236-2003

[H.1605. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-69.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 69.3. "Funeral escort" has the meaning set forth in IC 9-21-13-0.3.**

SECTION 2. IC 9-13-2-69.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 69.5. "Funeral procession" has the meaning set forth in IC 9-21-13-0.5.**

SECTION 3. IC 9-19-14.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A privately owned vehicle belonging to a certified emergency medical technician, certified emergency medical service driver, or certified emergency medical service first responder while traveling in the line of duty in connection

with emergency medical services activities may display **flashing or revolving** green lights, subject to the following restrictions and conditions:

- (1) The lights may not have a light source less than fifty (50) candlepower.
- (2) All lights shall be placed on the top of the vehicle.
- (3) Not more than two (2) green lights may be displayed on a vehicle and each light must be of the flashing or revolving type and visible at three hundred sixty (360) degrees.
- (4) The lights must consist of a lamp with a green lens and not of an uncolored lens with a green bulb. However, the revolving lights may contain multiple bulbs.
- (5) The green lights may not be a part of the regular head lamps displayed on the vehicle.
- (6) For a person **to be** authorized under this chapter to display a **flashing or revolving** green light on the person's vehicle, the person must first secure a written permit from the director of the state emergency management agency to use the light. The permit must be carried by the person when the light is displayed.

SECTION 4. IC 9-19-14.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Except as provided in section 1 of this chapter, a person who displays on any public or private motor vehicle at any time **flashing or revolving** green lights of any size or shape commits a Class C infraction.

SECTION 5. IC 9-19-14.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. This chapter does not prohibit the operation of a vehicle lawfully equipped with a **flashing or revolving** green light from being operated as any other vehicle when the green light is not illuminated.

SECTION 6. IC 9-21-13-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.3. As used in this chapter, "funeral escort" means a person that provides escort services for funeral processions.**

SECTION 7. IC 9-21-13-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "funeral procession" means two (2) or more vehicles, including a lead or a funeral escort vehicle, accompanying human remains.**

SECTION 8. IC 9-21-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A vehicle with lighted headlights in a funeral procession has the right-of-way at an intersection and may proceed through the intersection if the procession is headed by a lead or **funeral** escort vehicle displaying alternately flashing red and blue lights, except if either of the following conditions exist:

(1) When the right-of-way is required by an authorized emergency vehicle giving an audible signal.

(2) When the vehicles in procession are directed otherwise by a police officer.

(b) Before assuming the right-of-way, a person who drives a vehicle in the funeral procession must exercise due caution with regard to crossing traffic.

SECTION 9. IC 9-21-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. A person who drives a vehicle that is not a part of a funeral procession may not **join the procession or** form a procession and have headlights lighted for the purpose of securing the right-of-way granted by this chapter to funeral processions.

SECTION 10. IC 9-21-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The lead and **funeral** escort vehicles in a funeral procession may be equipped with flashing amber lights that may be used only when the vehicles are used in a funeral procession.

(b) Notwithstanding any other provisions in this article that govern emergency vehicles, the lead and **funeral** escort vehicles in a funeral procession may be equipped with flashing red lights that may be used only when the vehicles are used in a funeral procession. The flashing red lights may only be used to gain the right-of-way at intersections and to protect a funeral procession while crossing an intersection.

SECTION 11. IC 9-21-13-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) A person operating a vehicle in a funeral procession:**

(1) must exercise due caution while in the funeral procession;
and

(2) must follow the preceding vehicle in the funeral procession

as closely as is practical and safe.

(b) A vehicle that is part of a funeral procession:

- (1) must have its headlights and taillights illuminated; and**
- (2) may display flashing amber lights.**

(c) The operator of:

- (1) a vehicle immediately following the lead vehicle in a funeral procession; and**
- (2) the last vehicle in the funeral procession;**

may illuminate the vehicle's hazard warning lights while in the funeral procession.

SECTION 12. IC 9-21-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A vehicle that is a part of a funeral procession ~~shall~~ **may** use:

- (1) funeral pennants or flags; ~~or~~
- (2) windshield stickers; **or**
- (3) an amber light as described in section 4.5(b) of this chapter;**

to identify the vehicle as a part of the procession.



P.L.237-2003

[H.1630. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 5-10-8-10, AS ADDED BY P.L.91-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. **(a)** The state shall cover the **testing required under IC 16-41-6-4 and the** examinations required under IC 16-41-17-2 under a:

- (1) self-insurance program established or maintained under section 7(b) of this chapter to provide group health coverage; and
- (2) contract entered into or renewed under section 7(c) of this chapter to provide health services through a prepaid health care

delivery plan.

(b) Payment to a hospital for a test required under IC 16-41-6-4 must be in an amount equal to the hospital's actual cost of performing the test.

SECTION 2. IC 12-15-15-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. Payment to a hospital for a test required under IC 16-41-6-4 must be in an amount equal to the hospital's actual cost of performing the test and may not reduce or replace the reimbursement of other services that are provided to the patient under the state Medicaid program. The total cost to the state may not be more than twenty-four thousand dollars (\$24,000) in a state fiscal year.**

SECTION 3. IC 16-18-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 23.** "Approved laboratory", for purposes of **IC 16-41-6** and IC 16-41-15, has the meaning set forth in IC 16-41-15-1.

SECTION 4. IC 16-18-2-337.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 337.8. "Standard licensed diagnostic test for HIV", for purposes of IC 16-41-6, has the meaning set forth in IC 16-41-6-0.5.**

SECTION 5. IC 16-41-6-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "standard licensed diagnostic test for HIV" means a test recognized by the state department as a standard licensed diagnostic test for the antibody or antigen to HIV.**

SECTION 6. IC 16-41-6-1, AS AMENDED BY P.L.293-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a)** Except as provided in subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to the ~~human immunodeficiency virus (HIV)~~ **HIV** without the consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented. **The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 of this**

chapter if the woman refuses under section 7 of this chapter to consent to the test.

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

(1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is required or authorized under IC 11-10-3-2.5.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 7. IC 16-41-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Subject to subsection ~~(e)~~, **(f)**, if:

(1) the mother of a newborn infant has not had a test performed under ~~IC 16-41-6-2.5~~ **section 5 or 6 of this chapter**;

(2) the mother of a newborn infant has refused a test for the newborn infant to detect ~~the human immunodeficiency virus~~ HIV or the antibody or antigen to HIV; and

(3) a physician believes that testing the newborn infant is medically necessary;

the physician **overseeing the care of the newborn infant** may order a confidential test for the newborn infant in order to detect ~~the human immunodeficiency virus~~ HIV or the antibody or antigen to HIV. The test must be ordered at the earliest feasible time not exceeding forty-eight (48) hours after the birth of the infant.

(b) If the physician orders a test under subsection (a), the physician must:

(1) notify the mother of the newborn infant of the test; and

(2) provide ~~human immunodeficiency virus~~ HIV information and

counseling to the mother. The information and counseling must include the following:

- (A) The purpose of the test.
- (B) The risks and benefits of the test.
- (C) A description of the methods of HIV transmission.
- (D) A discussion of risk reduction behavior modifications, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk.
- (E) Referral information to other HIV prevention, health care, and psychosocial services.

(c) The confidentiality provisions of IC 16-41-2-3 apply to this section.

(d) The results of the confidential test ordered under subsection (a) must be released to the mother of the newborn infant.

(e) If a test ordered under subsection (a) is positive, the person who provides the results of the test shall inform the mother of the newborn infant of treatment options or referral options available to the newborn infant.

(f) If ~~the~~ a parent of the newborn infant objects in writing for reasons pertaining to religious beliefs, the newborn infant is exempt from the test under subsection (a).

(g) The state department shall adopt rules under IC 4-22-2 to carry out this section.

(h) The results of a test performed under this section are confidential.

SECTION 8. IC 16-41-6-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. (a) This section applies to:**

(1) a physician licensed under IC 25-22.5; or

(2) an advanced practice nurse licensed under IC 25-23;

who provides prenatal care within the scope of the provider's license.

(b) Subject to section 8 of this chapter, an individual described in subsection (a) who:

(1) diagnoses the pregnancy of a woman; or

(2) is primarily responsible for providing prenatal care to a pregnant woman;

shall order to be taken a sample of the pregnant woman's blood

and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.

SECTION 9. IC 16-41-6-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 6. Subject to section 8 of this chapter, if, at the time of delivery, there is no written evidence that a standard licensed diagnostic test for HIV has been performed under section 5 of this chapter, the physician or advanced practice nurse in attendance at the delivery shall order to be taken a sample of the woman's blood at the time of the delivery and shall submit the sample to an approved laboratory for a standard licensed diagnostic test for HIV.**

SECTION 10. IC 16-41-6-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 7. A pregnant woman has a right to refuse a test under section 5 or 6 of this chapter.**

SECTION 11. IC 16-41-6-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 8. (a) This section applies to a physician or an advanced practice nurse who orders an HIV test under section 5 or 6 of this chapter or to the physician's or nurse's designee.**

(b) An individual described in subsection (a) shall:

(1) inform the pregnant woman that:

(A) the individual is required by law to order an HIV test unless the pregnant woman refuses; and

(B) the pregnant woman has a right to refuse the test; and

(2) explain to the pregnant woman:

(A) the purpose of the test; and

(B) the risks and benefits of the test.

(c) An individual described in subsection (a) shall document in the pregnant woman's medical records that the pregnant woman received the information required under subsection (b).

(d) If a pregnant woman refuses to consent to an HIV test, the refusal must be noted in the pregnant woman's medical records.

(e) If a test ordered under section 5 or 6 of this chapter is positive, an individual described in subsection (a):

(1) shall inform the pregnant woman of the test results;

(2) shall inform the pregnant woman of the treatment options

or referral options available to the pregnant woman; and
(3) shall:

(A) provide the pregnant woman with a description of the methods of HIV transmission;

(B) discuss risk reduction behavior modifications with the pregnant woman, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk; and

(C) provide the pregnant woman with referral information to other HIV prevention, health care, and psychosocial services.

(f) The provisions of IC 16-41-2-3 apply to a positive HIV test under section 5 or 6 of this chapter.

(g) The results of a test performed under section 5 or 6 of this chapter are confidential.

(h) As a routine component of prenatal care, every individual described in subsection (a) is required to provide information and counseling regarding HIV and the standard serological test for HIV and to offer and recommend the standard serological test for HIV.

(i) An individual described in subsection (a) shall obtain a statement, signed by the pregnant woman, acknowledging that the pregnant woman was counseled and provided the required information set forth in subsection (b) to ensure that an informed decision has been made.

(j) A pregnant woman who refuses a test under this section must do so in writing.

SECTION 12. IC 16-41-6-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.** The state department shall require, on the confidential part of each birth certificate and stillbirth certificate retained by the state department, in addition to the information otherwise required to be included on the certificate, the following information:

(1) Whether a standard licensed diagnostic test for HIV was performed on the woman who bore the child.

(2) If a standard licensed diagnostic test for HIV was performed:

(A) the date the blood specimen was taken; and

(B) whether the test was performed during pregnancy or at the time of delivery.

(3) If a standard licensed diagnostic test for HIV was not performed, the reason the test was not performed.

SECTION 13. IC 16-41-6-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10. The state department shall distribute to physicians and to other individuals who are allowed by law to attend a pregnant woman information available from the federal Centers for Disease Control and Prevention that explains the treatment options available to an individual who has a positive test for HIV.**

SECTION 14. IC 16-41-6-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. (a) The state department shall adopt rules under IC 4-22-2 that include procedures:**

- (1) to inform the woman of the test results under this chapter, whether they are positive or negative;**
- (2) for explaining the side effects of any treatment for HIV if the test results under this chapter are positive; and**
- (3) to establish a process for a woman who tests positive under this chapter to appeal the woman's status on a waiting list on a treatment program for which the woman is eligible. The rule must:**

(A) include a requirement that the state department make a determination in the process described in this subdivision not later than seventy-two (72) hours after the state department receives all the requested medical information; and

(B) set forth the necessary medical information that must be provided to the state department and reviewed by the state department in the process described in this subdivision.

(b) The state department shall maintain rules under IC 4-22-2 that set forth standards to provide to women who are pregnant, before delivery, at delivery, and after delivery, information concerning HIV. The rules must include:

- (1) an explanation of the nature of AIDS and HIV;**
- (2) information concerning discrimination and legal**

protections;

(3) information concerning the duty to notify persons at risk as described in IC 16-41-7-1;

(4) information about risk behaviors for HIV transmission;

(5) information about the risk of transmission through breast feeding;

(6) notification that if the woman chooses not to be tested for HIV before delivery, at delivery the child will be tested subject to section 4 of this chapter;

(7) procedures for obtaining informed, written consent for testing under this chapter;

(8) procedures for post-test counseling by a health care provider when the test results are communicated to the woman, whether the results are positive or negative;

(9) procedures for referral for physical and emotional services if the test results are positive;

(10) procedures for explaining the importance of immediate entry into medical care if the test results are positive; and

(11) procedures for explaining that giving birth by cesarean section may lessen the likelihood of passing on HIV to the child during childbirth, especially when done in combination with medications, if the test results are positive.

SECTION 15. IC 16-41-6-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12. (a) The state department shall provide that an HIV test history and assessment form from the patient's medical records or an interview with the patient must be filled out. The state department shall develop the form to determine if:**

(1) the patient is HIV positive and has been informed; or

(2) the patient was tested during the current pregnancy and tested negative or was not tested during the current pregnancy and the HIV status is unknown.

(b) The form required under subsection (a) must identify what special support or assistance for continued medical care the patient might need as a result of a positive test.

(c) A copy of the form must be:

(1) kept in the patient's medical file;

(2) kept in the baby's medical file; and

(3) given to the doctor in the hospital designated to administer the newborn HIV testing program.

(d) The state department must maintain a systemwide evaluation of prenatal HIV testing in Indiana. The state department shall prescribe the HIV test history and assessment form and a newborn blood screening form. The state department shall remove all identifying information from the maternal test history before the state department performs its analyses and shall not maintain HIV test history data with identifying information.

SECTION 16. IC 16-41-6-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) Women who:**

(1) meet all qualifications to participate in the children's health insurance program, the AIDS drug assistance program, the health insurance assistance program, or any other health care program of the state; and

(2) test positive under section 5 or 6 of this chapter;

shall be given first priority on a waiting list for the program if a waiting list exists. If a program does not have a waiting list, the woman described in this subsection shall be automatically approved and accepted into the program.

(b) If the state department determines during the process described in section 11(a)(3) of this chapter that the treatment of a woman who tests positive under this chapter should not be interrupted because of medical necessity, the woman may enter a program described in subsection (a) regardless of the existence of a waiting list for the program.

SECTION 17. IC 27-8-24-4, AS AMENDED BY P.L.91-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. (a) Except as provided in section 5 of this chapter, every policy or group contract that provides maternity benefits must provide minimum benefits to a mother and her newborn child that cover:**

(1) a minimum length of postpartum stay at a hospital licensed under IC 16-21 that is consistent with the minimum postpartum hospital stay recommended by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists in their Guidelines for Perinatal Care; and

(2) the examinations to the newborn child required under IC 16-41-17-2; and

(3) the testing of the newborn child required under IC 16-41-6-4.

(b) Payment to a hospital for a test required under IC 16-41-6-4 must be in an amount equal to the hospital's actual cost of performing the test.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 16-18-2-290.5; IC 16-41-6-2.5.

SECTION 19. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "state department" refers to the state department of health established by IC 16-19-1-1.**

(b) The state department of health shall apply for any eligible funding under the federal Ryan White CARE Act (42 U.S.C. 300ff and 42 U.S.C. 201 et seq.).

(c) This SECTION expires December 31, 2006.

SECTION 20. **An emergency is declared for this act.**

P.L.238-2003

[H.1657. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-17-9-1, AS AMENDED BY P.L.1-1999, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Subject to section 3 of this chapter, a person may open burn the following for maintenance purposes:

(1) Vegetation from:

(A) a farm;

(B) an orchard;

(C) a nursery;

(D) a tree farm;

(E) a cemetery; or

(F) a drainage ditch.

(2) **Vegetation from agricultural land if the open burn occurs in an unincorporated area.**

(3) Wood products derived from pruning or clearing a roadside by a county highway department.

~~(3)~~ (4) Wood products derived from the initial clearing of a public utility right-of-way if the open burn occurs in an unincorporated area.

~~(4)~~ (5) Undesirable:

(A) wood structures on real property; or

(B) wood remnants of the demolition of a predominantly wooden structure originally located on real property;

located in an unincorporated area.

(b) A person who is allowed to open burn under subsection (a) is not required to obtain:

(1) a permit; or

(2) any other authorization;

from the department, a unit of local government, or a volunteer fire department before conducting the open burning.



P.L.239-2003

[H.1659. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 13-26-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a) Except as provided in subsection (b)**, the rates or charges for a sewage works may be determined based on the following:

(1) A flat charge for each connection.

(2) The amount of water used on the premises.

(3) The number and size of water outlets on the premises.

(4) The amount, strength, or character of sewage discharged into

the sewers.

(5) The size of sewer connections.

(6) Whether the property served has been or will be required to pay separately for the cost of any of the facilities of the works.

(7) A combination of these or other factors that the board determines is necessary to establish **nondiscriminatory**, just, and equitable rates or charges.

(b) This subsection applies only to a district in which a campground brought a legal action after January 1, 2000, and before April 1, 2003, against a board concerning sewage service billed at a flat rate. If a campground is billed for sewage service at a flat rate under subsection (a), the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the sewers for one (1) year. The highest meter reading for a calendar week for the campground during the year shall be used to determine the resident equivalent units for the campground. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit. The board may impose additional charges on a campground under this subsection if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) excessive biochemical oxygen demand (BOD).

P.L.240-2003

[H.1671. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 4-21.5-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a)** The office of environmental adjudication is established to review, under this article, decisions of the commissioner of the department of environmental management.

(b) The office of environmental adjudication shall:

(1) conduct adjudicatory hearings required to implement:

~~(+)~~ **(A)** air pollution control laws (as defined in IC 13-11-2-6), water pollution control laws (as defined in IC 13-11-2-261), environmental management laws (as defined in IC 13-11-2-71), and IC 13-19; and

~~(2)~~ **(B)** rules of:

~~(A)~~ **(i)** the air pollution control board;

~~(B)~~ **(ii)** the water pollution control board;

~~(C)~~ **(iii)** the solid waste management board; and

~~(D)~~ **(iv)** the financial assurance board; **and**

shall be conducted by the office of environmental adjudication under ~~IC 4-21.5~~.

(2) notify a board referred to in subdivision (1)(B) of a final order of the office of environmental adjudication that interprets:

(A) a rule of the board; or

(B) a statute under which a rule of the board is authorized.

SECTION 2. IC 4-22-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The Indiana economic development council may review and comment on any proposed rule and may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on businesses. The agency that intends to adopt the proposed rule shall respond in writing to the

Indiana economic development council concerning the council's comments or suggested alternatives before adopting the proposed rule under section 29 of this chapter.

(b) The agency shall also submit a proposed rule with an estimated economic impact greater than five hundred thousand dollars (\$500,000) on the regulated entities to the legislative services agency after the preliminary adoption of the rule. **Except as provided in subsection (c)**, before the adoption of the rule, the legislative services agency shall prepare, not more than forty-five (45) days after receiving a proposed rule, a fiscal analysis concerning the effect that compliance with the proposed rule will have on the:

- (1) state; and
- (2) entities regulated by the proposed rule.

The fiscal analysis must contain an estimate of the economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal analysis is a public document. The legislative services agency shall make the fiscal analysis available to interested parties upon request. The agency proposing the rule shall consider the fiscal analysis as part of the rulemaking process and shall provide the legislative services agency with the information necessary to prepare the fiscal analysis. The legislative services agency may also receive and consider applicable information from the regulated entities affected by the rule in preparation of the fiscal analysis.

(c) With respect to a proposed rule subject to IC 13-14-9:

- (1) the department of environmental management shall give written notice to the legislative services agency of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and**
- (2) the legislative services agency shall prepare the fiscal analysis referred to in subsection (b) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.**

SECTION 3. IC 13-14-1-11.5, AS AMENDED BY P.L.261-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.5. (a) If the department ~~utilizes~~ **proposes to utilize** a policy or statement that:

- (1) interprets, supplements, or implements a statute or rule;

- (2) has not been adopted in compliance with IC 4-22-2;
- (3) is not intended by the department to have the effect of law;
and
- (4) is not related solely to internal department organization;

the **proposed** policy or statement may not be put into effect until **the requirements of subsection (b) have been met.**

(b) The department shall present the proposed policy or statement under subsection (a) to the appropriate board. At least forty-five (45) days before the presentation, the department shall make available to the public, including posting on the department's web site:

- (1) the proposed policy or statement;**
- (2) information on the availability for public inspection of all materials relied upon by the department in the development of the proposed policy or statement, including, if applicable:**
 - (A) health criteria;**
 - (B) analytical methods;**
 - (C) treatment technology;**
 - (D) economic impact data;**
 - (E) environmental assessment data; and**
 - (F) other background data;**
- (3) the date, time, and location of the presentation under this subsection to the appropriate board; and**
- (4) information regarding the opportunity for a person to comment to the department and the appropriate board on the proposed policy or statement before or at the time of the presentation under this subsection.**

The department shall provide to the appropriate board at the time of the presentation under this subsection a copy of all comments made by a person under subdivision (4). The proposed policy or statement may not be put into effect until thirty (30) days after the policy or statement is made available for public inspection and comment and presented to the appropriate board.

(b) (c) If the department utilizes a policy or statement described in subsection (a), the department shall distribute:

- (1) two (2) copies of the policy or statement to the publisher of the Indiana Register for publication in the Indiana Register; and**
- (2) the copies required under IC 4-23-7.1-26 to the Indiana library**

and historical department.

~~(c)~~ **(d)** The department shall:

- (1) maintain a current list of all department policies and statements described in subsection (a) that the department may use in the department's external affairs; and
- (2) update the list at least one (1) time each month.

~~(d)~~ **(e)** The department shall include the following information on the list described in subsection ~~(c)~~ **(d)** for each policy or statement:

- (1) The title of the policy or statement.
- (2) The identification number of the policy or statement.
- (3) The date the policy or statement was originally adopted.
- (4) The date the policy or statement was last revised.
- (5) A reference to all other policies or statements described in subsection (a) that are repealed or amended by the policy or statement.
- (6) A brief description of the subject matter of the policy or statement.

~~(e)~~ **(f)** At least one (1) time every three (3) months, the department shall distribute two (2) copies of the list maintained and updated under subsection ~~(c)~~ **(d)** to the following:

- (1) The publisher of the Indiana Register.
- (2) The Indiana library and historical department.

SECTION 4. IC 13-14-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The department shall provide notice in the Indiana Register of the first public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

- (1) Identify the authority under which the proposed rule is to be adopted.
- (2) Describe the subject matter and the basic purpose of the proposed rule. The description required by this subdivision must:
 - (A)** include a listing of all alternatives being considered by the department at the time of the notice; ~~and must~~
 - (B) include:**

(i) a statement indicating whether each alternative listed under clause (A) is imposed under federal law;

(ii) a statement explaining how each alternative listed under clause (A) that is not imposed under federal law

differs from federal law; and
(iii) any information known to the department about the potential fiscal impact of each alternative under clause (A) that is not imposed under federal law; and
(C) set forth the basis for each alternative listed under clause (A).

(3) Describe the relevant statutory or regulatory requirements or restrictions relating to the subject matter of the proposed rule that exist before the adoption of the proposed rule.

(4) Request the submission of alternative ways to achieve the purpose of the proposed rule.

(5) Request the submission of comments, including suggestions of specific language for the proposed rule.

(6) Include a detailed statement of the issue to be addressed by adoption of the proposed rule.

SECTION 5. IC 13-14-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The department shall provide notice in the Indiana Register of the second public comment period required by section 2 of this chapter. A notice provided under this section must do the following:

(1) Contain the full text of the proposed rule, as provided under IC 4-22-2-24(c).

(2) Contain a summary of the response of the department to written comments submitted under section 3 of this chapter during the first public comment period.

(3) Request the submission of comments, including suggestions of specific amendments to the language contained in the proposed rule.

(4) Contain the full text of the commissioner's written findings under section 7 of this chapter, if applicable.

(5) Identify each element of the proposed rule that imposes a restriction or requirement on persons to whom the proposed rule applies that is not imposed under federal law.

(6) With respect to each element identified under subdivision (5), identify:

(A) the environmental circumstance or hazard that dictates the imposition of the proposed restriction or requirement to protect human health and the

environment;

(B) examples in which federal law is inadequate to provide the protection referred to in clause (A); and

(C) the:

(i) estimated fiscal impact; and

(ii) expected benefits;

based on the extent to which the proposed rule exceeds the requirements of federal law.

(7) For any element of the proposed rule that imposes a restriction or requirement that is not imposed under federal law, describe the availability for public inspection of all materials relied upon by the department in the development of the proposed rule, including, if applicable:

(A) health criteria;

(B) analytical methods;

(C) treatment technology;

(D) economic impact data;

(E) environmental assessment data;

(F) analyses of methods to effectively implement the proposed rule; and

(G) other background data.

SECTION 6. IC 13-14-9-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.2. Not less than fourteen (14) days before the date of preliminary adoption of a proposed rule by a board, the department shall make available to the board the fiscal analysis prepared by the legislative services agency with respect to the proposed rule under IC 4-22-2-28(c).**

SECTION 7. IC 13-14-9-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) Except for a rule:**

(1) that has been preliminarily adopted by a board in a form that is:

(A) identical to; or

(B) not substantively different from;

the proposed rule published in a second notice under section 4 of this chapter; or

(2) for which the commissioner has made a determination and

prepared written findings under section 7 or 8 of this chapter; a board may not adopt a rule under this chapter until the board has conducted a third public comment period that is at least twenty-one (21) days in length.

(b) The department shall publish notice of a third public comment period with the:

- (1) text; ~~and~~
- (2) summary; **and**
- (3) **fiscal analysis;**

that are required to be published in the Indiana Register under section 5(a)(2) of this chapter.

(c) The notice of a third public comment period that must be published in the Indiana Register under subsection (b) must request the submission of comments, including suggestions of specific amendments, that concern only the portion of the preliminarily adopted rule that is substantively different from the language contained in the proposed rule published in a second notice under section 4 of this chapter.

SECTION 8. IC 13-14-9.5-1.1, AS ADDED BY P.L.146-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.1. (a) This section applies to the following:

- (1) A rule that is required to receive or maintain:
 - (A) delegation;
 - (B) primacy; or
 - (C) approval;

for state implementation or operation of a program established under federal law.

- (2) A rule that is required to begin or continue receiving federal funding for the implementation or operation of a program.

(b) A rule described in subsection (a) does not expire under this chapter.

(c) In the seventh year after the effective date of a rule or an amendment to a rule described in subsection (a), the department shall publish a notice in the Indiana Register. The notice may contain a list of several rules that have been effective for seven (7) years. A separate notice must be published for each board with rulemaking authority. A notice under this subsection must provide for the following:

- (1) A written comment period of at least thirty (30) days.

(2) A request for comments on specific rules that should be reviewed through the regular rulemaking process under IC 13-14-9.

(3) A notice of public hearing before the appropriate board.

(4) The information required to be identified or described under IC 13-14-9-4(5) through IC 13-14-9-4(7) in the same manner that would apply if the proposed renewal of the expired rule were a proposal to adopt a new rule.

(d) The department shall:

(1) prepare responses to all comments received during the comment period; and

(2) provide all comments and responses to the board during the public board hearing;

described in subsection (c).

(e) The board, after considering the written comments and responses, as well as testimony at the public hearing described in subsection (c), shall direct the department on whether additional rulemaking actions must be initiated to address concerns raised to the board.

(f) For the rules described in subsection (a) that are effective on or before July 1, 2001, the notice described in subsection (c) shall be published in the Indiana Register before December 31, 2008.

SECTION 9. IC 13-15-4-1, AS AMENDED BY P.L.138-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** Except as provided in sections 2, 3, and 6 of this chapter, the commissioner shall approve or deny an application filed with the department after July 1, 1995, within the following number of days:

(1) Three hundred sixty-five (365) days for an application concerning the following:

(A) A new hazardous waste or solid waste landfill.

(B) A new hazardous waste or solid waste incinerator.

(C) A major modification of a solid waste landfill.

(D) A major modification of a solid waste incinerator.

(E) A new hazardous waste treatment or storage facility.

(F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.

(G) A Class 3 modification under 40 CFR 270.42 to a

hazardous waste landfill.

- (2) Two hundred seventy (270) days for an application concerning the following:
 - (A) A Class 3 modification under 40 CFR 270.42 of a hazardous waste treatment or storage facility.
 - (B) A major new National Pollutant Discharge Elimination System permit.
- (3) One hundred eighty (180) days for an application concerning the following:
 - (A) A new solid waste processing or recycling facility.
 - (B) A minor new National Pollutant Discharge Elimination System individual permit.
 - (C) A permit concerning the land application of wastewater.
- (4) One hundred fifty (150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.
- (5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.
- (6) Ninety (90) days for an application concerning the following:
 - (A) A minor modification to a solid waste landfill or incinerator permit.
 - (B) A wastewater facility or water facility construction permit.
- (7) The amount of time provided for in rules adopted by the air pollution control board for an application concerning the following:
 - (A) An air pollution construction permit that is subject to 326 IAC 2-2 and 326 IAC 2-3.
 - (B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).
 - (C) Registration of an air pollution facility.
- (8) Sixty (60) days for an application concerning the following:
 - (A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:
 - (i) landfill;
 - (ii) incinerator;
 - (iii) treatment facility; or
 - (iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds **one hundred forty-nine** dollars (~~(\$100)~~ **(\$49)** and for which a time frame has not been established under section 3 of this chapter.

(b) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a renewal permit under the rules of one (1) of the boards, the commissioner shall approve or deny the application on or before the expiration date stated in the permit for which renewal is sought.

SECTION 10. IC 13-15-4-11, AS AMENDED BY P.L.184-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) If an applicant is operating pursuant to a continuation of an existing permit pending determination of an application for a new or renewed permit under IC 13-15-3-6, the applicant may proceed under this section after notifying the commissioner in writing of its intent to do so.

(b) If the commissioner does not issue or deny a permit within the time specified under sections 1 through 6 of this chapter, the applicant may proceed under this section. After reaching an agreement with the commissioner or after consulting with the commissioner for thirty (30) days and failing to reach an agreement, the applicant may choose to proceed under one (1) of the following alternatives:

(1) The:

(A) applicant may, **except as provided in section 12.1 of this chapter**, request and receive a refund of a permit application fee paid by the applicant; and

(B) commissioner shall do the following:

(i) Continue to review the application.

(ii) Approve or deny the application as soon as practicable.

(iii) **Except as provided in section 12.1 of this chapter**, refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(2) The:

(A) applicant may:

(i) **except as provided in section 12.1 of this chapter**, request and receive a refund of a permit application fee paid

by the applicant; and

(ii) submit to the department a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall do the following:

(i) Review the draft permit.

(ii) Approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

(iii) **Except as provided in section 12.1 of this chapter**, refund the applicant's application fee not later than twenty-five (25) working days after the receipt of the applicant's request.

(3) The:

(A) applicant may hire an outside consultant to prepare a draft permit and any required supporting technical justification for the permit; and

(B) commissioner shall:

(i) review the draft permit; and

(ii) approve, with or without revision, or deny the draft permit in accordance with section 16 of this chapter.

SECTION 11. IC 13-15-4-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 12.1. An applicant may not receive a refund of a permit application fee if the permit application concerned the renewal of a permit.**

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "boards" refers to:**

(1) the air pollution control board;

(2) the water pollution control board; and

(3) the solid waste management board.

(b) Before November 1, 2003, the environmental quality service council shall:

(1) consider whether the rulemaking operations of the boards are sufficiently independent of the influence of:

(A) the department of environmental management; and

(B) other state agencies or entities;

(2) consider the overall efficiency of rulemaking operations of the boards; and

(3) submit its final report on the matters described in

subdivisions (1) and (2) to:

(A) the governor; and

(B) the executive director of the legislative services agency.

(c) As part of its consideration under subsections (b)(1) and (b)(2), the environmental quality service council shall examine the following:

(1) The composition of the boards.

(2) The appointing authorities for members of the boards.

(3) The extent to which the boards control staff who serve the boards.

(4) The sources and availability of data concerning:

(A) the fiscal impact; and

(B) other aspects;

of proposed rules.

(5) The involvement of employees of:

(A) the department of environmental management; and

(B) other state agencies or entities;

in the rulemaking process.

(6) The procedures to initiate and adopt proposed rules.

(7) The procedures to determine which issues are addressed in proposed rules and which issues are addressed in nonrule policy documents.

(8) The requirements for public notice and public participation in the rulemaking process.

(9) The means by which other states maintain independent and efficient operations of environmental rulemaking entities.

(10) Any other matter the environmental quality service council considers appropriate.

(d) This SECTION expires January 1, 2004.

SECTION 13. [EFFECTIVE JULY 1, 2003] (a) IC 13-14-1-11.5(b), as amended by this act, applies to proposed policies or statements presented by the department of environmental management to the appropriate board after June 30, 2003.

(b) The following, all as amended by this act, apply to proposed rules for which the department of environmental management provides notice in the Indiana Register of the first public comment period required by IC 13-14-9-3, as amended by this act, after June 30, 2003:

(1) IC 4-22-2-28.

- (2) IC 13-14-9-3.
- (3) IC 13-14-9-4.
- (4) IC 13-14-9-4.5.
- (5) IC 13-14-9.5-1.1.

(c) This SECTION expires January 1, 2004.

SECTION 14. An emergency is declared for this act.

P.L.241-2003

[H.1689. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 4-21.5-2-6, AS AMENDED BY P.L.1-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) This article does not apply to the formulation, issuance, or administrative review (but does, except as provided in subsection (b), apply to the judicial review and civil enforcement) of any of the following:

- (1) **Except as provided in IC 12-17.2-4-18.7 and IC 12-17.2-5-18.7**, determinations by the division of family and children.
- (2) Determinations by the alcohol and tobacco commission.
- (3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.
- (4) A final determination of the Indiana board of tax review.

(b) IC 4-21.5-5-12 and IC 4-21.5-5-14 do not apply to judicial review of a final determination of the Indiana board of tax review.

SECTION 2. IC 12-7-2-149.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 149.1. "Provider" means the following:**

- (1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.
- (2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:
- (A) IC 12-14-1 through IC 12-14-9.5.
 - (B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.
 - (C) IC 12-17-10.
 - (D) IC 12-17-11.
 - (E) IC 12-17.6.
- (3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.
- (4) Except as provided in subdivision (5), for purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.
- (5) For purposes of IC 12-17.2-3.5, a person that:
- (A) provides child care; and
 - (B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.
- The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.
- (6) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 3. IC 12-15-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) This section does not apply to a provider (as defined in ~~IC 12-7-2-149(2)~~): **IC 12-7-2-149.1(2)**).

(b) A person convicted of an offense under IC 35-43-5-7.1 is ineligible to receive Medicaid assistance under this article for ten (10) years after the conviction.

SECTION 4. IC 12-17.2-2-5.5, AS ADDED BY SEA 182-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.5. (a) **Notwithstanding IC 12-7-2-149.1, as used in this section, "provider" means a person who provides child**

care under this article.

(b) When the division adopts an administrative rule or a policy statement to administer this article, the division shall make the administrative rule or policy statement available to the public upon request.

~~(b)~~ (c) When the division adopts an administrative rule or a policy statement to administer this article, the administrative rule or policy statement must specifically identify the type of provider to which the administrative rule or policy statement applies.

~~(c)~~ (d) When the division provides information to the public concerning an administrative rule or a policy statement adopted by the division, each document provided must specifically identify the type of provider to which the administrative rule or policy statement applies.

SECTION 5. IC 12-17.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The division shall perform the following duties:

- (1) Administer the licensing and monitoring of child care centers or child care homes in accordance with this article.
- (2) Ensure that a **national** criminal history background check of the applicant is completed **through the state police department under IC 5-2-5-15** before issuing a license.
- (3) Ensure that a criminal history background check of a child care ministry applicant for registration is completed before registering the child care ministry.
- (4) Provide for the issuance, denial, suspension, and revocation of licenses.
- (5) Cooperate with governing bodies of child care centers and child care homes and their staffs to improve standards of child care.
- (6) Prepare at least biannually a directory of licensees with a description of the program capacity and type of children served that will be distributed to the legislature, licensees, and other interested parties as a public document.
- (7) Deposit all license application fees collected under section 2 of this chapter in the child care fund.
- (8) Require each child care center or child care home to record proof of a child's date of birth before accepting the child. A child's date of birth may be proven by the child's original birth certificate

or other reliable proof of the child's date of birth, including a duly attested transcript of a birth certificate.

(9) Provide, not later than January 1, 2004, an Internet site through which members of the public may obtain the following information:

(A) Information concerning violations of this article by a licensed child care provider, including:

- (i) the identity of the child care provider;**
- (ii) the date of the violation; and**
- (iii) action taken by the division in response to the violation.**

(B) Current status of a child care provider's license.

(C) Other relevant information.

SECTION 6. IC 12-17.2-4-3, AS AMENDED BY P.L.109-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An applicant must apply for a child care center license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) The applicant must submit with the application a statement attesting that the applicant:

(1) has not been convicted of:

- (A) a felony;
- (B) a misdemeanor relating to the health or safety of children;
- (C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or
- (D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; and

(2) has not been charged with:

- (A) a felony;
- (B) a misdemeanor relating to the health or safety of children;
- (C) a misdemeanor for operating a child care center without a license under section 35 of this chapter; or
- (D) a misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to ~~conduct~~ **obtain a national** criminal history

background check on the applicant through the state police department under IC 5-2-5-15.

(e) The applicant must do the following:

- (1) Conduct a criminal history check of the applicant's employees and volunteers.
- (2) Maintain records of each criminal history check.

SECTION 7. IC 12-17.2-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A license for a child care center expires two (2) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the division.

(c) A current license shall be publicly displayed.

(d) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

(e) A licensee shall publicly display and make available, as a handout, written documentation of:

- (1) any changes in the status of the licensee's license;**
- (2) a telephone number and an Internet site where information may be obtained from the division concerning:**
 - (A) the current status of the licensee's license;**
 - (B) any complaints filed with the division concerning the licensee; and**
 - (C) violations of this article by the licensee; and**
- (3) a telephone number of the office of the Indiana child care resource and referral program of the county in which the child care center is located.**

SECTION 8. IC 12-17.2-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;

(2) the licensee files a plan with the division or the state fire marshal to correct the areas of noncompliance within the probationary period; and

(3) the division or state fire marshal approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of the probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

(f) The division shall:

(1) upon issuing a probationary license under this section, provide written notice to the licensee that the division will provide the notice required under subdivision (2); and

(2) not more than seven (7) days after issuing a probationary license under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care center of the:

(A) issuance of the probationary license; and

(B) reason for the issuance of the probationary license.

SECTION 9. IC 12-17.2-4-18.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.7. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a licensee.**

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

(1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operation of the child care center; and

(2) contact the parent or guardian of each child enrolled in the child care center to inform the parent or guardian:

(A) that the division has issued an order to require the

licensee to cease operation of the child care center; and
(B) of the reason for the order to cease operation;
pending the outcome of proceedings conducted under sections 20 through 22 of this chapter.

(c) An emergency or another temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

SECTION 10. IC 12-17.2-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Except as provided in section **18.7 or** 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.

SECTION 11. IC 12-17.2-4-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care center. The request must be made within thirty (30) calendar days after receiving notice under section **18.7 or** 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

SECTION 12. IC 12-17.2-4-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) After a license is revoked or suspended, the division shall **publish notice under IC 5-3-1 and** notify in writing each person responsible for the children in care ~~to ensure that those children are removed; that the license has been revoked or suspended.~~

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child care center has been revoked or suspended.

SECTION 13. IC 12-17.2-5-3, AS AMENDED BY P.L.109-2002,

SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An applicant must apply for a child care home license on forms provided by the division.

(b) An applicant must submit the required information as part of the application.

(c) An applicant must submit with the application a statement attesting that the applicant has not been:

(1) convicted of:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter; and

(2) charged with:

(A) a felony;

(B) a misdemeanor relating to the health or safety of children;

(C) a misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) a misdemeanor for operating a child care home without a license under section 35 of this chapter;

during the pendency of the application.

(d) An applicant must submit the necessary information, forms, or consents for the division to:

(1) conduct a criminal history check on the applicant and the applicant's spouse; **and**

(2) obtain a national criminal history background check on the applicant through the state police department under IC 5-2-5-15.

(e) An applicant must do the following:

(1) Conduct a criminal history check of the applicant's:

(A) employees;

(B) volunteers; and

(C) household members who are:

(i) at least eighteen (18) years of age; or

(ii) less than eighteen (18) years of age but have previously been waived from juvenile court to adult court.

(2) Maintain records of each criminal history check.

SECTION 14. IC 12-17.2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A license for a child care home expires two (2) years after the date of issuance, unless revoked, modified to a probationary or suspended status, or voluntarily returned.

(b) A license issued under this chapter:

- (1) is not transferable;
- (2) applies only to the licensee and the location stated in the application; and
- (3) remains the property of the division.

(c) A current license shall be publicly displayed.

(d) When a licensee submits a timely application for renewal, the current license shall remain in effect until the division issues a license or denies the application.

(e) A licensee shall publicly display and make available, as a handout, written documentation of:

- (1) any changes in the status of the licensee's license; and**
- (2) a telephone number and an Internet site where information may be obtained from the division regarding:**
 - (A) the current status of the licensee's license;**
 - (B) any complaints filed with the division concerning the licensee; and**
 - (C) violations of this article by the licensee; and**
- (3) a telephone number of the office of the Indiana child care resource and referral program of the county in which the child care home is located.**

SECTION 15. IC 12-17.2-5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The division may grant a probationary license to a licensee who is temporarily unable to comply with a rule if:

- (1) the noncompliance does not present an immediate threat to the health and well-being of the children;
- (2) the licensee files a plan with the division to correct the areas of noncompliance within the probationary period; and
- (3) the division approves the plan.

(b) A probationary license is valid for not more than six (6) months. The division may extend a probationary license for one (1) additional period of six (6) months.

(c) An existing license is invalidated when a probationary license is issued.

(d) At the expiration of the probationary license, the division shall reinstate the original license to the end of the original term of the license, issue a new license, or revoke the license.

(e) Upon receipt of a probationary license, the licensee shall return to the division the previously issued license.

(f) The division shall:

(1) upon issuing a probationary license under this section, provide written notice to the licensee that the division will provide the notice required under subdivision (2); and

(2) not more than seven (7) days after issuing a probationary license under this section, publish notice under IC 5-3-1 and provide written notice to the parent or guardian of each child enrolled in the child care home of the:

(A) issuance of the probationary license; and

(B) reason for the issuance of the probationary license.

SECTION 16. IC 12-17.2-5-18.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.7. (a) The division shall adopt rules under IC 4-22-2 to establish a list of violations of this article that would pose an immediate threat to the life or well-being of a child in the care of a licensee.**

(b) If an employee or agent of the division determines that a violation described in subsection (a) exists, the division shall:

(1) issue an emergency or another temporary order under IC 4-21.5-4 requiring the licensee to immediately cease operation of the child care home; and

(2) contact the parent or guardian of each child enrolled in the child care home to inform the parent or guardian:

(A) that the division has issued an order to require the licensee to cease operation of the child care home; and

(B) of the reason for the order to cease operation;

pending the outcome of proceedings conducted under sections 20 through 22 of this chapter.

(c) An emergency or another temporary order issued by an employee or agent of the division must be approved by the director.

(d) An approval under subsection (c) may be communicated orally to the employee or agent issuing the order. However, the division shall maintain a written record of the approval.

SECTION 17. IC 12-17.2-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Except as provided in section **18.7 or** 29 of this chapter, the division shall give a licensee thirty (30) calendar days written notice by certified mail of an enforcement action. The licensee shall also be provided with the opportunity for an informal meeting with the division. The licensee must request the meeting within ten (10) working days after receipt of the certified notice.

SECTION 18. IC 12-17.2-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) An administrative hearing concerning the decision of the division to impose a sanction under this chapter shall be provided upon a written request by the child care home. The request must be made within thirty (30) calendar days after receiving notice under section **18.7 or** 19 of this chapter. The written request must be made separately from an informal meeting request made under section 19 of this chapter.

(b) The administrative hearing shall be held within sixty (60) calendar days after receiving the written request.

SECTION 19. IC 12-17.2-5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) After a license is revoked or suspended, the division shall **publish notice under IC 5-3-1 and** notify in writing each person responsible for the children in care ~~to ensure that those children are removed: that the license has been revoked or suspended.~~

(b) The written notice shall be sent to the last known address of the person responsible for the child in care and shall state that the license of the child care home has been revoked or suspended.

SECTION 20. IC 12-17.6-1-6, AS ADDED BY P.L.273-1999, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. "Provider" has the meaning set forth in ~~IC 12-7-2-149(2): IC 12-7-2-149.1(2).~~

SECTION 21. [EFFECTIVE JULY 1, 2003] IC 12-7-2-149 IS REPEALED.

P.L.242-2003

[H.1695. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-46-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "minority" means an individual identified as any of the following:

- (1) Black **or African-American.**
- (2) Hispanic or Latino.
- (3) Asian. ~~or Pacific Islander.~~
- (4) ~~Native American~~ **Indian.**
- (5) **Alaska Native.**
- (6) **Native Hawaiian and other Pacific Islander.**

SECTION 2. IC 16-46-6-4, AS AMENDED BY P.L.215-2001, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The council consists of the following ~~seventeen (17)~~ **twenty-one (21)** members:

- (1) Two (2) members of the house of representatives from different political parties appointed by the speaker of the house of representatives.
- (2) Two (2) members of the senate from different political parties appointed by the president pro tempore of the senate.
- (3) The governor or the governor's designee.
- (4) The state health commissioner or the commissioner's designee.
- (5) The director of the division of family and children or the director's designee.
- (6) ~~The superintendent of public instruction or the superintendent's designee.~~ **The director of the office of Medicaid policy and planning or the director's designee.**
- (7) The director of the division of mental health and addiction or the director's designee.

(8) The commissioner of the department of correction or the commissioner's designee.

(9) ~~The director of the division of disability, aging, and rehabilitative services or the director's designee.~~

(9) One (1) representative of a local health department.

(10) One (1) representative of a public health care facility appointed by the governor.

~~(11) One (1) licensed physician appointed by the governor who has knowledge and experience in the special health needs of minorities.~~

~~(12) (11) One (1) psychologist appointed by the governor who:~~

~~(A) is licensed to practice psychology in Indiana; and~~

~~(B) has knowledge and experience in the special health needs of minorities.~~

~~(13) Three (3) members appointed by the governor, who represent statewide organizations concerned with the health, economic, social, or educational needs of minorities. However, at least one (1) of the members must be a member of the Indiana minority health coalition.~~

(12) One (1) member appointed by the governor based on the recommendation of the Indiana State Medical Association.

(13) One (1) member appointed by the governor based on the recommendation of the National Medical Association.

(14) One (1) member appointed by the governor based on the recommendation of the Indiana Hospital and Health Association.

(15) One (1) member appointed by the governor based on the recommendation of the American Cancer Society.

(16) One (1) member appointed by the governor based on the recommendation of the American Heart Association.

(17) One (1) member appointed by the governor based on the recommendation of the American Diabetes Association.

(18) One (1) member appointed by the governor based on the recommendation of the Black Nurses Association.

(19) One (1) member appointed by the governor based on the recommendation of the Indiana Minority Health Coalition.

(b) At least ~~fifty~~ **fifty-one** percent (~~50%~~) (**51%**) of the members of the council must be minorities.

SECTION 3. IC 16-46-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The state department **and the Indiana Minority Health Coalition, Inc.** shall provide staff for the council.

SECTION 4. IC 16-46-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. The council shall do the following:

- (1) Identify and study the special health care needs and health problems of minorities.
- (2) Examine the factors and conditions that affect the health of minorities.
- (3) Examine the health care services available to minorities in the public and private sector and determine the extent to which these services meet the needs of minorities.
- (4) Study the state and federal laws concerning the health needs of minorities.
- (5) Examine the coordination of services to minorities and recommend improvements in the delivery of services.
- (6) Examine funding sources for minority health care.
- (7) Examine and recommend preventive measures concerning the leading causes of death or injury among minorities, including the following:
 - (A) Heart disease.
 - (B) Stroke.
 - (C) Cancer.
 - (D) Intentional injuries.
 - (E) Accidental death and injury.
 - (F) Cirrhosis.
 - (G) Diabetes.
 - (H) Infant mortality.
 - (I) HIV and acquired immune deficiency syndrome.
 - (J) Mental Health.**
 - (K) Substance Abuse.**
- (8) Examine the impact of the following on minorities:
 - (A) Adolescent pregnancy.
 - ~~(B) Mental disorders.~~
 - ~~(C) Substance abuse.~~
 - ~~(D)~~ **(B)** Sexually transmitted and other communicable

diseases.

~~(E)~~ (C) Lead poisoning.

~~(F)~~ (D) Long term disability and aging.

~~(G)~~ (E) Sickle cell anemia.

(9) Monitor the Indiana minority health initiative and other public policies that affect the health status of minorities.

(10) Develop and implement a comprehensive plan and time line to address health disparities and health issues of minority populations in Indiana.

SECTION 5. IC 16-46-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The state department of health, **in partnership with the Indiana Minority Health Coalition, Inc.**, shall do the following:

(1) Staff, coordinate, and assist in the implementation of the comprehensive health plan developed by the interagency state council on black and minority health established under IC 16-46-6.

~~(1)~~ **(2) Expand**, develop, and implement a **community based** state structure **that is more** conducive to addressing the health disparities of the minority populations in Indiana.

~~(2)~~ **(3)** Monitor minority health progress.

~~(3)~~ **(4)** Establish policy.

~~(4)~~ **(5)** Fund minority health programs, research, and other initiatives.

~~(5)~~ **(6)** Provide the following through interdepartmental coordination:

(A) The data and technical assistance needs of the local minority health coalitions.

(B) Measurable minority health objectives to **the local minority health** coalitions for the development of health intervention programs.

~~(6)~~ **(7)** Provide through the state health data center established by IC 16-19-10-3 minority health research and resource information addressing the following:

(A) Research within minority populations.

(B) A resource database that can be disseminated to local organizations interested in minority health.

(C) Racial and ethnic specific databases including morbidity,

diagnostic groups, social/economic, education, and population.

(D) Attitude, knowledge, and belief information.

~~(7)~~ **(8)** Staff a minority health hotline that establishes linkages with other health and social service hotlines and local coalitions.

~~(8)~~ **(9)** Develop and implement an aggressive recruitment and retention program to increase the number of minorities in the health and social services professions.

~~(9)~~ **(10)** Develop and implement an awareness program that will increase the knowledge of health and social service providers to the special needs of minorities.

~~(10)~~ **(11)** Develop and implement culturally and linguistically appropriate health promotion and disease prevention programs that would emphasize avoiding the health risk factors for conditions affecting minorities and incorporate an accessible, affordable, and acceptable early detection and intervention component.

~~(11)~~ **(12)** Provide the state support necessary to ensure the continued development of the existing minority health coalitions and to develop coalitions in other areas targeted for minority health intervention.

~~(12)~~ **(13)** ~~Appoint a state funded coordinator for~~ **Coordinate** each of the counties with existing **local minority health** coalitions to:

(A) provide community planning and needs assessment assistance to the ~~coalition~~ **local minority health coalitions**; and ~~to~~

(B) assist the ~~coalition~~ **local minority health coalitions** in the development of the local minority health intervention ~~plan~~ **through the year 2000 plans. The plans shall be developed to coincide with the state fiscal year.**

~~(13)~~ **(14)** ~~Appoint and assign regional consultants to serve as~~ **Establish** a liaison between the department and the ~~local coalition~~ **Indiana Minority Health Coalition, Inc., to:**

(A) coordinate the state department of health resources needed for the development of local coalitions;

(B) provide assistance to and monitor the local coordinators in the development of local intervention plans;

(C) serve as the barometer to the state department of health on the minority health concerns of local coalitions;

(D) assist in coordinating the minority community input on state policies and programs;

(E) serve as the linkage with the state department of health and the local minority health coordinators; and

(F) monitor the progress of the fulfilling of their responsibilities.

~~(14)~~ **(15)** Provide funding, within the limits of appropriations, to support preventive health, education, and treatment programs in the minority communities that are developed, planned, and evaluated by approved organizations.

~~(15)~~ **(16)** Provide assistance to local communities to obtain funding for the development of a health care delivery system to meet the needs, gaps, and barriers identified in the local plans.



P.L.243-2003

[H.1701. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-24, AS AMENDED BY P.L.272-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. "Bureau" means the following:

(1) For purposes of IC 12-10, the bureau of aging and in-home services established by IC 12-10-1-1.

(2) For purposes of IC 12-11, the bureau of developmental disabilities services established by IC 12-11-1.1-1.

(3) For purposes of IC 12-12, the rehabilitation services bureau of the division of disability, aging, and rehabilitative services established by IC 12-12-1-1.

(4) For purposes of IC 12-12.5, the bureau of quality improvement services established by IC 12-12.5-1-1.

(5) For purposes of IC 12-17-2, the meaning set forth in IC 12-17-2-1.

SECTION 2. IC 12-7-2-69, AS AMENDED BY HEA 1813-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:

(1) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1.

(2) The division of family and children established by IC 12-13-1-1.

(3) The division of mental health and addiction established by IC 12-21-1-1.

(b) The term refers to the following:

(1) For purposes of the following statutes, the division of disability, aging, and rehabilitative services established by IC 12-9-1-1:

(A) IC 12-9.

(B) IC 12-10.

(C) IC 12-11.

(D) IC 12-12.

(E) IC 12-12.5.

(2) For purposes of the following statutes, the division of family and children established by IC 12-13-1-1:

(A) IC 12-13.

(B) IC 12-14.

(C) IC 12-15.

(D) IC 12-16.

(E) IC 12-17.

(F) IC 12-17.2.

(G) IC 12-17.4.

(H) IC 12-18.

(I) IC 12-19.

(J) IC 12-20.

(3) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:

(A) IC 12-21.

(B) IC 12-22.

(C) IC 12-23.

(D) IC 12-25.

(c) With respect to a particular state institution, the term refers to

the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

SECTION 3. IC 12-8-1-10, AS AMENDED BY P.L.83-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. This chapter expires ~~January 1, 2004~~. **January 1, 2006.**

SECTION 4. IC 12-8-2-12, AS AMENDED BY P.L.83-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. This chapter expires ~~January 1, 2004~~. **January 1, 2006.**

SECTION 5. IC 12-8-3-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) This section applies to a meeting of the committee at which at least five (5) voting members of the committee are physically present at the place where the meeting is conducted.**

(b) A member of the committee may participate in a meeting of the committee by using a means of communication that permits:

- (1) all other members participating in the meeting; and**
- (2) all members of the public physically present at the place where the meeting is conducted;**

to communicate simultaneously with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:

- (1) was physically present at the place where the meeting was conducted;**
- (2) participated in the meeting by using a means of communication described in subsection (b); and**
- (3) was absent.**

(e) A meeting conducted under this section does not violate IC 5-14-1.5.

SECTION 6. IC 12-8-6-10, AS AMENDED BY P.L.83-2002,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. This chapter expires ~~January 1, 2004.~~ **January 1, 2006.**

SECTION 7. IC 12-8-8-8, AS AMENDED BY P.L.83-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. This chapter expires ~~January 1, 2004.~~ **January 1, 2006.**

SECTION 8. IC 12-9-1-3, AS AMENDED BY P.L.272-1999, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The division consists of the following bureaus:

- (1) Disability determination bureaus required or permitted under IC 12-9-6.
- (2) The bureau of aging and in-home services established by IC 12-10-1-1.
- (3) The rehabilitation services bureau established by IC 12-12-1-1.
- (4) The bureau of developmental disabilities services established by IC 12-11-1.1-1.

(5) The bureau of quality improvement services established by IC 12-12.5-1-1.

SECTION 9. IC 12-9-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The division shall administer the following programs:

- (1) Programs established under any of the following statutes:
 - (A) This article.
 - (B) IC 12-10.
 - (C) IC 12-11.
 - (D) IC 12-12.
 - (E) IC 12-12.5.**
- (2) Programs under the following statutes, to the extent the division has responsibilities for programs under those statutes:
 - (A) IC 12-24.
 - (B) IC 12-26.
 - (C) IC 12-27.
 - (D) IC 12-28.
 - (E) IC 12-29.
 - (F) IC 12-30.
- (3) Supported employment for a person with developmental

disabilities.

(4) Epilepsy service centers program.

(5) Epilepsy clinic program.

(6) Medicaid waivers for in-home services.

SECTION 10. IC 12-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The bureau shall administer the following programs:

(1) Older Americans Act under IC 12-9-5-1.

(2) Area agencies on aging services under this article.

(3) Adult protective services under IC 12-10-3.

(4) Room and board assistance and assistance to residents in county homes under IC 12-10-6.

(5) Adult guardianship program under IC 12-10-7.

(6) Community and home options for the elderly and disabled under IC 12-10-10.

(7) Nursing home preadmission screening under IC 12-10-12.

(8) Long term care advocacy under IC 12-10-13.

(9) Nutrition services and home delivered meals.

(10) Title III B supportive services.

(11) Title III D in-home services.

(12) Aging programs under the Social Services Block Grant.

(13) United States Department of Agriculture elderly feeding program.

(14) Title V senior employment.

(15) PASARR under older adult services.

~~(16) Medicaid waivers for in-home services.~~

SECTION 11. IC 12-11-1.1-1, AS ADDED BY P.L.272-1999, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for developmentally disabled individuals and their families, within the limits of available resources. The planning and delivery of services must be based on the developmentally disabled individual's future plans rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the developmentally disabled individual and that individual's family.

(c) Services for developmentally disabled individuals must be services that meet the following conditions:

- (1) Are provided under public supervision.
- (2) Are designed to meet the developmental needs of developmentally disabled individuals.
- (3) Meet all required state and federal standards.
- (4) Are provided by qualified personnel.
- (5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.
- (6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports.

(e) The bureau shall approve and monitor community based residential, habilitation, and vocational service providers that provide alternatives to placement of developmentally disabled individuals in state institutions and health facilities licensed under IC 16-28 for developmentally disabled individuals. The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

(1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.

(2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. ~~which may serve not more than four (4) unrelated individuals in any one (1) setting.~~ However, the head of the bureau shall waive this limitation for a setting that was in existence on June 30, 1999. **Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.**

(3) ~~Day habilitation and vocational services that are goal oriented~~

and person focused to achieve the degree of independence possible in activities of daily living.

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2) must consider the needs of and provide choices and options for:

- (1) developmentally disabled individuals; and
- (2) families of developmentally disabled individuals.

(h) The bureau shall administer a system of service coordination to carry out this chapter.

SECTION 12. IC 12-12.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 12.5. QUALITY IMPROVEMENT SERVICES

Chapter 1. Bureau of Quality Improvement Services

Sec. 1. The bureau of quality improvement services is established within the division.

Sec. 2. The director shall organize the bureau in the manner necessary to carry out the bureau's duties.

Sec. 3. The bureau shall do the following:

(1) Monitor services provided by the following:

(A) An entity that provides services to an individual with funds provided by the division or under the authority of the division.

(B) An entity that has entered into a provider agreement under IC 12-15-11 to provide Medicaid in-home waiver services.

(2) Assist other bureaus in the division with quality assurance or quality improvement activities.

Sec. 4. The bureau shall establish and administer a complaint process for the following:

(1) An individual that receives services from an entity with funds provided through the division or under the authority of the division.

(2) An entity that has entered into a provider agreement under IC 12-15-11 to provide Medicaid in-home waiver services.

(3) An individual or entity certified, licensed, or otherwise approved by the division.

Sec. 5. The director of the division may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 13. IC 36-2-14-18, AS AMENDED BY P.L.271-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) Notwithstanding IC 5-14-3-4(b)(1), when a coroner investigates a death, the office of the coroner is required to make available for public inspection and copying the following:

- (1) The name, age, address, sex, and race of the deceased.
- (2) The address where the dead body was found, or if there is no address the location where the dead body was found and, if different, the address where the death occurred, or if there is no address the location where the death occurred.
- (3) The name of the agency to which the death was reported and the name of the person reporting the death.
- (4) The name of any public official or governmental employee present at the scene of the death and the name of the person certifying or pronouncing the death.
- (5) Information regarding an autopsy (requested or performed) limited to the date, the person who performed the autopsy, where the autopsy was performed, and a conclusion as to:
 - (A) the probable cause of death;
 - (B) the probable manner of death; and
 - (C) the probable mechanism of death.
- (6) The location to which the body was removed, the person determining the location to which the body was removed, and the authority under which the decision to remove the body was made.
- (7) The records required to be filed by a coroner under section 6 of this chapter and the verdict and the written report required under section 10 of this chapter.

(b) A county coroner or a coroner's deputy who receives an investigatory record from a law enforcement agency shall treat the investigatory record with the same confidentiality as the law enforcement agency would treat the investigatory record.

(c) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon

the written request of the next of kin of the decedent or of an insurance company investigating a claim arising from the death of the individual upon whom the autopsy was performed. The insurance company is prohibited from publicly disclosing any information contained in the report beyond that information that may otherwise be disclosed by a coroner under this section. This prohibition does not apply to information disclosed in communications in conjunction with the investigation, settlement, or payment of the claim.

(d) Notwithstanding any other provision of this section, a coroner shall make available a full copy of an autopsy report, other than a photograph, video recording, or audio recording of the autopsy, upon the written request of:

- (1) the director of the division of disability, aging, and rehabilitative services established by IC 12-9-1-1; or**
- (2) the director of the division of mental health and addiction established by IC 12-21-1-1;**

in connection with a division's review of the circumstances surrounding the death of an individual who received services from a division or through a division at the time of the individual's death.

SECTION 14. P.L.95-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 1. (a) As used in this SECTION, "commission" refers to the Indiana commission on mental health established by this SECTION.

(b) The Indiana commission on mental health is established.

(c) The commission consists of ~~sixteen (16)~~ **seventeen (17)** members determined as follows:

- (1) The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the commission.
- (2) The governor shall appoint thirteen (13) lay members, not more than seven (7) of whom may be from the same political party, to serve on the commission as follows:
 - (A) Four (4) at-large members, not more than two (2) of whom may be from the same political party.
 - (B) Two (2) consumers of mental health services.
 - (C) Two (2) representatives of different advocacy groups for

consumers of mental health services.

(D) Two (2) members of families of consumers of mental health services.

(E) Three (3) members who represent mental health providers. One (1) of the members appointed under this clause must be a representative of a for-profit psychiatric provider. One (1) of the members appointed under this clause must be a physician licensed under IC 25-22.5.

(d) Except for the members appointed under subsection (c)(2)(E), the members of the commission may not have a financial interest in the subject matter to be studied by the commission.

(e) The chairman of the legislative council shall designate a legislative member of the commission to serve as chairman of the commission.

(f) Each legislative member and each lay member of the commission is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on interim study committees established by the legislative council.

(g) The commission shall do the following:

(1) Study and evaluate the funding system for managed care providers of mental health services.

(2) Review and make specific recommendations regarding the provision of mental health services delivered by community managed care providers and state operated hospitals.

(3) Review and make recommendations regarding any unmet need for public supported mental health services in any specific geographic area or throughout Indiana. In formulating these recommendations, the commission shall consider the need, feasibility, and desirability of including additional organizations in the network of managed care providers.

(4) Review the results of the actuarial study which must be submitted by the division of mental health and addiction to the commission not later than thirty (30) days after completion of the actuarial study.

(5) Make recommendations regarding the application of the actuarial study by the division of mental health and addiction to the determination of service needs, eligibility criteria, payment,

and prioritization of service.

(h) The commission shall:

(1) monitor the implementation of managed care programs for all populations of the mentally ill that are eligible for care that is paid for in part or in whole by the state; and

(2) make recommendations regarding the commission's findings under subdivision (1) to the appropriate division or department.

(i) This SECTION expires January 1, ~~2004~~ **2006**.

SECTION 15. An emergency is declared for this act.



P.L.244-2003

[H.1702. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 20-8.1-7-9.5, AS AMENDED BY P.L.231-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.5. (a) Every child residing in Indiana shall be immunized against:

- (1) diphtheria;
- (2) pertussis (whooping cough);
- (3) tetanus;
- (4) measles;
- (5) rubella;
- (6) poliomyelitis; and
- (7) mumps.

(b) Every child residing in Indiana who enters kindergarten or grade 1 shall be immunized against hepatitis B **and chicken pox**.

(c) The state department of health may expand or otherwise modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health.

(d) The state department of health shall adopt rules under IC 4-22-2

specifying the:

- (1) required immunizations;
- (2) child's age for administering each vaccine;
- (3) adequately immunizing doses; and
- (4) method of documentation of proof of immunity.

(e) Each school shall notify each parent of a child who enrolls in the school of the requirement that the child must be immunized and that the immunization is required for the child's continued enrollment, attendance, or residence at the school unless:

- (1) the parent or child provides the appropriate documentation of immunity; **or**
- (2) **for chicken pox, the parent or child provides a written signed statement that the child has indicated a history of chicken pox; or**
- (3) section 2 or 2.5 of this chapter applies.

SECTION 2. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 20-8.1-7-9.5, as amended by this act, a child residing in Indiana is not required to be immunized for chicken pox to enter kindergarten or grade 1 until after June 30, 2004.

(b) This SECTION expires July 1, 2004.

P.L.245-2003

[H.1714. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 5-13-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) All taxes collected by the county treasurer shall be deposited as one (1) fund in the several depositories selected for the deposit of county funds and, except as provided in subsection (b), remain in the depositories until distributed at the following semiannual distribution made by the county auditor.

(b) Every county treasurer who, by virtue of the treasurer's office, is

the collector of any taxes for any political subdivision wholly or partly within the county shall, **upon not later than thirty (30) days after receipt of** a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a portion of the taxes collected before the semiannual distribution. The amount advanced may not exceed the lesser of:

- (1) ninety-five percent (95%) of the total amount collected at the time of the advance; or
- (2) ninety-five percent (95%) of the amount to be distributed at the semiannual distribution.

(c) Every county treasurer shall, not later than thirty (30) days after receipt of a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a part of the distributions received under IC 6-1.1-21-10 from the property tax replacement fund for the political subdivision. The amount advanced may not exceed the lesser of:

- (1) ninety-five percent (95%) of the amount distributed from the fund to the county treasurer for the political subdivision at the time of the advance; or**
- (2) ninety-five percent (95%) of the total amount to be distributed by the county treasurer to the political subdivision on the next scheduled distribution date.**

The request for funds under subsection (b) must be filed at least thirty (30) days before the county treasurer is required to make the advance:

(d) Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision.

~~(d)~~ **(e)** At the semiannual distribution all the advances made to any political subdivision under subsection (b) **or (c)** shall be deducted from the total amount due any political subdivision as shown by the distribution.

SECTION 2. IC 6-1.1-3-22, AS ADDED BY P.L.192-2002(ss), SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) Except to the extent that it conflicts with a statute **and subject to subsection (f)**, 50 IAC 4.2 (as in effect

January 1, 2001), **is which was formerly** incorporated by reference into this section, **is reinstated as a rule.**

(b) Tangible personal property within the scope of 50 IAC 4.2 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 4.2 (as in effect January 1, 2001).

(c) The publisher of the Indiana Administrative Code ~~may continue to shall~~ publish 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 4.3 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 4.2 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

(f) The department of local government finance may not amend or repeal the following (all as in effect January 1, 2001):

- (1) 50 IAC 4.2-4-3(f).**
- (2) 50 IAC 4.2-4-7.**
- (3) 50 IAC 4.2-4-9.**
- (4) 50 IAC 4.2-5-7.**
- (5) 50 IAC 4.2-5-13.**
- (6) 50 IAC 4.2-6-1.**
- (7) 50 IAC 4.2-6-2.**
- (8) 50 IAC 4.2-8-9.**

SECTION 3. IC 6-1.1-4-4, AS AMENDED BY P.L.90-2002, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2000, and **be the basis for taxes payable in 2003.**

(b) A general reassessment, involving a physical inspection of all real property in Indiana, shall begin July 1, 2007, and each fourth year thereafter. Each reassessment **under this subsection** shall be completed on or before March 1, of the immediately following ~~even-numbered odd-numbered~~ year, and shall be the basis for taxes payable in the year following the year in which the general assessment is to be completed.

~~(b)~~ (c) In order to ensure that assessing officials and members of each county property tax assessment board of appeals are prepared for

a general reassessment of real property, the department of local government finance shall give adequate advance notice of the general reassessment to the county and township taxing officials of each county.

SECTION 4. IC 6-1.1-4-4.5, AS ADDED BY P.L.198-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) The department of local government finance shall adopt rules establishing a system for annually adjusting the assessed value of real property to account for changes in value in those years since a general reassessment of property last took effect.

(b) The system must be applied to adjust assessed values beginning with the ~~2006~~ 2005 assessment date and each year thereafter that is not a year in which a reassessment becomes effective.

(c) The system must have the following characteristics:

(1) Promote uniform and equal assessment of real property within and across classifications.

(2) Apply all objectively verifiable factors used in mass valuation techniques that are reasonably expected to affect the value of real property in Indiana.

(3) Prescribe as many adjustment percentages and whatever categories of percentages the department of local government finance finds necessary to achieve objectively verifiable updated just valuations of real property. An adjustment percentage for a particular classification may be positive or negative.

(4) Prescribe procedures, including computer software programs, that permit the application of the adjustment percentages in an efficient manner by assessing officials.

SECTION 5. IC 6-1.1-4-27.5, AS AMENDED BY P.L.151-2002, SECTION 1 and P.L.178-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27.5. (a) The auditor of each county shall establish a property reassessment fund. The county treasurer shall deposit all collections resulting from the property taxes that the county is required to levy under this section in the county's property reassessment fund.

(b) ~~With respect to the general reassessment of real property which is to commence on July 1, 2004, the county council of each county shall, for property taxes due in the year in which the general reassessment is to commence and the two (2) years immediately~~

preceding that year, levy against all the taxable property of the county an amount equal to one-third (1/3) of the estimated cost of the general reassessment.

(~~e~~) (b) With respect to a general reassessment of real property that is to commence on July 1, 2008, 2007, and each fourth year thereafter, the county council of each county shall, for property taxes due in the year that the general reassessment is to commence and the three (3) years preceding that year, levy against all the taxable property in the county an amount equal to one-fourth (1/4) of the estimated cost of the general reassessment.

(~~d~~) (c) The department of local government finance shall give to each county council notice, before January 1 in a year, of the tax levies required by this section for that year.

(~~e~~) (d) The department of local government finance may raise or lower the property tax levy under this section for a year if the department determines it is appropriate because the estimated cost of a general reassessment, including a general reassessment to be completed for the March 1, 2002, assessment date, has changed.

(~~f~~) (e) If the county council determines that there is insufficient money in the county's reassessment fund to pay all expenses (as permitted under sections 28.5 and 32 of this chapter) relating to the general reassessment of real property commencing July 1, 2000, the county may, for the purpose of paying expenses (as permitted under sections 28.5 and 32 of this chapter) relating to the general reassessment commencing July 1, 2000, use money deposited in the fund from the tax levy under this section for 2000 or a later year.

SECTION 6. IC 6-1.1-5.5-3, AS AMENDED BY P.L.90-2002, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) Except as provided in subsection (c), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall

forward the sales disclosure form data to the department of local government finance **and the legislative services agency**, in electronic format if possible. The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, **and** the department of local government finance, **and the legislative services agency** for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, and any other authorized purpose.

(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance **and the legislative services agency**, in electronic format if possible. The township assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, **and** the department of local government finance, **and the legislative services agency** for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, and any other authorized purpose.

SECTION 7. IC 6-1.1-8-44, AS ADDED BY P.L.192-2002(ss), SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 44. (a) Except to the extent that it conflicts with a statute **and subject to subsection (f)**, 50 IAC 5.1 (as in effect January 1, 2001), **is which was formerly** incorporated by reference into this section, **is reinstated as a rule.**

(b) Tangible personal property within the scope of 50 IAC 5.1 (as in effect January 1, 2001) shall be assessed on the assessment dates in calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as in effect January 1, 2001).

(c) The publisher of the Indiana Administrative Code ~~may continue to shall~~ publish 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana Administrative Code.

(d) 50 IAC 5.2 and any other rule to the extent that it conflicts with this section is void.

(e) A reference in 50 IAC 5.1 to a governmental entity that has been terminated or a statute that has been repealed or amended shall be treated as a reference to its successor.

(f) The department of local government finance may not amend or repeal the following (all as in effect January 1, 2001):

- (1) 50 IAC 5.1-6-6.**
- (2) 50 IAC 5.1-6-7.**
- (3) 50 IAC 5.1-6-8.**
- (4) 50 IAC 5.1-6-9.**
- (5) 50 IAC 5.1-8-1.**
- (6) 50 IAC 5.1-9-1.**
- (7) 50 IAC 5.1-9-2.**

SECTION 8. IC 6-1.1-12.1-4.5, AS AMENDED BY HEA 1814-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

- (1) A description of the new manufacturing equipment or new research and development equipment, or both, that the person proposes to acquire.
- (2) With respect to:
 - (A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and
 - (B) new research and development equipment;an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment or new research and development equipment, or both, and an estimate of the annual salaries of these individuals.
- (3) An estimate of the cost of the new manufacturing equipment or new research and development equipment, or both.
- (4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste

or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment or new research and development equipment, or both, is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment or new research and development equipment, or both.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was

requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), an owner of new manufacturing equipment or new research and development equipment, or both, whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

- (1) the assessed value of the new manufacturing equipment or new research and development equipment, or both, in the year of deduction under the appropriate table set forth in subsection (e); multiplied by
- (2) the percentage prescribed in the table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%

- | | |
|--------------------|----|
| 4th and thereafter | 0% |
|--------------------|----|
- (4) For deductions allowed over a four (4) year period:
- | YEAR OF DEDUCTION | PERCENTAGE |
|--------------------|------------|
| 1st | 100% |
| 2nd | 75% |
| 3rd | 50% |
| 4th | 25% |
| 5th and thereafter | 0% |
- (5) For deductions allowed over a five (5) year period:
- | YEAR OF DEDUCTION | PERCENTAGE |
|--------------------|------------|
| 1st | 100% |
| 2nd | 80% |
| 3rd | 60% |
| 4th | 40% |
| 5th | 20% |
| 6th and thereafter | 0% |
- (6) For deductions allowed over a six (6) year period:
- | YEAR OF DEDUCTION | PERCENTAGE |
|--------------------|------------|
| 1st | 100% |
| 2nd | 85% |
| 3rd | 66% |
| 4th | 50% |
| 5th | 34% |
| 6th | 25% |
| 7th and thereafter | 0% |
- (7) For deductions allowed over a seven (7) year period:
- | YEAR OF DEDUCTION | PERCENTAGE |
|--------------------|------------|
| 1st | 100% |
| 2nd | 85% |
| 3rd | 71% |
| 4th | 57% |
| 5th | 43% |
| 6th | 29% |
| 7th | 14% |
| 8th and thereafter | 0% |
- (8) For deductions allowed over an eight (8) year period:
- | YEAR OF DEDUCTION | PERCENTAGE |
|-------------------|------------|
| 1st | 100% |

2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the

deduction under this section that results from computing:

- (1) the deduction under this section as in effect on March 1, 2001; and
- (2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the ~~department of local government finance~~ **county auditor**. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 9. IC 6-1.1-12.1-5, AS AMENDED BY P.L.90-2002, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A property owner who desires to obtain the deduction provided by section 3 of this chapter must file

a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (b) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The deduction application required by this section must contain the following information:

- (1) The name of the property owner.
- (2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.
- (3) The assessed value of the improvements before rehabilitation.
- (4) The increase in the assessed value of improvements resulting from the rehabilitation.
- (5) The assessed value of the new structure in the case of redevelopment.
- (6) The amount of the deduction claimed for the first year of the deduction.
- (7) If the deduction application is for a deduction in a residentially distressed area, the assessed value of the improvement or new structure for which the deduction is claimed.

(d) A deduction application filed under subsection (a) or (b) is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the following years the deduction is allowed without any additional deduction application being filed. However, property owners who had an area designated an urban development area pursuant to a deduction application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to a deduction application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(e) A property owner who desires to obtain the deduction provided

by section 3 of this chapter but who has failed to file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year which shall be applicable for the year filed and the subsequent years without any additional deduction application being filed for the amounts of the deduction which would be applicable to such years pursuant to section 4 of this chapter if such a deduction application had been filed in accordance with subsection (a) or (b).

(f) ~~On verification of the correctness of a deduction application by the assessor of the township in which the property is located, Subject to subsection (i),~~ the county auditor shall act as follows:

- (1) If a determination about the number of years the deduction is allowed has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.
- (2) If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body. Upon receipt of the resolution stating the number of years the deduction will be allowed, the county auditor shall make the appropriate deduction.
- (3) If the deduction application is for rehabilitation or redevelopment in a residentially distressed area, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided for property by section 3 of this chapter are not affected by a change in the ownership of the property if the new owner of the property:

- (1) continues to use the property in compliance with any standards established under section 2(g) of this chapter; and
- (2) files an application in the manner provided by subsection (e).

(h) The township assessor shall include a notice of the deadlines for filing a deduction application under subsections (a) and (b) with each notice to a property owner of an addition to assessed value or of a new assessment.

(i) Before the county auditor acts under subsection (f), the county auditor may request that the township assessor of the township in which the property is located review the deduction application.

(j) A property owner may appeal the determination of the county

auditor under subsection (f) by filing a complaint in the office of the clerk of the circuit or superior court not more than forty-five (45) days after the county auditor gives the person notice of the determination.

SECTION 10. IC 6-1.1-12.1-5.4, AS AMENDED BY SEA 1814-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the department of local government finance with the auditor of the county in which the new manufacturing equipment or new research and development equipment, or both, is located. A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment or new research and development equipment, or both, is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment or new research and development equipment, or both, is installed must file the application between March 1 and the extended due date for that year.

(b) The deduction application required by this section must contain the following information:

- (1) The name of the owner of the new manufacturing equipment or new research and development equipment, or both.
- (2) A description of the new manufacturing equipment or new research and development equipment, or both.
- (3) Proof of the date the new manufacturing equipment or new research and development equipment, or both, was installed.
- (4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment or new research and development equipment, or both, for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this

chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment or new research and development equipment, or both, is installed and in each of the immediately succeeding years the deduction is allowed.

(e) ~~On verification of the correctness of a deduction application by the assessor of the township in which the property is located;~~ **Subject to subsection (i),** the county auditor shall:

- (1) review the deduction application; and
- (2) approve, deny, or alter the amount of the deduction.

Upon approval of the deduction application or alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment or new research and development equipment, or both, changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

- (1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and
- (2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal the determination of the county auditor under subsection (e) by filing a complaint in the office of the clerk of the circuit or superior court not more than forty-five (45) days after the county auditor gives the person notice of the determination.

(i) Before the county auditor acts under subsection (e), the county auditor may request that the township assessor in which the property is located review the deduction application.

SECTION 11. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.4-2000, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.3. (a) This section applies only to the following requirements: ~~under section 3, of this chapter:~~

- (1) Failure to provide the completed statement of benefits form to

the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment or new research and development equipment, or both; or

(C) rehabilitation;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment or new research and development equipment, or both, under section 2, 3, or 4.5 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5 or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.

SECTION 12. IC 6-1.1-12.1-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 13. The department of local government finance shall adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 13. IC 6-1.1-15-4, AS AMENDED BY P.L.198-2001, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 4. (a) After receiving a petition for review which is filed under section 3 of this chapter, the Indiana board shall conduct a hearing at its earliest opportunity. ~~In addition,~~ The Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

If the Indiana board conducts a site inspection of the property as part of its review of the petition, the Indiana board shall give notice to all parties of the date and time of the site inspection. The Indiana board is not required to assess the property in question. The Indiana board shall give notice of the date fixed for the hearing, by mail, to the taxpayer and to the appropriate township assessor, county assessor, and county auditor. The Indiana board shall give these notices at least thirty (30) days before the day fixed for the hearing. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the **property** reassessment fund under ~~IC 6-1.1-4-27.~~ ~~In addition,~~ **IC 6-1.1-4-27.5.** The executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit.

(b) If a petition for review does not comply with the Indiana board's instructions for completing the form prescribed under section 3 of this chapter, the Indiana board shall return the petition to the petitioner and include a notice describing the defect in the petition. The petitioner then has thirty (30) days from the date on the notice to cure the defect and file a corrected petition. The Indiana board shall deny a corrected petition for review if it does not substantially comply with the Indiana board's instructions for completing the form prescribed under section

3 of this chapter.

(c) The Indiana board shall prescribe a form for use in processing petitions for review of actions by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form must require the Indiana board to indicate agreement or disagreement with each item that is:

- (1) indicated on the petition submitted under section 1(e) of this chapter;
- (2) included in the township assessor's response under section 1(g) of this chapter; and
- (3) included in the county property tax assessment board of appeals' findings, record, and determination under section 2.1(d) of this chapter.

The form must also require the Indiana board to indicate the issues in dispute and its reasons in support of its resolution of those issues.

(d) After the hearing the Indiana board shall give the petitioner, the township assessor, the county assessor, and the county auditor:

- (1) notice, by mail, of its final determination;
- (2) a copy of the form completed under subsection (c); and
- (3) notice of the procedures they must follow in order to obtain court review under section 5 of this chapter.

(e) Except as provided in subsection (f), the Indiana board shall conduct a hearing **within not later than** nine (9) months after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(f) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall conduct a hearing **within not later than** one (1) year after a petition in proper form is filed with the Indiana board, excluding any time due to a delay reasonably caused by the petitioner.

(g) Except as provided in subsection (h), the Indiana board shall make a determination **within not later than** the later of ninety (90) days after the hearing or the date set in an extension order issued by the Indiana board.

(h) With respect to an appeal of a real property assessment that takes effect on the assessment date on which a general reassessment of real property takes effect under IC 6-1.1-4-4, the Indiana board shall make

a determination ~~within~~ **not later than** the later of one hundred eighty (180) days after the hearing or the date set in an extension order issued by the Indiana board.

(i) **Except as provided in subsection (n)**, the Indiana board may not extend the final determination date under subsection (g) or (h) by more than one hundred eighty (180) days. ~~The failure of~~ **If** the Indiana board **fails** to make a final determination within the time allowed by this subsection, ~~shall be treated as a final determination of the Indiana board to deny~~ **entity that initiated** the petition **may**:

(1) take no action and wait for the Indiana board to make a final determination; or

(2) petition for judicial review under section 5(g) of this chapter.

(j) A final determination must include separately stated findings of fact for all aspects of the determination. Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings. Findings must be based exclusively upon the evidence on the record in the proceeding and on matters officially noticed in the proceeding. Findings must be based upon a preponderance of the evidence.

(k) The Indiana board may limit the scope of the appeal to the issues raised in the petition and the evaluation of the evidence presented to the county property tax assessment board of appeals in support of those issues only if all persons participating in the hearing required under subsection (a) agree to the limitation. A person participating in the hearing required under subsection (a) is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the county property tax assessment board of appeals.

(l) The Indiana board:

(1) may require the parties to the appeal to file not more than five (5) business days before the date of the hearing required under subsection (a) documentary evidence or summaries of statements of testimonial evidence; and

(2) may require the parties to the appeal to file not more than fifteen (15) business days before the date of the hearing required under subsection (a) lists of witnesses and exhibits to be introduced at the hearing.

(m) A party to a proceeding before the Indiana board shall provide to another party to the proceeding the information described in subsection (l) if the other party requests the information in writing at least ten (10) days before the deadline for filing of the information under subsection (l).

(n) The county assessor may:

(1) appear as an additional party if the notice of appearance is filed before the review proceeding; or

(2) with the approval of the township assessor, represent the township assessor;

in a review proceeding under this section.

(o) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation.

The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

SECTION 14. IC 6-1.1-15-5, AS AMENDED BY HEA 1814-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) ~~Within~~ **Not later than** fifteen (15) days after the Indiana board gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a final determination by the Indiana board under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the Indiana board. The Indiana board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The Indiana board has fifteen (15) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing ~~within~~ **not later than** fifteen (15) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the

Indiana board determines to rehear a final determination, the Indiana board:

- (1) may conduct the additional hearings that the Indiana board determines necessary or review the written record without additional hearings; and
- (2) shall issue a final determination ~~within~~ **not later than** ninety (90) days after notifying the parties that the Indiana board will rehear the final determination.

~~Failure~~ **If** of the Indiana board ~~fails~~ **fails** to make a final determination within the time allowed under subdivision (2), ~~shall be treated as a final determination affirming the original decision of the Indiana board.~~ **entity that initiated the petition for rehearing may take no action and wait for the Indiana board to make a final determination or petition for judicial review under subsection (g).**

(b) A person may petition for judicial review of the final determination of the Indiana board regarding the assessment of that person's tangible property. The action shall be taken to the tax court under IC 4-21.5-5. Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the **property** reassessment fund under IC 6-1.1-4-27.5. In addition, the executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit. The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section is a party to the review under this section to defend the determination.

(c) **Except as provided in subsection (g),** to initiate a proceeding for judicial review under this section, a person must take the action required by subsection (b) ~~within:~~ **not later than:**

(1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or

(2) thirty (30) days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section 4(f) or 4(g) of this chapter does not constitute notice to the person of an Indiana board final determination.

(e) The county executive may petition for judicial review to the tax court in the manner prescribed in this section upon request by the county assessor or elected township assessor.

(f) If the county executive determines upon a request under this subsection to not appeal to the tax court:

(1) the entity described in subsection (b) that made the original determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget; and

(2) the petitioner may not be represented by the attorney general in an action described in subdivision (1).

(g) If the maximum time elapses for the Indiana board to give notice of its final determination under subsection (a) or section 4 of this chapter, a person may initiate a proceeding for judicial review by taking the action required by subsection (b) at any time after the maximum time elapses. If:

(1) a judicial proceeding is initiated under this subsection; and

(2) the Indiana board has not issued a determination;

the tax court shall determine the matter de novo.

SECTION 15. IC 6-1.1-15-6, AS AMENDED BY P.L.198-2001, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) **Except with respect to a petition filed under section 5(g) of this chapter**, if a petition for judicial review is initiated by a person under section 5 of this chapter, the Indiana board shall prepare a certified record of the proceedings related to the petition.

(b) The record for judicial review **required under subsection (a)** must include the following documents and items:

- (1) Copies of all papers submitted to the Indiana board during the course of the action and copies of all papers provided to the parties by the Indiana board. For purposes of this subdivision, the term "papers" includes, without limitation, all notices, petitions, motions, pleadings, orders, orders on rehearing, briefs, requests, intermediate rulings, photographs, and other written documents.
- (2) Evidence received or considered by the Indiana board.
- (3) A statement of whether a site inspection was conducted, and, if a site inspection was conducted, either:
 - (A) a summary report of the site inspection; or
 - (B) a videotape transcript of the site inspection.
- (4) A statement of matters officially noticed.
- (5) Proffers of proof and objections and rulings on them.
- (6) Copies of proposed findings, requested orders, and exceptions.
- (7) Either:
 - (A) a transcription of the audio tape of the hearing; or
 - (B) a transcript of the hearing prepared by a court reporter.

Copies of exhibits that, because of their nature, cannot be incorporated into the certified record must be kept by the Indiana board until the appeal is finally terminated. However, this evidence must be briefly named and identified in the transcript of the evidence and proceedings.

(c) Except with respect to a petition filed under section 5(g) of this chapter, if the tax court judge finds that:

- (1) a report of all or a part of the evidence or proceedings at a hearing conducted by the Indiana board was not made; or
- (2) a transcript is unavailable;

a party to the appeal initiated under section 5 of this chapter may, at the discretion of the tax court judge, prepare a statement of the evidence or proceedings. The statement must be submitted to the tax court and also must be served on all other parties. A party to the proceeding may serve objections or prepare amendments to the statement not later than ten (10) days after service.

SECTION 16. IC 6-1.1-18.5-13, AS AMENDED BY HEA 1814-2003, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to reallocate the amount set aside as a property tax replacement credit as required by IC 6-3.5-1.1 for a purpose other than property tax relief. However, whenever this occurs, the local government tax control board shall also state the amount to be reallocated.

(2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the **sum of the** civil taxing unit's total assessed value of all taxable property **and the total assessed value of property tax deductions in the unit under**

IC 6-1.1-12-41 or IC 6-1.1-12-42 in the particular calendar year, divided by the **sum of the** civil taxing unit's total assessed value of all taxable property **and the total assessed value of property tax deductions in the unit under IC 6-1.1-12-41 or IC 6-1.1-12-42** in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the **sum of the** total assessed value of all taxable property in ~~the state~~ **all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42** in the particular calendar year, divided by the **sum of the** total assessed value of all taxable property in ~~the state~~ **all counties and the total assessed value of property tax deductions in all counties under IC 6-1.1-12-41 or IC 6-1.1-12-42** in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

In addition, before the local government tax control board may recommend the relief allowed under this subdivision, the civil taxing unit must show a need for the increased levy because of special circumstances, and the local government tax control board must consider other sources of revenue and other means of relief: **The civil taxing unit may increase its levy by a percentage not greater than the percentage by which the STEP THREE amount exceeds the percentage by which the civil taxing unit may increase its levy under section 3 of this chapter based on the assessed value growth quotient determined under section 2 of this chapter.**

(5) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for

the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14 during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(6) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(7) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government

tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(8) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(9) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand

- (55,000) but less than fifty-nine thousand (59,000);
 - (iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);
 - (iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or
 - (v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300);
- and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that would result from a property tax rate of six and sixty-seven hundredths cents (\$.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(10) Permission for a county having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991. Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or juvenile

detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(12) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(13) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under subdivision (1) in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned to have reallocated in 2001 under subdivision (1) for a purpose other than property tax relief.

SECTION 17. IC 6-1.1-20.8-3, AS AMENDED BY HEA 1814-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant of the determination before August 15 of the year in which the application is made.

(b) A person may appeal the determination of the county auditor under subsection (a) by filing a complaint in the office of the clerk of the circuit or superior court not more than forty-five (45) days after the county auditor gives the person notice of the determination.

SECTION 18. IC 6-1.1-20.8-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. An urban enterprise association created under IC 4-4-6.1-4 may by resolution waive failure to file a:**

(1) timely; or

(2) complete;

credit application under section 2.5 of this chapter. Before adopting a waiver under this subsection, the urban enterprise association shall conduct a public hearing on the waiver.

SECTION 19. IC 6-1.1-21-4, AS AMENDED BY P.L.192-2002(ss), SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each year the department shall allocate from

the property tax replacement fund an amount equal to the sum of:

- (1) each county's total eligible property tax replacement amount for that year; plus
- (2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus
- (3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

- (A) that part of the subdivision (1) amount that is attributable to the taxing district; by
- (B) the STEP ONE sum.

STEP THREE: Multiply:

- (A) the STEP TWO quotient; times
- (B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to

each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (i), the department shall not distribute under subsection (b) and section 10 of this chapter the money attributable to the county's property reassessment fund if:

(1) by the date the distribution is scheduled to be made, the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance; **or**

(2) by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section.

(f) Except as provided in subsection (i), if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state

board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by ~~August~~ **October 1** as described in this section bears to the total number of townships in the county.

(g) Money not distributed under subsection (e) shall be distributed to the county when the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1 with respect to which the failure to send resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

- (1) the failure of a county auditor to send a certified statement as described in subsection (e); or
- (2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances.

SECTION 20. IC 6-1.1-28-6, AS AMENDED BY P.L.1-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The county ~~auditor assessor~~ shall give notice of the time, place, and purpose of each annual session of the county property tax assessment board. The county ~~auditor assessor~~ shall give the notice two (2) weeks before the first meeting of the board by:

- (1) publication in two (2) newspapers of general circulation which are published in the county and which represent different political parties; or
- (2) publication in one (1) newspaper of general circulation published in the county if the requirements of clause (1) of this

section cannot be satisfied; or

(3) posting in three (3) public places in each township of the county if a newspaper of general circulation is not published in the county.

SECTION 21. IC 6-1.5-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 4. "Small claim" means an appeal:**

(1) under IC 6-1.5-4-1 of a determination of assessed valuation of tangible property by:

(A) an assessing official; or

(B) the county property tax assessment board of appeals; that does not exceed one million dollars (\$1,000,000); or

(2) under IC 6-1.5-5-1 of a final determination of assessed valuation of tangible property under:

(A) IC 6-1.1-8; or

(B) IC 6-1.1-16;

by the department of local government finance that does not exceed one million dollars (\$1,000,000).

SECTION 22. IC 6-1.5-5-1, AS AMENDED BY HEA 1814-2003, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:**

(1) IC 6-1.1-8.

(2) IC 6-1.1-14-11.

(3) IC 6-1.1-16.

(4) IC 6-1.1-26-2.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

(1) the opportunity for review under this section; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(c) Except as provided in subsection (e), in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor **within not later than forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.**

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board ~~within not later than~~ ten (10) days after ~~it~~ **the petition** is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

~~(f) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-12.1-5.4(h), the person must follow the procedures in IC 6-1.1-12.1-5.4(h).~~

SECTION 23. IC 6-1.5-5-2, AS ADDED BY P.L.198-2001, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) After receiving a petition for review that is filed under a statute listed in section 1(a) of this chapter, the Indiana board shall, at its earliest opportunity:

(1) conduct a hearing; or

(2) cause a hearing to be conducted by an administrative law judge. The Indiana board may determine to conduct the hearing under subdivision (1) on its own motion or on request of a party to the appeal.

(b) In its resolution of a petition, the Indiana board may:

(1) assign:

(A) full;

(B) limited; or

(C) no;

evidentiary value to the assessed valuation of tangible property determined by stipulation submitted as evidence of a comparable sale; and

(2) correct any errors that may have been made, and adjust the assessment in accordance with the correction.

(c) The Indiana board shall give notice of the date fixed for the hearing, by mail, to:

(1) the taxpayer;

(2) the department of local government finance; and

(3) the appropriate:

(A) township assessor;

(B) county assessor; and

(C) county auditor.

(d) The Indiana board shall give the notices required under subsection (c) at least thirty (30) days before the day fixed for the hearing.

SECTION 24. IC 6-1.5-5-4, AS ADDED BY P.L.198-2001, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An administrative law judge who conducts a hearing shall submit a written report of findings of fact and conclusions of law to the Indiana board.

(b) After reviewing the report of the administrative law judge, the Indiana board may take additional evidence or hold additional hearings.

(c) The Indiana board may base its final determination on a stipulation between the respondent and the petitioner. If the final determination is based on a stipulated assessed valuation of tangible property, the Indiana board may order the placement of a notation on the permanent assessment record of the tangible property that the assessed valuation was determined by stipulation. The Indiana board may:

(1) order that a final determination under this subsection has no precedential value; or

(2) specify a limited precedential value of a final determination under this subsection.

(d) If the Indiana board does not issue its final determination under subsection (c), the Indiana board shall base its final determination on:

(1) the:

(A) report of the administrative law judge; or

(B) evidence received at a hearing conducted by the Indiana board;

(2) any additional evidence taken by the Indiana board; and

(3) any records that the Indiana board considers relevant.

SECTION 25. IC 6-1.5-6-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a) The Indiana board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures for the conduct of proceedings before the Indiana board under this article, including procedures for:**

(1) prehearing conferences;

(2) hearings;

- (3) allowing the Indiana board, upon agreement of all parties to the proceeding, to determine that a petition does not require a hearing because it presents substantially the same issue that was decided in a prior Indiana board determination;
 - (4) voluntary arbitration;
 - (5) voluntary mediation;
 - (6) submission of an agreed record;
 - (7) upon agreement of all parties to the proceedings, joinder of petitions concerning the same or similar issues; and
 - (8) small claims.
- (b) Rules under subsection (a)(8):
- (1) may include rules that:
 - (A) prohibit discovery;
 - (B) restrict the length of a hearing; and
 - (C) establish when a hearing is not required; and
 - (2) must include rules that:
 - (A) permit a party to a proceeding subject to the Indiana board's procedures for small claims to elect that those procedures do not apply to the proceeding; and
 - (B) permit an agreement among all parties to a proceeding not subject to the Indiana board's procedures for small claims that those procedures apply to the proceeding.

SECTION 26. IC 6-3.1-23-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 1.5. As used in this chapter, "legislative body" refers to:**

- (1) the legislative body of a municipality (as defined in IC 36-1-2-11) in which is located property on which remediation referred to in section 3(1) of this chapter occurs; or
- (2) if the property referred to in subdivision (1) is not located in a municipality, the legislative body of the county in which the property is located.

SECTION 27. IC 6-3.1-23-3, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 3. As used in this chapter, "qualified investment" means costs that:**

- (1) are incurred result from work performed in Indiana to

conduct a voluntary remediation, **whether or not** under IC 13-25-5, that involves the remediation of a brownfield;

(2) ~~may are not be~~ recovered by a taxpayer from another person after the taxpayer has made a good faith effort to recover the costs; ~~and~~

(3) **are not paid from state financial assistance;**

(4) **result in taxable income to any other Indiana taxpayer; and**

(5) are approved by the department of environmental management and the Indiana development finance authority under section 12 of this chapter.

SECTION 28. IC 6-3.1-23-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 3.5. As used in this chapter, "state financial assistance" means money received by a taxpayer:**

(1) **as a direct loan:**

(A) **under a state program; or**

(B) **of:**

(i) **loan proceeds; or**

(ii) **grant proceeds;**

received by a political subdivision under a state program; or

(2) **as a grant:**

(A) **under a state program; or**

(B) **of:**

(i) **loan proceeds; or**

(ii) **grant proceeds;**

received by a political subdivision under a state program.

SECTION 29. IC 6-3.1-23-5, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 5. (a) A taxpayer is entitled to a credit equal to the amount determined under section 6 of this chapter against the taxpayer's state tax liability for a taxable year if the following requirements are satisfied:**

(1) **The taxpayer does the following:**

(A) **Makes a qualified investment in that taxable year.**

(B) **Makes a good faith attempt to recover the costs of the environmental damages from the liable parties.**

(C) **Submits a plan to the legislative body of the political subdivision in which the property is located to redevelop that:**

(i) describes the taxpayer's proposed redevelopment of the property; in a manner in which the legislative body determines to be in the best interest of the community;

(ii) indicates the sources and amounts of money to be used for the remediation and proposed redevelopment of the property; and

(iii) estimates the value of the remediation and proposed redevelopment.

(D) Certifies to the legislative body that the taxpayer:

(i) has never had an ownership interest in an entity that contributed; and

(ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority.

(2) The legislative body, of the political subdivision in which the property is located, after holding a public hearing of which notice was given under IC 5-3-1, adopts a resolution: under section 7 of this chapter

(A) determining that:

(i) the estimate of the value of the remediation and proposed redevelopment included in the plan under subdivision (1)(C)(iii) is reasonable for projects of that nature; and

(ii) the plan submitted under subdivision (1)(C) is in the best interest of the community;

(B) determining that the taxpayer:

(i) has never had an ownership interest in an entity that contributed; and

(ii) has not contributed;

to contamination (as defined in IC 13-11-2-43) that is the subject of the voluntary remediation, as determined under the written standards adopted by the department of environmental management and the Indiana development finance authority; and

(C) approving the credit.

(3) The department determines under section 15 of this chapter that the taxpayer's return claiming the credit is filed with the department before the maximum amount of credits allowed under this chapter is met.

(b) The redevelopment plan must include a statement of public benefits, which must include the following:

(1) a description of the proposed redevelopment;

(2) An estimate of the number of individuals who will be employed or housed in the new development and an estimate of the annual salaries of the employees;

(c) **(b)** In determining whether the redevelopment is in the best interest of the community, the legislative body must consider, among other things, whether the proposed development promotes:

(1) the development of low to moderate income housing;

(2) the development of green space;

(3) the development of high technology businesses; or

(4) the creation or retention of high paying jobs.

SECTION 30. IC 6-3.1-23-11, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 11. (a) If the amount determined under section 6 of this chapter in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry the excess:

(1) over for not more than the immediately following five (5) taxable years; ~~The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.~~

(b) A taxpayer is not entitled to a carryback or a refund of any unused credit. ~~or~~

(2) back to the immediately preceding taxable year.

(b) The amount of excess available to be used for carryover under subsection (a)(1) is reduced to the extent it is used for:

(1) a carryover under subsection (a)(1); or

(2) a carryback under subsection (a)(2).

SECTION 31. IC 6-3.1-23-12, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 12. (a) To be entitled to a credit under this chapter, a taxpayer must request the department of environmental

management and the Indiana development finance authority to determine if costs incurred in a voluntary remediation involving a brownfield are qualified investments.

(b) The request under subsection (a) must be made before the costs are incurred.

(c) **Upon receipt of a request under subsection (a)**, the department of environmental management and the Indiana development finance authority shall: ~~certify costs incurred in a voluntary remediation as a qualified investment to the extent that~~

(1) examine the costs

~~(1) result from work performed in Indiana to conduct a voluntary remediation under IC 13-25-5 that involves the remediation of a brownfield;~~

~~(2) may not be recovered by the taxpayer from another person after the taxpayer has made a good faith effort to recover the costs; and~~

~~(3) result in taxable income to any other Indiana taxpayer; as determined under the standards adopted by the department of environmental management; and~~

(2) certify any costs that the department and the authority determine to be a qualified investment.

(d) Upon completion of a voluntary remediation ~~that has for which costs have~~ been certified as a qualified investment under subsection (c), the taxpayer:

(1) shall notify the department of environmental management; and

(2) shall request certification of the completion of the voluntary remediation: from the department of environmental management:

(A) with respect to voluntary remediation conducted under IC 13-25-5, the certificate of completion issued by the commissioner under IC 13-25-5-16 for the voluntary remediation work plan under which the costs certified under subsection (c)(2) were incurred; or

(B) with respect to voluntary remediation not conducted under IC 13-25-5, a certification of the costs incurred for the voluntary remediation that are consistent with the costs certified under subsection (c)(2).

SECTION 32. IC 6-3.1-23-13, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2004]: Sec. 13. (a) To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department of **state revenue**.

(b) The taxpayer shall submit the following to the department of state revenue:

(1) The certification of the qualified investment by the department of environmental management and the Indiana development finance authority **and under section 12(c) of this chapter**.

(2) Either:

(A) an official copy of the certification of the completion of the voluntary remediation by the department of environmental management referred to in section 12(d)(2)(A) of this chapter; or

(B) the certification issued by the department of environmental management in response to a request under section 12(d)(2)(B) of this chapter.

~~(2)~~ **(3)** Proof of payment of the certified qualified investment.

~~(3)~~ **(4)** **A copy of the legislative body's approval of the credit resolution adopted under section 5(a)(2) of this chapter.**

~~(4)~~ **(5)** Information that the department determines is necessary for the calculation of the credit provided by this chapter.

SECTION 33. IC 6-3.1-23-16, AS ADDED BY P.L.109-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 16. A tax credit may not be allowed under this chapter for a taxable year that begins after December 31, ~~2003~~ **2005**. However, this section does not affect the ability of a taxpayer to carry forward the excess of a tax credit claimed for **a taxable years 2002 or 2003 year that begins before January 1, 2006**, under section 11 of this chapter.

SECTION 34. IC 36-2-9-20, AS ADDED BY P.L.178-2002, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. The county auditor shall:

(1) maintain an electronic data file of the information contained on the tax duplicate for all:

(A) parcels; and

(B) personal property returns;

for each township in the county as of each assessment date;

- (2) maintain the file in the form required by:
 - (A) the legislative services agency; and
 - (B) the department of local government finance; and
- (3) transmit the data in the file with respect to the assessment date of each year before ~~October~~ **March 1** of the **next** year to:
 - (A) the legislative services agency; and
 - (B) the department of local government finance.

SECTION 35. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2004]: IC 6-3.1-23-7; IC 6-3.1-23-8; IC 6-3.1-23-9; IC 6-3.1-23-10.

SECTION 36. P.L.1814-2003, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: SECTION 42. (a) The following, all as amended by this act, apply only to property taxes first due and payable after December 31, 2004:

- (1) IC 6-1.1-12.1-4.5.
- (2) IC 6-1.1-12.1-4.6.
- (3) IC 6-1.1-12.1-5.4.
- (4) IC 6-1.1-12.1-5.8.
- (5) IC 6-1.1-12.1-5.9.
- ~~(6) IC 6-1.1-18.5-13.~~
- ~~(7)~~ **(6)** IC 36-8-19-8.5.

(b) This SECTION expires January 1, 2006.

SECTION 37. [EFFECTIVE JULY 1, 2003] **(a) Notwithstanding IC 6-1.1-5.5-4(a), a person filing a sales disclosure form under IC 6-1.1-5.5 with respect to a sale of real property that occurs:**

- (1) after December 31, 2003; and**
- (2) before January 1, 2006;**

shall pay a fee of ten dollars (\$10) to the county auditor.

(b) Notwithstanding IC 6-1.1-5.5-4(b) and IC 6-1.1-5.5-12(d), fifty percent (50%) of the revenue collected under:

- (1) subsection (a); and**
- (2) IC 6-1.1-5.5-12;**

for the period referred to in subsection (a) shall be deposited in the county sales disclosure fund established under IC 6-1.1-5.5-4.5. Ten percent (10%) of the revenue shall be transferred to the treasurer of state for deposit in the assessment training fund established under IC 6-1.1-5.5-4.7. Forty percent (40%) of the revenue shall be transferred to the treasurer of state for deposit in the state general

fund.

(c) The department of local government finance may provide training of assessment officials and employees of the department through the Indiana chapter of the International Association of Assessing Officers on various dates and at various locations in Indiana.

(d) This SECTION expires January 1, 2007.

SECTION 38. [EFFECTIVE JULY 1, 2003] (a) IC 6-1.1-12.1-11.3 and IC 6-1.1-18.5-13, both as amended by this act, apply only to property taxes first due and payable after December 31, 2003.

(b) This SECTION expires January 1, 2005.

SECTION 39. [EFFECTIVE JULY 1, 2003] (a) IC 6-1.1-12.1-5.4, as amended by this act, applies only to property taxes first due and payable after December 31, 2004.

(b) This SECTION expires January 1, 2006.

SECTION 40. [EFFECTIVE JANUARY 1, 2004] (a) The following, all as amended by this act, apply only to taxable years beginning after December 31, 2003:

(1) IC 6-3.1-23-3.

(2) IC 6-3.1-23-5.

(3) IC 6-3.1-23-11.

(4) IC 6-3.1-23-12.

(5) IC 6-3.1-23-13.

(6) IC 6-3.1-23-16.

(b) IC 6-3.1-23-1.5 and IC 6-3.1-23-3.5, both as added by this act, apply only to taxable years beginning after December 31, 2003.

(c) This SECTION expires January 1, 2004.

SECTION 41. An emergency is declared for this act.

P.L.246-2003

[H.1718. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-30-2-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. (a) Beginning on July 1, 2004, before the last day of each month, the office of the secretary of family and social services, or the office's designee, shall submit to a county home an itemized statement of a payment for the medical services for a resident of the county home during the previous calendar month, if a resident has given written consent allowing the office to disclose the resident's payment for medical services information to the county home.**

(b) The office of the secretary of family and social services, or the office's designee, shall include the following information in the itemized statement:

- (1) The patient's name.**
- (2) The service code for the service provider.**
- (3) The amount requested by the provider.**
- (4) The amount paid by the office.**

(c) Before July 1, 2004, the office of the secretary of family and social services, or the office's designee, shall maintain a county home's itemized statements so as to allow a county home access to the county home's statements through a secure connection over the Internet.

SECTION 2. **An emergency is declared for this act.**

P.L.247-2003

[H.1730. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

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

SECTION 1. IC 4-23-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 28. Commission on Hispanic/Latino Affairs

Sec. 1. As used in this chapter, "commission" refers to the commission on Hispanic/Latino affairs established by section 2 of this chapter.

Sec. 2. The commission on Hispanic/Latino affairs is established.

Sec. 3. (a) The commission shall do the following:

- (1) Identify and research issues affecting the Hispanic/Latino communities.
- (2) Promote cooperation and understanding between the Hispanic/Latino communities and other communities throughout Indiana.
- (3) Report to the legislative council and the governor concerning Hispanic/Latino issues, including the following:
 - (A) Conditions causing exclusion of Hispanics/Latinos from the larger Indiana community.
 - (B) Measures to stimulate job skill training and related workforce development.
 - (C) Measures to sustain cultural diversity while improving race and ethnic relations.
 - (D) Public awareness of issues affecting the Hispanic/Latino communities.
 - (E) Measures that could facilitate easier access to state and local government services by Hispanics/Latinos.
 - (F) Challenges and opportunities arising out of the growth of the Hispanic/Latino population.

(b) The commission may study other topics:

- (1) as assigned by the governor;**
- (2) as assigned by the legislative council; or**
- (3) as directed by the commission's chairperson.**

Sec. 4. (a) The commission consists of twenty (20) members appointed as follows:

- (1) Two (2) members of the senate who may not be affiliated with the same political party, to be appointed by the president pro tempore of the senate.**
- (2) Two (2) members of the house of representatives who may not be affiliated with the same political party, to be appointed by the speaker of the house of representatives.**
- (3) Four (4) members of the Hispanic/Latino community who are not members of the general assembly, to be appointed by the president pro tempore of the senate.**
- (4) Four (4) members of the Hispanic/Latino community who are not members of the general assembly, to be appointed by the speaker of the house of representatives.**
- (5) The secretary of family and social services or a designee of the secretary who is a Hispanic or Latino employee of the office of the secretary of family and social services.**
- (6) The commissioner of the state department of health or a designee of the commissioner who is a Hispanic or Latino employee of the state department of health.**
- (7) The state superintendent of public instruction or a designee of the superintendent who is a Hispanic or Latino employee of the department of education.**
- (8) The commissioner of the department of correction or a designee of the commissioner who is a Hispanic or Latino employee of the department of correction.**
- (9) The director of the civil rights commission or a designee of the director who is a Hispanic or Latino employee of the civil rights commission.**
- (10) The director of the department of commerce or a designee of the director who is a Hispanic or Latino employee of the department of commerce.**
- (11) A Hispanic or Latino business person, appointed by the governor.**
- (12) The commissioner of workforce development or a**

designee of the commissioner who is a Hispanic or Latino employee of the department of workforce development, who shall serve as an ex officio member of the commission.

In making their appointments under this section, the president pro tempore of the senate and the speaker of the house of representatives shall attempt to have the greatest possible number of counties represented on the commission.

(b) If a legislative member of the commission ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the commission.

(c) A member of the commission may be removed at any time by the appointing authority who appointed the member.

(d) If a vacancy on the commission occurs, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy.

Sec. 5. (a) The commission shall meet on call of the chairperson and at other times that the commission determines.

(b) The chairperson may designate subcommittees to meet between commission meetings and report back to the full commission.

Sec. 6. (a) At the first meeting of the commission each year, the members shall elect:

(1) one (1) member to be the commission's chairperson; and

(2) one (1) member to be the commission's vice chairperson.

(b) A vacancy in the office of chairperson or vice chairperson shall be filled by a member of the commission selected by vote of the remaining members. The term of office of a person chosen under this subsection to fill a vacancy in the office of chairperson or vice chairperson expires at the first meeting of the commission the following year.

Sec. 7. (a) The department of workforce development shall provide staff and administrative support to the commission.

(b) The expenses of the commission shall be paid from appropriations made to the department of workforce development.

Sec. 8. The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure, including final reports.

Sec. 9. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by

IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the commission who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

Sec. 10. (a) Funding for the commission shall be derived from funds appropriated to the department of workforce development.

(b) If money is appropriated under subsection (a), the money does not revert to the state general fund at the end of a state fiscal year but remains available to the department of workforce development until the purpose for which it was appropriated is fulfilled.

Sec. 11. (a) The commission on Hispanic/Latino affairs special fund is established to provide money for special projects of the commission.

(b) The fund shall be administered by the treasurer of state.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The fund consists of gifts, contributions, and money donated to the commission.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(f) Interest accrues to the fund.

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

(h) Money in the fund is appropriated continuously for the purpose stated in subsection (a).

SECTION 2. IC 2-5-27 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 3. **An emergency is declared for this act.**

P.L.248-2003

[H.1731. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning criminal law.

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

SECTION 1. IC 9-13-2-79.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 79.7. "Inflatable restraint system", for purposes of IC 9-19-10.5, has the meaning set forth in IC 9-19-10.5-1.**

SECTION 2. IC 9-13-2-105, AS AMENDED BY P.L.143-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of husbandry, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of **IC 9-19-10.5 and IC 9-25**, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

SECTION 3. IC 9-19-10.5 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 10.5. Inflatable Restraint Systems

Sec. 1. As used in this chapter, "inflatable restraint system" means an air bag that is activated in a crash.

Sec. 2. A person may not knowingly or intentionally install in a motor vehicle, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle.

Sec. 3. A person may not knowingly or intentionally:

- (1) sell;**
- (2) lease;**
- (3) trade; or**
- (4) transfer;**

a motor vehicle in which is installed, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle to an Indiana resident.

Sec. 4. A person who violates section 2 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if a person in a motor vehicle is injured as a result of the air bag tampering.

Sec. 5. A person who violates section 3 of this chapter commits a Class D felony.

SECTION 4. [EFFECTIVE JULY 1, 2003] IC 9-19-10.5-4 and IC 9-19-10.5-5, both as added by this act, apply only to acts committed after June 30, 2003.

P.L.249-2003

[H.1734. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-6.1-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Each contract entered into by a nonpermanent teacher and a school corporation continues in force on the same terms and for the same wages, unless increased by IC 20-6.1-5-1, for the next school term following the date of termination set in the contract. However, the contract does not continue if any of the following occur:

(1) On or before May 1, the school corporation notifies the teacher that the contract will not continue for the next school term. This notification must be:

(A) written; and

(B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address:

(1) **The school corporation refuses continuation of the contract in accordance with subsections (b) and (c).**

(2) The teacher delivers or mails by registered or certified mail to the school corporation the teacher's written resignation.

(3) The contract is replaced by another contract agreed to by the parties.

(b) Before a teacher is refused continuation of the contract under subsection (a), the teacher has the following rights, which shall be strictly construed:

(1) Upon the request of the teacher, and within fifteen (15) days of the receipt of the notice of contract nonrenewal, the governing body or the superintendent of the school corporation shall provide the teacher with a written statement which may be developed in an executive session and which is not a public document, giving the reasons for the noncontinuation of the teacher's contract.

(2) (1) The principal of the school at which the teacher teaches

shall provide the teacher with an annual written evaluation of the teacher's performance before January 1 of each year. Upon the request of a nonpermanent teacher, delivered in writing to the principal within thirty (30) days after the teacher receives the evaluation required by this section, the principal shall provide the teacher with an additional written evaluation.

(2) On or before May 1, the school corporation shall notify the teacher that the governing body will consider nonrenewal of the contract for the next school term. This notification must be:

(A) written; and

(B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.

(3) Upon the request of the teacher, and within fifteen (15) days of the receipt of the notice of **the consideration of** contract nonrenewal, the governing body or the superintendent of the school corporation shall provide the teacher with a written statement which may be developed in an executive session and which is not a public document, giving the reasons for the noncontinuation of the teacher's contract.

(c) A conference shall be held with the governing body, or at the direction of the governing body, with the superintendent or the superintendent's designee, not more than ten (10) days following the day the governing body receives the request. If the first conference is not with the governing body, **the teacher may request** a second conference, **which** shall be held with the governing body **at a time mutually agreeable to both parties and** not more than twenty (20) days following the day the governing body receives the request for a second conference, or before the end of the school year, whichever is earlier.

(d) The governing body may, in addition to a conference, require that the superintendent or the superintendent's designee and the teacher summarize in writing the position of each party with respect to the continuation of the contract.

(e) At any conference:

(1) the governing body, the superintendent, or the superintendent's designee shall provide full and complete information supporting the reasons given for noncontinuance; and

(2) the teacher shall provide any information demonstrating that noncontinuance of the contract is improper.

(f) The conference with the governing body shall be in executive session unless the teacher requests a public conference. The teacher may have a representative at any conference.

(g) The governing body shall vote on the continuation of the teacher's contract not more than ten (10) days after the conference.

(h) The time periods set out in subsection (c) shall be extended for a reasonable period:

(1) when a teacher or school official is ill or absent from the school corporation;

(2) when the teacher requests a public conference, but a public conference held within the time periods of subsection (c) violates IC 5-14-1.5-5; or

(3) for other reasonable cause.

~~(h) The governing body shall affirm or reverse its position on continuation of the teacher's contract not more than ten (10) days after the conference.~~

(i) The governing body of a school corporation may decide not to continue a teacher's contract under this section:

(1) for any reason considered relevant to the school corporation's interest; or

(2) because of a teacher's inability to perform the teacher's teaching duties.



P.L.250-2003

[H.1738. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

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

SECTION 1. IC 7.1-1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. ~~General Purpose:~~

The **following are the** general purposes of this title: ~~are:~~

- ~~(a)~~ **(1)** To protect the economic welfare, health, peace, and morals of the people of this state.
- ~~(b)~~ **(2)** To regulate and limit the manufacture, sale, possession, and use of alcohol and alcoholic beverages. ~~and;~~
- ~~(c)~~ **(3)** **To regulate the sale, possession, and distribution of tobacco products.**
- (4)** To provide for the raising of revenue.

SECTION 2. IC 7.1-1-2-2, AS AMENDED BY P.L.213-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Except as provided in IC 7.1-5-1-3 and IC 7.1-5-1-6, this title applies to the **following**:

(1) The commercial manufacturing, bottling, selling, bartering, importing, transporting, delivering, furnishing, or possessing of alcohol, alcoholic beverages, industrial alcohol, malt, malt syrup, malt extract, liquid malt or wort.

(2) **The sale, possession, and distribution of tobacco products.**

SECTION 3. IC 7.1-1-3-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 8.5. "Certificate" means a tobacco sales certificate for purposes of IC 7.1-3-18.5.**

SECTION 4. IC 7.1-1-3-47.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 47.5. "Tobacco product" has the meaning set forth in IC 7.1-6-1-3.**

SECTION 5. IC 7.1-2-3-33, AS ADDED BY P.L.177-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 33. The commission is authorized to:

- (1) investigate a violation of; and
- (2) enforce a penalty for a violation of;

IC 35-46-1-10, IC 35-46-1-10.2, ~~IC 35-46-1-11.3~~, IC 35-46-1-11.5, or IC 35-46-1-11.7.

SECTION 6. IC 7.1-2-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Prosecutor: Powers and Duties. The prosecutor shall have the following powers and duties:

(a) To prosecute before the commission all violations of laws pertaining to alcohol, ~~and~~ alcoholic beverages, **and tobacco, including violations pertaining to tobacco vending machines;**

(b) To prosecute before the commission all violations of the rules and regulations of the commission;

(c) To assist the prosecuting attorneys of the various judicial circuits in the investigation and prosecution of violations of laws pertaining to alcohol, ~~and~~ alcoholic beverages, **and tobacco, including violations pertaining to tobacco vending machines**, and to represent the state in these matters;

(d) To appear before grand juries to assist in their investigations into matters pertaining to alcohol, ~~and~~ alcoholic beverages, **and tobacco, including matters pertaining to tobacco vending machines**;

(e) To establish a seal of his office;

(f) To administer oaths and to do all other acts authorized by law for notaries public; and,

(g) To employ, with the consent of the commission and at salaries fixed by the commission in their budget, the clerical staff required by him to effectively discharge his duties.

SECTION 7. IC 7.1-3-1-3, AS AMENDED BY P.L.205-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A permit of any type issued by the commission, except as provided in subsections (b) and (f) or unless otherwise provided in this title, shall be in force for one (1) calendar year only, including the day upon which it is granted. At the end of the one (1) year period the permit shall be fully expired and null and void.

(b) Notwithstanding subsection (a), in a county containing a consolidated city, a permit that is subject to section 5.5 or 5.6 of this chapter is effective for two (2) calendar years, including the day upon which the permit is granted. However, a local board may recommend to the commission that the permit be issued or renewed for only a one (1) year period. The commission may issue or renew a permit for the period recommended by the local board.

(c) A permittee who is granted a two (2) year permit under subsection (b) or subsection (f) is liable for any annual fees assessed by the commission. The annual fee is due on the annual anniversary date upon which the permit was granted.

(d) If the commission grants a two (2) year permit, the commission may ask a local board to hold a hearing to reconsider the duration of a permittee's permit. A hearing held under this subsection is subject to section 5.5 or 5.6 of this chapter. A local board shall hold the hearing

requested by the commission within thirty (30) days before the permittee's next annual anniversary date and forward a recommendation to the commission following the hearing.

(e) If a permittee is granted a permit for more than one (1) year, the commission may require the permittee to file annually with the commission the information required for an annual permit renewal.

(f) Notwithstanding subsection (a), the following are effective for two (2) calendar years, including the day upon which the permit is granted:

(1) A beer wholesaler's permit issued under IC 7.1-3-3-1.

(2) A wine wholesaler's permit issued under IC 7.1-3-13-1.

(3) A liquor wholesaler's permit issued under IC 7.1-3-8-1.

SECTION 8. IC 7.1-3-1-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.5. A permittee to whom a retailer or dealer permit has been issued under this title, may deposit that permit with the commission for a period of one (1) year if the permittee is unable to immediately operate the business to which the permit applies. The commission may extend the term of the deposit for ~~an~~ **not more than four (4) additional one (1) year period periods** if the permittee is able to show to the satisfaction of the commission that the permittee is making a good faith effort to put the permit into operation.

SECTION 9. IC 7.1-3-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~Reasons for Permit:~~ The commission may issue a temporary beer permit only to:

~~(a)~~ **(1)** enable a fair, athletic event, barbecue, picnic, **wedding reception**, convention, exhibition, spectacle or contest to be publicly held and carried on; or

~~(b)~~ **Accomodate (2)** accommodate the institutional activities of an association, society, charitable or benevolent organization, or a branch of one (1) of these, or both.

SECTION 10. IC 7.1-3-17.5-6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of an excursion and adjacent landsite permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the licensed premises if all the following requirements are met:**

- (1) The event is attended by not more than five hundred (500) guests.**
- (2) The event is not more than three (3) hours in duration.**
- (3) Each alcoholic beverage dispensed to a guest:**
 - (A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and**
 - (B) is entered into a cash register as a sale and at the same price that is charged to the general public.**
- (4) At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the excursion and adjacent landsite permit.**
- (5) All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the excursion and adjacent landsite permit for not less than two (2) years.**
- (6) The holder of the excursion and adjacent landsite permit complies with the rules of the commission.**

SECTION 11. IC 7.1-3-18.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 18.5. Tobacco Sales Certificate

Sec. 1. (a) A person may not sell or otherwise distribute in exchange for consideration a tobacco product at retail without a valid tobacco sales certificate issued by the commission.

(b) A certificate may be issued only to a person who owns or operates at least one (1) of the following:

- (1) A premises consisting of a permanent building or structure where the tobacco product is sold or distributed.**
- (2) A premises upon which a cigarette vending machine (as defined by IC 35-43-4-7) is located.**

Sec. 2. (a) A person who desires a certificate must provide the following to the commission:

- (1) The applicant's name and mailing address and the address of the premises for which the certificate is being issued.**
- (2) A fee of fifty dollars (\$50).**

(b) A separate certificate is required for each location where the tobacco products are sold or distributed.

(c) The fees collected under this section shall be deposited in the

enforcement and administration fund under IC 7.1-4-10.

Sec. 3. (a) A certificate issued by the commission under this chapter must contain the following information:

- (1) The certificate number.
 - (2) The certificate holder's name.
 - (3) The permanent location of the business or vending machine for which the certificate is issued.
 - (4) The expiration date of the certificate.
- (b)** A certificate is:
- (1) valid for one (1) year after the date of issuance, unless the commission suspends the certificate; and
 - (2) nontransferable.

Sec. 4. The commission may adopt rules under IC 4-22-2 to establish procedures for the issuance, renewal, and reinstatement of a certificate.

Sec. 5. (a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

(b) Before enforcing the imposition of a civil penalty or suspending a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension to the certificate holder.

Sec. 6. (a) If a certificate has:

- (1) expired; or
- (2) been suspended;

the commission may not reinstate or renew the certificate until all civil penalties imposed against the certificate holder for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7 have been paid.

(b) The failure to pay a civil penalty described in subsection (a) is a Class B infraction.

(c) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

Sec. 7. (a) A person who is required to have a certificate under this chapter and who sells or distributes tobacco products without

a valid certificate commits a Class A infraction. Each violation of this section constitutes a separate offense.

(b) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

SECTION 12. IC 7.1-3-23-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. ~~Revocation upon Conviction.~~ The commission may revoke a wholesaler's, retailer's, or dealer's permit of any type after final judgment of conviction for an offense defined in this title. The commission ~~shall~~ **may** revoke the permit of a wholesaler, retailer, or dealer upon a second violation of a provision of this title whether a judgment of conviction ensues or not.

SECTION 13. IC 7.1-4-4.1-2, AS ADDED BY P.L.204-2001, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The fee for a supplemental caterer's permit is **five one hundred fifty** dollars ~~(\$5)~~ **(\$150)** per ~~event.~~ **year.**

SECTION 14. IC 7.1-4-4.1-3, AS ADDED BY P.L.204-2001, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The following biennial license fee is imposed for an employee's permit:

- (1) Five dollars (\$5) if the permit is used only to perform volunteer service that benefits a nonprofit organization.
- (2) ~~Twenty~~ **Thirty** dollars ~~(\$20)~~ **(\$30)** if subdivision (1) does not apply.

The term of a biennial employee's license is two (2) years.

SECTION 15. IC 7.1-4-4.1-18 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18. The fee for a duplicate or reissued permit of any type is ten dollars (\$10). The fees collected under this section shall be deposited in the enforcement and administration fund under IC 7.1-4-10.**

SECTION 16. IC 7.1-5-5-7, AS AMENDED BY P.L.204-2001, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) It is unlawful for a permittee in a sale or contract to sell alcoholic beverages to discriminate between purchasers by granting a price, discount, allowance, or service charge which is not available to all purchasers at the same time. However, this section does not authorize or require a permittee to sell to a person to whom he is

not authorized to sell under this title.

(b) A premises that operates at least two (2) restaurants that are separate and distinct from each other on the same premises may provide for a different schedule of prices in each restaurant if each restaurant conforms to all other laws and rules of the commission regarding pricing and price discrimination in its separate and distinct areas.

(c) This section does not apply to the holder of an excursion and adjacent landsite permit that complies with IC 7.1-3-17.5-6.

SECTION 17. IC 35-46-1-10.2, AS AMENDED BY P.L.1-2001, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).

(3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of tobacco, a Class B infraction.

SECTION 18. IC 7.1-3-23-15 IS REPEALED [EFFECTIVE UPON

PASSAGE].

SECTION 19. IC 35-46-1-11.3 IS REPEALED [EFFECTIVE JULY 1, 2003].

SECTION 20. **An emergency is declared for this act.**

P.L.251-2003

[H.1757. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 5-10-8-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 13. (a) As used in this section, "covered individual" means an individual who is entitled to coverage under an employee health benefit plan.**

(b) As used in this section, "employee health benefit plan" means a group plan of self-insurance, policy, or contract that:

- (1) provides coverage for prescription drugs; and**
- (2) is established, purchased, or entered into by an employer for the benefit of the employer's employees.**

(c) As used in this section, "employer" means the following:

- (1) A public employer.**
- (2) A state educational institution (as defined in IC 20-12-0.5-1).**

(d) As used in this section, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

(e) An employee health benefit plan that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to a covered individual.

(f) An employee health benefit plan may not require a covered individual to obtain a prescription drug from a pharmacy designated under subsection (e) as a condition of coverage.

SECTION 2. IC 25-26-13-18, AS AMENDED BY P.L.187-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) To be eligible for issuance of a pharmacy permit, an applicant must show to the satisfaction of the board that:

(1) Persons at the location will engage in the bona fide practice of pharmacy. The application must show the number of hours each week, if any, that the pharmacy will be open to the general public.

(2) The pharmacy will maintain a sufficient stock of emergency and frequently prescribed drugs and devices as to adequately serve and protect the public health.

(3) Except as provided in section 19 of this chapter, a registered pharmacist will be in personal attendance and on duty in the licensed premises at all times when the practice of pharmacy is being conducted and that the pharmacist will be responsible for the lawful conduct of the pharmacy.

(4) One (1) pharmacist will have not more than four (4) ~~unlicensed persons~~ **certified pharmacy technicians or pharmacy technicians in training certified under IC 25-26-19** under the pharmacist's immediate and personal supervision at any time. As used in this clause, "immediate and personal supervision" means within reasonable visual and vocal distance of the ~~licensed person:~~ **pharmacist.**

(5) The pharmacy will be located separate and apart from any area containing merchandise not offered for sale under the pharmacy permit. The pharmacy will:

(A) be stationary;

(B) be sufficiently secure, either through electronic or physical means, or a combination of both, to protect the products contained in the pharmacy and to detect and deter entry during those times when the pharmacy is closed;

(C) be well lighted and ventilated with clean and sanitary surroundings;

(D) be equipped with a sink with hot and cold running water or some means for heating water, a proper sewage outlet, and refrigeration;

(E) have a prescription filling area of sufficient size to permit the practice of pharmacy as practiced at that particular pharmacy; and

(F) have such additional fixtures, facilities, and equipment as the board requires to enable it to operate properly as a pharmacy in compliance with federal and state laws and regulations governing pharmacies.

A pharmacy licensed under IC 25-26-10 (before its repeal on July 1, 1977) on June 30, 1977, must comply with the provisions of this clause before December 31, 1982, unless for good cause shown the board grants a waiver or otherwise exempts it.

(b) Prior to opening a pharmacy after receipt of a pharmacy permit, the permit holder shall submit the premises to a qualifying inspection by a representative of the board and shall present a physical inventory of the drug and all other items in the inventory on the premises.

(c) At all times, the wholesale value of the drug inventory on the licensed items must be at least ten percent (10%) of the wholesale value of the items in the licensed area.

SECTION 3. IC 25-26-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 19. Regulation of Pharmacy Technicians

Sec. 1. As used in this chapter, "board" refers to the Indiana board of pharmacy established by IC 25-26-13-3.

Sec. 2. As used in this chapter, "pharmacy technician" means an individual who:

- (1) works under the direct supervision of a pharmacist licensed under this article; and**
- (2) performs duties to assist a pharmacist in activities that do not require the professional judgment of a pharmacist.**

Sec. 3. As used in this chapter, "pharmacy technician in training" means a person who is enrolled in a training program for pharmacy technicians prescribed by the board.

Sec. 4. (a) The board may adopt rules under IC 4-22-2 to:

- (1) implement and enforce this chapter;**
- (2) set fees under IC 25-1-8; and**
- (3) establish education and training requirements for certification to practice as a pharmacy technician.**

(b) The board shall:

- (1) establish standards for the competent practice of pharmacy technicians; and**

(2) subject to IC 4-21.5, IC 25-1-7, and IC 25-1-9, conduct proceedings on any matter under the jurisdiction of the board.

Sec. 5. (a) The board shall issue a pharmacy technician certificate to an individual who:

- (1) applies to the board in the form and manner prescribed by the board;
- (2) is at least eighteen (18) years of age;
- (3) has not been convicted of a crime that has a direct bearing upon the individual's ability to practice competently;
- (4) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter;
- (5) has paid the fee set by the board under section 4 of this chapter; and
- (6) has completed a program of education and training approved by the board or has passed a certification examination offered by a nationally recognized certification body approved by the board.

(b) For good cause, the board may waive the age requirement under subsection (a)(2).

Sec. 6. (a) The board shall issue a pharmacy technician in training permit to an individual who:

- (1) applies to the board in the form and manner prescribed by the board;
- (2) is at least eighteen (18) years of age;
- (3) has not been convicted of a crime that has a direct bearing upon the individual's ability to practice competently;
- (4) is not in violation of this chapter or rules adopted by the board under section 4 of this chapter; and
- (5) has applied for certification under section 5 of this chapter.

(b) An applicant:

- (1) may work as a pharmacy technician in training without a permit for not more than thirty (30) consecutive days after the applicant files an application under this section;
- (2) shall provide the applicant's employer with a receipt issued by the board that:
 - (A) provides the date an application under this section was filed; and

(B) indicates that the fee has been paid;
before the applicant may begin work as a pharmacy technician in training; and

(3) may request an additional thirty (30) day period to practice as a pharmacy technician in training without a permit. The board may approve a request under this subdivision if the board determines that the extension is for good cause.

(c) A pharmacy technician in training permit expires on the earliest of the following:

(1) The date the permit holder is issued a pharmacy technician certificate under this chapter.

(2) The date the board disapproves the permit holder's application for a pharmacy technician certificate under this chapter.

(3) The date the permit holder ceases to be enrolled in good standing in a pharmacy technician training program approved by the board. The graduation of a permit holder from a pharmacy technician program does not cause the permit to expire under this subdivision.

(4) Sixty (60) days after the date that the permit holder successfully completes a program approved by the board.

(5) Twelve (12) months after the date of issuance.

(d) For good cause, the board may waive the age requirement in subsection (a)(2).

Sec. 7. (a) A pharmacy technician certificate expires on a date set by the health professions bureau in each even-numbered year.

(b) An application for renewal of a pharmacy technician certificate must be accompanied by the appropriate fee.

(c) If a person fails to renew a pharmacy technician certificate, the certificate may be reinstated by meeting the requirements under IC 25-1-8-6.

(d) The board may require a person who applies for a certificate under subsection (c) to appear before the board and explain the reason why the person failed to renew a pharmacy technician certificate.

Sec. 8. A certified pharmacy technician may not perform the following activities:

(1) Providing advice or consultation with the prescribing

practitioner or other licensed health care provider regarding the patient or the interpretation and application of information contained in the prescription or drug order, medical record, or patient profile.

(2) Providing advice or consultation with the patient regarding the interpretation of the prescription or the application of information contained in the patient profile or medical record.

(3) Dispensing prescription drug information to the patient.

(4) Final check on all aspects of the completed prescription and assumption of the responsibility for the filled prescription, including the appropriateness of the drug for the patient and the accuracy of the:

(A) drug dispensed;

(B) strength of the drug dispensed; and

(C) labeling of the prescription.

(5) Receiving a new prescription drug order over the telephone or electronically unless the original information is recorded so a pharmacist may review the prescription drug order as transmitted.

(6) Any activity required by law to be performed only by a pharmacist.

(7) Any activity that requires the clinical judgment of a pharmacist and is prohibited by a rule adopted by the board.

Sec. 9. (a) An individual may not practice as a pharmacy technician unless the individual is certified under this chapter.

(b) An individual may not act as a pharmacy technician in training unless the individual has obtained a permit under this chapter or the individual is acting as a pharmacy technician in training during the period permitted under section 6(b) of this chapter.

(c) An individual who knowingly violates this section commits a Class D felony.

Sec. 10. (a) If an individual violates this chapter, the attorney general, the board, or the prosecuting attorney of the county in which the individual violates this chapter may maintain an action in the name of the state to enjoin the individual from continued violation of this chapter.

(b) An injunction issued under this section does not relieve an

individual person from criminal prosecution but is in addition to any remedy provided under criminal law.

SECTION 4. IC 27-8-31.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 31.2. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "insurer" refers to an insurer (as defined in IC 27-1-2-3) that issues a policy of accident and sickness insurance.

Sec. 2. As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

Sec. 3. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 4. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.

Sec. 5. (a) An insurer that provides coverage for prescription drugs may designate a mail order or an Internet based pharmacy to provide prescription drugs to an insured.

(b) An insurer may not require an insured to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 5. IC 27-13-37.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 37.5. Mail Order and Internet Pharmacy Designation

Sec. 1. As used in this chapter, "mail order or Internet based pharmacy" has the meaning set forth in IC 25-26-18-1.

Sec. 2. (a) A health maintenance organization may designate, under an individual contract or a group contract that provides coverage for prescription drugs, a mail order or an Internet based pharmacy to provide prescription drugs to an enrollee.

(b) A health maintenance organization may not require an enrollee to obtain a prescription drug from a pharmacy designated under subsection (a) as a condition of coverage.

SECTION 6. [EFFECTIVE JULY 1, 2003] (a) IC 5-10-8-13, as added by this act, applies to an employee health benefit plan that is entered into, issued, delivered, amended, or renewed after June 30, 2003.

(b) IC 27-8-31.2, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2003.

(c) IC 27-13-37.5, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2003.

SECTION 7. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 25-26-19, as added by this act, an individual is not required to be certified under IC 25-26-19, as added by this act, to practice as a pharmacy technician before January 1, 2004.

(b) Notwithstanding IC 25-26-19, as added by this act, an individual is not required to hold a permit under IC 25-26-19, as added by this act, to act as a pharmacy technician in training before January 1, 2004.

(c) This SECTION expires July 1, 2004.

SECTION 8. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 25-26-19-5(a)(6), as added by this act, an individual who applies for certification as a pharmacy technician to the board of pharmacy before July 1, 2004, may be certified as a pharmacy technician without being required to meet the requirements of IC 25-26-19-5(a)(6), as added by this act, if the individual has been employed as a pharmacy technician for two (2) years before July 1, 2003.

(b) This SECTION expires July 1, 2004.

SECTION 9. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "board" refers to the board of pharmacy established by IC 25-26-13-3.

(b) Before December 31, 2003, the board shall adopt rules to set the pharmacy technician certificate fee at twenty-five dollars (\$25) in compliance with IC 25-1-8 and as allowed under IC 25-26-19, as added by this act.

(c) This SECTION expires December 31, 2004.

P.L.252-2003

[H.1788. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning trade regulations and consumer sales and credit.

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

SECTION 1. IC 6-7-1-17, AS AMENDED BY P.L.192-2002(ss), SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of one and two-tenths percent (1.2%) of the amount of the tax stamps purchased, as compensation for their labor and expense.

(b) The department may permit distributors who hold certificates and who are admitted to do business in Indiana to pay for revenue stamps within thirty (30) days after the date of purchase. However, the privilege is extended upon the express condition that:

(1) except as provided in subsection (c), a bond or letter of credit satisfactory to the department, in an amount not less than the sales price of the stamps, is filed with the department; and

(2) proof of payment is made of all local property, state income, and excise taxes for which any such distributor may be liable. The bond or letter of credit, conditioned to secure payment for the stamps, shall be executed by the distributor as principal and by a corporation duly authorized to engage in business as a surety company or financial institution in Indiana.

(c) If

~~(1) there is an increase in the amount of the tax imposed upon cigarettes under this chapter; and~~

~~(2) a distributor has at least five (5) consecutive years of good credit standing with the state, as of the effective date of the tax increase described in subdivision (1);~~
~~the amount of the bond required by subsection (b)(1) remains the same as before the increase in the tax on cigarettes took effect. the distributor shall not be required to post a bond or letter of credit under subsection (b).~~

SECTION 2. IC 6-7-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. Every distributor, upon the receipt of cigarettes taxed under this chapter, shall cause each individual package to have the requisite denomination and amount of stamps firmly affixed. Every retailer, upon receipt of cigarettes not having the proper amount of stamps firmly affixed, to each individual package, or stamped by a meter stamping machine, by a distributor shall stamp or firmly affix stamps immediately on each individual package. Provided, however, that any distributor engaged in interstate business, shall be permitted to set aside such part of his stock as may be necessary for the conduct of such interstate business without affixing the stamps required by this chapter. Every distributor, at the time of shipping or delivering any cigarettes, shall make a duplicate invoice, showing complete details of each transaction, and shall retain the duplicate subject to the inspection by the department or its agent. **Every distributor shall include with each shipment or delivery of cigarettes an invoice showing complete details of the transactions. Every retailer shall retain for not less than two (2) weeks the invoice included with each shipment or delivery of cigarettes subject to inspection by the department or its agent. A retailer may request a duplicate invoice from a distributor.**

SECTION 3. IC 6-7-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The department:

- (1) may revoke or suspend a license issued under this chapter for any violation of this chapter **or IC 6-7-1-18** by the licensee; and
- (2) may not issue a license under this chapter to an applicant within six (6) months after the revocation of that applicant's license.

SECTION 4. IC 7.1-3-18.5-7, AS ADDED BY HEA 1788-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who is required to have a

certificate under this chapter and who sells or distributes tobacco products without a valid certificate commits a Class A infraction. Each violation of this section constitutes a separate offense.

(b) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Richard D. Doyle** youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

SECTION 5. IC 7.1-6-2-6, AS AMENDED BY P.L.1-2002, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The **Richard D. Doyle** youth tobacco education and enforcement fund is established. The fund shall be administered by the commission.

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

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

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

(e) Money in the fund shall be used for the following purposes:

(1) For youth smoking prevention education. The commission may contract with the state department of health or the office of the secretary of family and social services for youth smoking prevention education programs.

(2) For education and training of retailers who sell tobacco products. The commission may contract with education and training programs of the office of the secretary of family and social services, the division of mental health and addiction, enforcement officers, or a program approved by the commission.

(3) For the commission, for enforcement of youth tobacco laws.

SECTION 6. IC 7.1-6-2-8, AS ADDED BY P.L.204-2001, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section applies whenever a civil penalty payable to the **Richard D. Doyle** youth tobacco education and enforcement fund is imposed.

(b) The person liable for the civil penalty shall pay the full amount of the civil penalty to the commission within thirty (30) days after final judgment.

(c) A person who fails to pay a civil penalty within the time

specified in subsection (b) is liable for a late penalty equal to the greater of the following:

- (1) Twenty-five percent (25%) of the amount of the civil penalty imposed under IC 35-46-1.
- (2) The lesser of the following:
 - (A) Twenty-five dollars (\$25) multiplied by the number of days that have elapsed after the date that the civil penalty was imposed by a court.
 - (B) Five thousand dollars (\$5,000).

(d) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for interest on the unpaid amount of the:

- (1) civil penalty imposed by a court; and
- (2) late penalty imposed under this section.

The interest rate is the adjusted rate of interest as determined under IC 6-8.1-10-1 payable from the date that payment of the amount was due.

(e) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for the reasonable documented out-of-pocket expenses incurred in pursuing collection efforts.

(f) The commission shall collect the following:

- (1) Civil penalties imposed by a court.
- (2) Late penalties imposed under this section.
- (3) Interest imposed under this section.
- (4) Reasonable documented out-of-pocket expenses incurred in pursuing collection efforts.

(g) Late penalties and interest imposed under this section shall be deposited in the **Richard D. Doyle** youth tobacco education and enforcement fund established by section 6 of this chapter.

SECTION 7. IC 16-18-2-323.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 323.1. "School bus", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-2.3.**

SECTION 8. IC 16-18-2-323.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 323.4. "School week", for purposes of IC 16-41-37, has the meaning set forth in IC 16-41-37-2.7.**

SECTION 9. IC 16-41-37-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.3. As used in this chapter, "school bus" means a motor vehicle that is:**

- (1) designed and constructed for the accommodation of at least ten (10) passengers;**
- (2) owned or operated by a public or governmental agency, or privately owned and operated for compensation; and**
- (3) used for the transportation of school children to and from the following:**
 - (A) School.**
 - (B) School athletic games or contests.**
 - (C) Other school functions.**

SECTION 10. IC 16-41-37-2.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.7. As used in this chapter, "school week" means a normal Monday through Friday week that contains three (3) or more days that each contain more than four (4) hours of classroom instruction.**

SECTION 11. IC 16-41-37-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4. A person who smokes:**

- (1) in a public building, except in an area designated as a smoking area under section 5 of this chapter;**
 - (2) in the retail area of a grocery store or drug store that is designated as a nonsmoking area by the store's proprietor; or**
 - (3) in the dining area of a restaurant that is designated and posted as the restaurant's nonsmoking area by the restaurant's proprietor;**
- or**
- (4) in a school bus during a school week or while the school bus is being used for a purpose described in section 2.3(3) of this chapter;**

commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) previous unrelated judgments for violating this section that are accrued within the twelve (12) months immediately preceding the violation.

SECTION 12. IC 24-3-2-2, AS AMENDED BY P.L.204-2001, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 2. Unless the context in this chapter requires otherwise, the term:

(a) "Cigarette" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material; provided the definition in this paragraph shall not be construed to include cigars.

(b) "Person" or the term "company", used in this chapter interchangeably, means and includes any individual, assignee, receiver, commissioner, fiduciary, trustee, executor, administrator, institution, bank, consignee, firm, partnership, limited liability company, joint vendor, pool, syndicate, bureau, association, cooperative association, society, club, fraternity, sorority, lodge, corporation, municipal corporation, or other political subdivision of the state engaged in private or proprietary activities or business, estate, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(c) "Distributor" shall mean and include every person who sells, barter, exchanges, or distributes cigarettes in the state of Indiana to retail dealers for the purpose of resale, or who purchases for resale cigarettes from a manufacturer of cigarettes or from a wholesaler, jobber, or distributor outside the state of Indiana who is not a distributor holding a registration certificate issued under the provisions of IC 6-7-1.

(d) "Retailer" shall mean every person, other than a distributor, who purchases, sells, offers for sale, or distributes cigarettes to consumers or to any person for any purpose other than resale, irrespective of quantity or amount or the number of sales.

(e) "Sell at retail", "sale at retail", and "retail sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of the seller's business to the purchaser for consummation or use.

(f) "Sell at wholesale", "sale at wholesale", and "wholesale sales" shall mean and include any transfer of title to cigarettes for a valuable consideration made in the ordinary course of trade or usual conduct of a distributor's business.

(g) "Basic cost of cigarettes" shall mean the invoice cost of cigarettes to the retailer or distributor, as the case may be, or the replacement cost of cigarettes to the retailer or distributor, as the case may be, within thirty (30) days prior to the date of sale, in the quantity last purchased, whichever is the lower, less all trade discounts and customary discounts for cash, plus the cost at full face value of any stamps which may be required by IC 6-7-1, if not included by the manufacturer in his selling price to the distributor.

(h) "Department" shall mean the alcohol and tobacco commission ~~or its duly authorized assistants and employees. and any other board, commission, agency, or other entity of the state of Indiana which may be designated by the governor to administer and enforce the provisions of this chapter; and the governor is hereby vested with power and authority to designate and to transfer to another department, board, commission, agency, or other entity of the state of Indiana the administration and enforcement of the provisions of this chapter.~~

(i) "Cost to the retailer" shall mean the basic cost of cigarettes to the retailer, plus the cost of doing business by the retailer as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses paid or incurred and must include without limitation labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising; however, any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, discounts ordinarily allowed on purchases by a distributor shall, in determining costs to the retailer pursuant to this section, add the cost to the distributor, as defined in paragraph (j), to the basic cost of cigarettes to said retailer as well as the cost of doing business by the retailer. In the absence of proof of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer. In the absence of proof of a lesser or higher cost of doing business, the cost of doing business by the retailer, who in connection with the retailer's purchase receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, the discounts ordinarily allowed upon purchases by a distributor, shall be presumed

to be eight percent (8%) of the sum of the basic cost of cigarettes plus the cost of doing business by the distributor.

(j) "Cost to the distributor" shall mean the basic cost of cigarettes to the distributor, plus the cost of doing business by the distributor as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include without limitation labor costs (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. In the absence of proof of a lesser or higher cost of doing business by the distributor making the sale, the cost of doing business by the wholesaler shall be presumed to be four percent (4%) of the basic cost of cigarettes to the distributor, plus cartage to the retail outlet, if performed or paid for by the distributor, which cartage cost, in the absence of proof of a lesser or higher cost, shall be deemed to be one-half of one percent (0.5%) of the basic cost of cigarettes to the distributor.

(k) "Registration certificate" refers to the registration certificate issued to cigarette distributors by the department of state revenue under IC 6-7-1-16.

SECTION 13. IC 24-3-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) It is a ~~Class C~~ **Class A** infraction for a retailer or distributor, with intent to injure competitors or destroy or substantially lessen competition, to offer to sell or sell at retail or wholesale cigarettes at less than the cost to him. The registration certificate held by such a distributor under IC 6-7-1 may be revoked by the department for the balance of the term thereof.

(b) Evidence of offering to sell or sale of cigarettes by any retailer or distributor at less than the cost to him is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

(c) Notwithstanding IC 34-28-5-5(c), a judgment for a violation of this section shall be deposited in the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 14. IC 24-3-2-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.7. (a) A retailer shall produce an invoice or other documentary evidence proving that the retailer obtained cigarettes**

or a tobacco product (as defined in IC 6-7-2-5) from a distributor that holds a valid registration certificate.

(b) Each day a retailer fails to produce an invoice or other evidence under subsection (a) constitutes a separate violation of this section.

(c) This subsection applies in addition to or instead of any other civil or criminal penalty. The department or the department of state revenue may impose on a retailer that violates subsection (a) a civil penalty that does not exceed the greater of:

- (1) five hundred percent (500%) of the retail value of the cigarettes described in subsection (a); or
- (2) five thousand dollars (\$5,000);

for each violation.

(d) In addition to any other penalty described in this section, the department or the department of state revenue may seize the cigarettes or other tobacco products for which the retailer is unable to produce the invoice or documentary evidence described in subsection (a). The seized cigarettes or other tobacco products shall be forfeited to the state and destroyed.

(e) Civil penalties collected under this chapter shall be deposited as follows:

- (1) Seventy percent (70%) to the enforcement and administration fund established under IC 7.1-4-10.
- (2) Thirty percent (30%) to the state general fund for the use of the department of state revenue.

SECTION 15. IC 24-3-3-13, AS ADDED BY P.L.223-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Subsection (b) applies unless and until all or any part of subsection (b) is held to be unconstitutional or otherwise unenforceable. If all or any part of subsection (b) or the application of all or any part of subsection (b) to a person, an entity, or a circumstance is held to be unconstitutional or invalid by a court, the unconstitutionality or invalidity does not affect other provisions of this chapter, and subsection (c) controls. Subsection (c) applies unless and until all or any part of subsection (c) is held to be unconstitutional or otherwise unenforceable. If all or any part of subsection (c) or the application of all or any part of subsection (c) to a person, an entity, or a circumstance is held to be unconstitutional or invalid by a court, the unconstitutionality or

invalidity does not affect other provisions of this chapter, and subsection (d) controls.

(b) A tobacco product manufacturer that places funds into escrow under section 12(2) of this chapter shall receive the interest or other appreciation on such funds as earned. The funds shall be released from escrow only under the following circumstances:

(1) To pay a judgment or settlement on any released claim brought against the tobacco product manufacturer by the state or any releasing party located or residing in Indiana. Funds shall be released from escrow under this subdivision:

(A) in the order in which they were placed into escrow; and

(B) only to the extent and at the time necessary to make payments required under such a judgment or settlement.

(2) To the extent that a tobacco product manufacturer establishes that the amount the tobacco product manufacturer is required to place in escrow on account of units sold in Indiana in a particular year exceeds the master settlement agreement payments the tobacco product manufacturer would have been required to make on account of units sold in Indiana if the tobacco product manufacturer were a participating manufacturer, as determined under section IX(i) of the master settlement agreement and after final determination of all adjustments, the excess payments shall be released from escrow and shall revert to the tobacco product manufacturer.

(3) To the extent not released from escrow under subdivision (1) or (2), funds shall be released from escrow and revert back to the tobacco product manufacturer twenty-five (25) years after the date on which the funds were placed into escrow.

(c) This subsection applies only if subsection (b) is held to be unconstitutional or otherwise unenforceable. A tobacco product manufacturer that places funds into escrow under section 12(2) of this chapter shall receive the interest or other appreciation on the funds as earned. The funds shall be released from escrow only under the following circumstances:

(1) To pay a judgment or settlement on any released claim brought against the tobacco product manufacturer by the state or any releasing party located or residing in Indiana.

Funds shall be released from escrow under this subdivision:

**(A) in the order in which they were placed into escrow;
and**

**(B) only to the extent and at the time necessary to make
payments required under such a judgment or settlement.**

**(2) To the extent not released from escrow under subdivision
(1), funds shall be released from escrow and revert back to the
tobacco product manufacturer twenty-five (25) years after the
date on which the funds were placed into escrow.**

**(d) This subsection applies only if subsections (b) and (c) are
held to be unconstitutional or otherwise unenforceable.** A tobacco
product manufacturer that places funds into escrow under section 12(2)
of this chapter shall receive the interest or other appreciation on such
funds as earned. Such funds themselves shall be released from escrow
only under the following circumstances:

(1) To pay a judgment or settlement on any released claim
brought against such tobacco product manufacturer by the state
or any releasing party located or residing in Indiana. Funds shall
be released from escrow under this subdivision:

(A) in the order in which they were placed into escrow; and

(B) only to the extent and at the time necessary to make
payments required under such a judgment or settlement.

(2) To the extent that a tobacco product manufacturer establishes
that the amount it was required to place into escrow in a particular
year was greater than the state's allocable share of the total
payments that the manufacturer would have been required to
make in that year under the Master Settlement Agreement (as
determined pursuant to section IX(i)(2) of the Master Settlement
Agreement, and before any of the adjustments or offsets described
in section IX(i)(3) of that Agreement other than the Inflation
Adjustment) had it been a participating manufacturer, the excess
shall be released from escrow and revert back to the tobacco
product manufacturer.

(3) To the extent not released from escrow under subdivision (1)
or (2), funds shall be released from escrow and revert back to
such tobacco product manufacturer twenty-five (25) years after
the date on which the funds were placed into escrow.

SECTION 16. IC 24-3-5.4 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 5.4. Master Settlement Agreement Protection Act

Sec. 1. As used in this chapter, "brand family" means cigarettes that are:

- (1) sold under the same trademark; and**
- (2) differentiated from one another by means of modifiers such as menthol, lights, kings, or 100s.**

The term includes the use of a brand name, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or other indicia of product identification that is identical or similar to or identifiable with a previously known brand of cigarettes.

Sec. 2. As used in this chapter, "cigarette" has the meaning set forth in IC 24-3-3-5.

Sec. 3. As used in this chapter, "commission" means the alcohol and tobacco commission created by IC 7.1-2-1-1.

Sec. 4. As used in this chapter, "department" means the department of state revenue.

Sec. 5. As used in this chapter, "distributor" means a person that:

- (1) purchases cigarettes on which the tax under IC 6-7-1 is not paid; and**
- (2) stores, sells, or otherwise disposes of the cigarettes.**

Sec. 6. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

Sec. 7. As used in this chapter, "nonparticipating manufacturer" means a tobacco product manufacturer that is not a participating manufacturer.

Sec. 8. As used in this chapter, "participating manufacturer" has the meaning set forth in IC 24-3-3-12(1).

Sec. 9. As used in this chapter, "qualified escrow fund" has the meaning set forth in IC 24-3-3-7.

Sec. 10. As used in this chapter, "stamping agent" means a person that may affix a stamp to a package of cigarettes under IC 6-7-1-15.

Sec. 11. As used in this chapter, "tobacco product manufacturer" has the meaning set forth in IC 24-3-3-10.

Sec. 12. As used in this chapter, "units sold" has the meaning set forth in IC 24-3-3-11.

Sec. 13. (a) Not later than April 30 of each year, a tobacco product manufacturer whose cigarettes are sold in Indiana, whether directly or through a distributor, retailer, or similar intermediary, shall certify to the department and the attorney general that, as of the date of the certification, the tobacco product manufacturer is:

- (1) a participating manufacturer; or**
- (2) in full compliance with IC 24-3-3.**

The department shall prescribe the form of the certification.

(b) A participating manufacturer shall include in a certification under subsection (a) a list of the participating manufacturer's brand families. The participating manufacturer shall update the list by filing a supplemental certification with the department and the attorney general not less than thirty (30) days before the participating manufacturer adds a brand family or otherwise modifies the list of brand families.

(c) A nonparticipating manufacturer shall include in a certification under subsection (a) a list of the nonparticipating manufacturer's brand families, including the following:

- (1) A separate listing of each brand family that was sold in Indiana during the calendar year before the year in which the certification is filed.**
- (2) A separate listing of the number of units sold for each brand family that was sold in Indiana during the calendar year before the year in which the certification is filed.**
- (3) An indication of any brand family that was sold in Indiana during the calendar year before the year in which the certification is filed and that is not sold in Indiana as of the date of the certification.**
- (4) The name and address of any other manufacturer of a brand family that was sold in Indiana during the calendar year before the year in which the certification is filed.**

(d) A nonparticipating manufacturer shall file a supplemental certification with the attorney general not less than thirty (30) days before the nonparticipating manufacturer adds to or otherwise modifies its list of brand families.

(e) A nonparticipating manufacturer shall certify the following in a certification under subsection (a):

- (1) The nonparticipating manufacturer:**

- (A) is registered to do business in Indiana; or
 - (B) has appointed an agent for service of process and provided notice under section 16 of this chapter.
- (2) The nonparticipating manufacturer has:
- (A) established and continues to maintain a qualified escrow fund; and
 - (B) executed a qualified escrow agreement that:
 - (i) the attorney general has approved; and
 - (ii) governs the qualified escrow fund.
- (3) The nonparticipating manufacturer is in full compliance with:
- (A) this section; and
 - (B) IC 24-3-3.
- (4) The name, address, and telephone number of the financial institution that holds the nonparticipating manufacturer's qualified escrow fund.
- (5) The account number and any subaccount numbers of the nonparticipating manufacturer's qualified escrow fund.
- (6) The amounts and dates of deposits that the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in Indiana during the calendar year before the year in which the certification is filed, including any verification required by the attorney general.
- (7) The amounts and dates of withdrawals or transfers of funds that the nonparticipating manufacturer made from a qualified escrow fund into which the nonparticipating manufacturer made or makes escrow payments under IC 24-3-3.
- (f) A tobacco product manufacturer shall not include a brand family in the tobacco product manufacturer's certification under subsection (a) unless:
- (1) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is considered the participating manufacturer's cigarettes for purposes of calculating the participating manufacturer's payments under the master settlement agreement for the year in which the certification is filed in the volume and shares determined under the master settlement agreement; or
 - (2) in the case of a nonparticipating manufacturer, the

nonparticipating manufacturer affirms that the brand family is considered to be the nonparticipating manufacturer's cigarettes for purposes of IC 24-3-3-12(2).

(g) This section does not limit or otherwise affect the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of IC 24-3-3.

(h) A nonparticipating manufacturer shall maintain all invoices and documentation of sales and any other relevant information for a period of five (5) years unless otherwise required by law to maintain the invoices, documentation of sales, or other relevant information for more than five (5) years.

Sec. 14. (a) Not later than July 1 of each year, the attorney general shall make available to the public by publishing on accessIndiana (as defined in IC 5-21-1-1.5) a directory listing all brand families listed in certifications filed under section 13 of this chapter.

(b) A directory described in subsection (a) shall not include the name or brand families of a nonparticipating manufacturer:

- (1) that fails to comply with section 13 of this chapter; or
- (2) whose certification fails to comply with section 13(c) or 13(e) of this chapter, unless the attorney general determines that the failure has been remedied.

(c) The directory may not include a tobacco product manufacturer or a brand family if the attorney general concludes that:

- (1) in the case of a nonparticipating manufacturer, all escrow payments required under IC 24-3-3-12 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general; or
- (2) all outstanding final judgments, including interest on the judgments, for violations of IC 24-3-3 have not been fully satisfied for the tobacco product manufacturer or brand family.

(d) The attorney general shall update the directory as necessary to correct mistakes or to add or remove a tobacco product

manufacturer or brand family to keep the directory in conformity with the requirements of this chapter.

(e) The attorney general shall post in the directory and transmit by electronic mail or other means to each distributor or stamping agent notice of any removal from the directory of a tobacco product manufacturer or brand family not later than thirty (30) days before the attorney general removes the tobacco product manufacturer or brand family from the directory.

(f) Unless otherwise provided in an agreement between a tobacco product manufacturer and a distributor or stamping agent, a distributor or stamping agent is entitled to a refund from a tobacco product manufacturer for any money paid by the distributor or stamping agent to the tobacco product manufacturer for any cigarettes of the tobacco product manufacturer or brand family that:

- (1) are in the possession of the distributor or stamping agent on; or
- (2) the distributor or stamping agent receives from a retailer after;

the date on which the tobacco product manufacturer or brand family is removed from the directory.

(g) Unless otherwise provided in an agreement between a retailer and a distributor, stamping agent, or tobacco product manufacturer, a retailer is entitled to a refund from a distributor, stamping agent, or tobacco product manufacturer for any money paid by the retailer to the distributor, stamping agent, or tobacco product manufacturer for any cigarettes of the tobacco product manufacturer or brand family that are in the possession of the retailer on the date on which the tobacco product manufacturer or brand family is removed from the directory.

(h) The attorney general shall not restore a tobacco product manufacturer or brand family to the directory until the tobacco product manufacturer pays a distributor, stamping agent, or retailer any refund due under subsection (f) or (g).

(i) A distributor or stamping agent shall provide and update as necessary an electronic mail address to the attorney general for purposes of receiving a notification required by this chapter.

Sec. 15. A person may not:

- (1) affix a stamp to a package or other container of cigarettes;

or

(2) sell or offer or possess for sale in Indiana cigarettes; of a tobacco product manufacturer or brand family that is not listed in a directory under section 14 of this chapter.

Sec. 16. (a) A foreign nonparticipating manufacturer that has not registered to do business in Indiana shall, as a condition precedent to having the foreign nonparticipating manufacturer's brand families listed in a directory under section 14 of this chapter, appoint and engage without interruption the services of an agent in Indiana to act as the foreign nonparticipating manufacturer's agent for the service of process. Service on an agent under this section constitutes legal and valid service of process on the foreign nonparticipating manufacturer that appointed and engaged the services of the agent. The foreign nonparticipating manufacturer shall provide the following information to the department and the attorney general:

- (1) The name, address, and telephone number of the agent.
- (2) Proof of the appointment of the agent.
- (3) The availability of the agent.
- (4) Any other information required by the department or the attorney general.

(b) A foreign nonparticipating manufacturer shall provide notice to the department and the attorney general not less than thirty (30) days before the foreign nonparticipating manufacturer terminates the authority of an agent appointed under this section. The foreign nonparticipating manufacturer shall provide proof to the satisfaction of the attorney general of the appointment of a new agent not less than five (5) days before the foreign nonparticipating manufacturer terminates an existing agency appointment.

(c) If an agent terminates an agency appointment, the foreign nonparticipating manufacturer shall:

- (1) notify the department and the attorney general of the termination not more than five (5) days after the termination; and
- (2) provide proof to the satisfaction of the attorney general of the appointment of a new agent.

(d) A foreign nonparticipating manufacturer that:

- (1) sells products in Indiana; and
- (2) has not appointed an agent under this section;

is considered to have appointed the secretary of state as the foreign nonparticipating manufacturer's agent. The appointment of the secretary of state under this subsection as the foreign nonparticipating manufacturer's agent does not satisfy the condition precedent to having the foreign nonparticipating manufacturer's brand families listed in a directory under section 14 of this chapter.

Sec. 17. (a) This section applies after July 31, 2003.

(b) Not later than January 20, April 20, July 20, and October 20 of a calendar year, a distributor or stamping agent shall submit the following information to the department, the commission, and the attorney general:

- (1)** A list by brand family of the total number of cigarettes for which the distributor or stamping agent affixed stamps or otherwise paid taxes during the immediately preceding three (3) months.
- (2)** Any other information required by the department or the attorney general.

The distributor or stamping agent shall maintain and make available to the department, the commission, and the attorney general for a period of five (5) years all invoices and documentation of sales of all nonparticipating manufacturer cigarettes and any other information that the distributor or stamping agent relied on in reporting to the department, the commission, and the attorney general.

(c) The attorney general may require a distributor or a tobacco product manufacturer to submit additional information to determine whether a tobacco product manufacturer is in compliance with this chapter. The additional information may include samples of the packaging or labeling of each of the tobacco product manufacturer's brand families.

Sec. 18. The department and the commission shall disclose to the attorney general any information received under this chapter and requested by the attorney general for purposes of determining compliance with and enforcing this chapter. The department, the commission, and the attorney general:

- (1)** shall share with each other the information received under this chapter; and
- (2)** may share the information received under this chapter

with other federal, state, or local agencies only for purposes of enforcing this chapter or a corresponding law in another state.

Sec. 19. The attorney general may require a nonparticipating manufacturer to provide from the financial institution that holds the nonparticipating manufacturer's qualified escrow fund for purposes of complying with this chapter proof of:

- (1) the amount of money in the qualified escrow fund being held on behalf of the state;
- (2) the dates of any deposits into the qualified escrow fund; and
- (3) the dates and amounts of any withdrawals from the qualified escrow fund.

Sec. 20. The department or the attorney general may adopt rules under IC 4-22-2 to implement this chapter, including rules to:

- (1) require a tobacco product manufacturer subject to section 13(c) of this chapter to make required escrow deposits in installments during the calendar year in which the sales covered by the deposits are made; or
- (2) produce information sufficient to enable the attorney general to determine the adequacy of the amount of an installment deposit described in subdivision (1).

Sec. 21. (a) This section applies in addition to or instead of any other civil or criminal penalty.

(b) The department may revoke or suspend the license of a distributor, a stamping agent, or any other person that violates section 15 of this chapter.

(c) Each:

- (1) stamp affixed;
- (2) sale of cigarettes; or
- (3) offer or possession of cigarettes for sale;

in violation of section 15 of this chapter constitutes a separate violation.

(d) The department or the commission may impose a civil penalty that does not exceed the greater of:

- (1) five hundred percent (500%) of the retail value of the cigarettes sold; or
- (2) five thousand dollars (\$5,000);

for each violation of section 15 of this chapter.

Sec. 22. Whenever the department or the commission discovers any cigarettes that have been sold, offered for sale, or possessed for sale in Indiana in violation of section 15 of this chapter, the department or the commission may seize and take possession of the cigarettes. The seized cigarettes shall be forfeited to the state. The department or the commission shall destroy the seized cigarettes.

Sec. 23. The attorney general may seek an injunction to:

- (1) restrain a threatened or an actual violation of section 15 of this chapter by a stamping agent; and
- (2) compel the stamping agent to comply with sections 15, 17(b), and 17(c) of this chapter.

Sec. 24. (a) A person shall not:

- (1) sell or distribute; or
- (2) acquire, hold, own, possess, transport, import, or cause to be imported;

cigarettes that the person knows or should know are intended for distribution or sale in Indiana in violation of section 15 of this chapter.

(b) A person who violates this section commits a Class C misdemeanor.

Sec. 25. A person who violates section 15 of this chapter engages in an unfair and deceptive business practice.

Sec. 26. A determination by the attorney general to not list in or to remove from a directory under section 14 of this chapter a brand family or a tobacco product manufacturer is subject to review only by the Marion County circuit court.

Sec. 27. The department shall not issue a registration certificate under IC 6-7-1-16(a) to a distributor unless the distributor certifies in writing that the distributor will comply with this chapter.

Sec. 28. In an action brought by the state to enforce this chapter, the state may recover:

- (1) the costs of investigation;
- (2) expert witness fees;
- (3) the costs of the action; and
- (4) attorney's fees.

Sec. 29. If a court determines that a person has violated this chapter, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the treasurer of state for deposit in the Indiana tobacco master

settlement agreement fund under IC 4-12-1-14.3.

Sec. 30. All:

(1) civil penalties imposed under; and

(2) judgments for violations of;

this chapter shall be deposited in the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 17. IC 35-46-1-10, AS AMENDED BY P.L.204-2001, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person who knowingly:

(1) sells or distributes tobacco to a person less than eighteen (18) years of age; or

(2) purchases tobacco for delivery to another person who is less than eighteen (18) years of age;

commits a Class C infraction. For a sale to take place under this section, the buyer must pay the seller for the tobacco product.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the **Richard D. Doyle** youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 18. IC 35-46-1-10.2, AS AMENDED BY HEA 1788-2003, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).

(3) If the retail establishment at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A retail establishment may not be issued a citation or summons for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

(1) agriculture;

(2) processing;

(3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Richard D. Doyle** youth tobacco

education and enforcement fund (IC 7.1-6-2-6).

(h) A person who violates subsection (a) at least six (6) times in any six (6) month period commits habitual illegal sale of tobacco, a Class B infraction.

SECTION 19. IC 35-46-1-11.3, AS AMENDED BY P.L.204-2001, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.3. (a) This section does not apply to advertisements that are less than fourteen (14) square feet and posted:

- (1) at street level in the window or on the exterior of a business property or establishment where tobacco products are manufactured, distributed, or sold; or
- (2) on vehicles.

(b) This section does not apply to advertisements that are placed on a fixed, permanent marquee sign that is located on the retailer's property where tobacco products are sold.

(c) A person may not advertise or cause to be advertised tobacco products on a billboard or an outdoor advertisement where the tobacco advertising occupies an area that exceeds fourteen (14) square feet. The alcohol and tobacco commission may adopt rules under IC 4-22-2 to determine how to measure the tobacco product advertising on a sign that contains both tobacco product advertising and advertising that is not tobacco related. The rules may not allow the frame of the sign or other structural parts that only serve to support the sign to be included in the tobacco advertising measurement.

(d) A person who violates this section commits a Class C infraction. An advertisement that is in violation of this section must be removed not more than ten (10) days after a citation or summons has been issued. Notwithstanding IC 34-28-5-4(c), if an advertisement that is in violation of this section is not removed not more than ten (10) days after a citation or summons has been issued, a civil judgment for an infraction committed under this section must include a civil penalty of one hundred dollars (\$100) for each day that the advertisement was in violation of this section.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Richard D. Doyle** youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 20. IC 35-46-1-11.5, AS AMENDED BY P.L.1-2001, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 11.5. (a) Except for a coin machine that is placed in or directly adjacent to an entranceway or an exit, or placed in a hallway, a restroom, or another common area that is accessible to persons who are less than eighteen (18) years of age, this section does not apply to a coin machine that is located in the following:

(1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least eighteen (18) years of age.

(2) Private industrial or office locations that are customarily accessible only to persons who are at least eighteen (18) years of age.

(3) Private clubs if the membership is limited to persons who are at least eighteen (18) years of age.

(4) Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.

(b) As used in this section, "coin machine" has the meaning set forth in IC 35-43-5-1.

(c) Except as provided in subsection (a), an owner of a retail establishment may not:

(1) distribute or sell tobacco by use of a coin machine; or

(2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco.

(d) An owner of a retail establishment who violates this section commits a Class C infraction. A citation or summons issued under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).

(2) If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(3) If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the

previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.

An owner of a retail establishment may not be issued a citation or summons for a violation of this section more than once every two (2) business days for each business location.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Richard D. Doyle** youth tobacco education and enforcement fund established under IC 7.1-6-2-6.

SECTION 21. IC 35-46-1-11.7, AS AMENDED BY P.L.1-2001, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store."

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

(1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).

(2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).

(3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the **Richard D. Doyle** youth tobacco

education and enforcement fund established under IC 7.1-6-2-6.

SECTION 22. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 24-3-5.4-13(a), as added by this act, a tobacco manufacturer shall file a certification under IC 24-3-5.4-13, as added by this act, not later than August 15, 2003.

(b) Notwithstanding IC 24-3-5.4-14(a), as added by this act, the attorney general shall publish a directory under IC 24-3-5.4-14, as added by this act, not later than October 1, 2003.

(c) This SECTION expires December 31, 2003.



P.L.253-2003

[H.1791. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning trade regulations.

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

SECTION 1. IC 24-3-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 5. Delivery Sales of Tobacco Products

Sec. 1. As used in this chapter, "delivery sale" means a transaction for the purchase of tobacco products in which an offer to purchase tobacco products is made:

- (1) electronically using a computer network (as defined in IC 35-43-2-3);**
- (2) by mail; or**
- (3) by telephone;**

and acceptance of the offer results in delivery of the tobacco products to a named individual at a designated address.

Sec. 2. As used in this chapter, "merchant" means a person or an entity that engages in the selling of tobacco products by delivery sale.

Sec. 3. As used in this chapter, "tobacco product" has the meaning set forth in IC 7.1-6-1-3.

Sec. 4. A merchant may not mail or ship tobacco products as part of a delivery sale unless, before mailing or shipping the tobacco products, the merchant:

- (1) obtains from the prospective customer a written statement signed by the prospective customer under penalty of perjury:**
 - (A) providing the prospective customer's address and date of birth;**
 - (B) advising the prospective customer that:**
 - (i) signing another person's name to the statement required under this subdivision may subject the person to a civil monetary penalty of not more than one thousand dollars (\$1,000); and**
 - (ii) purchasing tobacco products by a person less than eighteen (18) years of age is a Class C infraction under IC 35-46-1-10.5;**
 - (C) confirming that the tobacco product order was placed by the prospective customer;**
 - (D) providing a warning under 15 U.S.C. 1333(a)(1); and**
 - (E) stating the sale of tobacco products by delivery sale is a taxable event for purposes of IC 6-7-1 and IC 6-7-2;**
- (2) makes a good faith effort to verify the information in the written statement obtained under subdivision (1) by using a federal or commercially available data base; and**
- (3) receives payment for the delivery sale by a credit or debit card issued in the name of the prospective purchaser.**

Sec. 5. (a) A merchant who mails or ships tobacco products as part of a delivery sale shall:

- (1) use a mailing or shipping service that requires the customer or a person at least eighteen (18) years of age who is designated by the customer to:**
 - (A) sign to accept delivery of the tobacco products; and**
 - (B) present a valid operator's license issued under IC 9-24-3 or an identification card issued under IC 9-24-16 if the customer or the customer's designee, in the opinion of the delivery agent or employee of the mailing or shipping service, appears to be less than twenty-seven (27) years of age;**
- (2) provide to the mailing or shipping service used under subdivision (1) proof of compliance with section 6(a) of this**

chapter; and

(3) include the following statement in bold type or capital letters on an invoice or shipping document:

INDIANA LAW PROHIBITS THE MAILING OR SHIPPING OF TOBACCO PRODUCTS TO A PERSON LESS THAN EIGHTEEN (18) YEARS OF AGE AND REQUIRES PAYMENT OF ALL APPLICABLE TAXES.

(b) The alcohol and tobacco commission may impose a civil penalty of not more than one thousand dollars (\$1,000) if a mailing or shipping service:

(1) delivers tobacco products as part of a delivery sale without first receiving proof from the merchant of compliance with section 6(a) of this chapter; or

(2) fails to obtain a signature and proof of identification of the customer or the customer's designee under subsection (a)(1).

The alcohol and tobacco commission shall deposit amounts collected under this subsection into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

(c) The following apply to a merchant that mails or ships tobacco products as part of a delivery sale without using a third party service as required by subsection (a)(1):

(1) The merchant shall require the customer or a person at least eighteen (18) years of age who is designated by the customer to:

(A) sign to accept delivery of the tobacco products; and

(B) present a valid operator's license issued under IC 9-24-3 or identification card issued under IC 9-24-16 if the customer or the customer's designee, in the opinion of the merchant or the merchant's employee making the delivery, appears to be less than twenty-seven (27) years of age.

(2) The alcohol and tobacco commission may impose a civil penalty of not more than one thousand dollars (\$1,000) if the merchant:

(A) delivers the tobacco products without first complying with section 6(a) of this chapter; or

(B) fails to obtain a signature and proof of identification of the customer or the customer's designee under subdivision (1).

The alcohol and tobacco commission shall deposit amounts collected under this subdivision into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

Sec. 6. (a) A merchant shall, before mailing or shipping tobacco products as part of a delivery sale, provide the department of state revenue with a written statement containing the merchant's name, address, principal place of business, and each place of business in Indiana.

(b) A merchant who mails or ships tobacco products as part of a delivery sale shall, not later than the tenth day of the calendar month immediately following the month in which the delivery sale occurred, file with the department of state revenue a copy of the invoice for each delivery sale to a customer in Indiana. The invoice must include the following information:

- (1) The name and address of the customer to whom the tobacco products were delivered.**
- (2) The brand name of the tobacco products that were delivered to the customer.**
- (3) The quantity of tobacco products that were delivered to the customer.**

(c) A merchant who complies with 15 U.S.C. 376 for the delivery sale of cigarettes is considered to satisfy the requirements of this section.

Sec. 7. (a) A merchant who delivers tobacco products to a customer as part of a delivery sale shall:

- (1) collect and pay all applicable taxes under IC 6-7-1 and IC 6-7-2; or**
- (2) place a legible and conspicuous notice on the outside of the container in which the tobacco products are shipped. The notice shall be placed on the same side of the container as the address to which the container is shipped and must state the following:**

"If these tobacco products have been shipped to you from a merchant located outside the state in which you reside, the merchant has under federal law reported information about the sale of these tobacco products, including your name and address, to your state tax collection agency. You are legally responsible for all applicable unpaid state taxes on these tobacco products."

(b) For a violation of this section the alcohol and tobacco commission may impose, in addition to any other remedies, civil penalties as follows:

(1) If the person has one (1) judgment for a violation of this section committed during a five (5) year period, a civil penalty of at least one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000).

(2) If the person has two (2) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least two thousand five hundred dollars (\$2,500) and not more than three thousand five hundred dollars (\$3,500).

(3) If the person has three (3) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least four thousand dollars (\$4,000) and not more than five thousand dollars (\$5,000).

(4) If the person has four (4) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least five thousand five hundred dollars (\$5,500) and not more than six thousand five hundred dollars (\$6,500).

(5) If the person has at least five (5) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of ten thousand dollars (\$10,000).

Sec. 8. The alcohol and tobacco commission may impose a civil penalty of not more one thousand dollars (\$1,000) on a:

(1) customer who signs another person's name to a statement required under section 4(1) of this chapter; or

(2) merchant who sells tobacco products by delivery sale to a person less than eighteen (18) years of age.

The alcohol and tobacco commission shall deposit amounts collected under this section into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

SECTION 2. IC 34-24-1-1, AS AMENDED BY SEA 504-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-41-1), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the

following:

- (A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:
 - (i) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
 - (ii) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
 - (iii) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
 - (iv) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 - (v) Dealing in a counterfeit substance (IC 35-48-4-5).
 - (vi) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).
 - (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
 - (viii) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
 - (B) Any stolen (IC 35-43-4-2) or converted property (IC 35-43-4-3) if the retail or repurchase value of that property is one hundred dollars (\$100) or more.
 - (C) Any hazardous waste in violation of IC 13-30-6-6.
 - (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass destruction (as defined in IC 35-41-1-29.4) used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism (as defined by IC 35-41-1-26.5).
- (2) All money, negotiable instruments, securities, weapons, communications devices, or any property used to commit, used in an attempt to commit, or used in a conspiracy to commit an offense under IC 35-47 as part of or in furtherance of an act of terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
- (A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;
 - (B) used to facilitate any violation of a criminal statute; or
 - (C) traceable as proceeds of the violation of a criminal statute.

- (3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.
- (4) A vehicle that is used by a person to:
 - (A) commit, attempt to commit, or conspire to commit;
 - (B) facilitate the commission of; or
 - (C) escape from the commission of;murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.
- (5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:
 - (A) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
 - (B) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
 - (C) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
 - (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- (6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).
- (7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.
- (8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).
- (9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.
- (10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.
- (11) Destructive devices used, possessed, transported, or sold in violation of IC 35-47.5.
- (12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes that a person attempts to sell in violation of IC 24-3-5.2, and other

personal property owned and used by a person to facilitate a violation of IC 24-3-5.2.

(13) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

- (1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).
- (2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).
- (3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
- (4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.
- (5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.
- (6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

P.L.254-2003

[H.1811. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 4-4-8-1, AS AMENDED BY P.L.227-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" means the department of commerce.

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Governing body" means the legislative body of a city, town, or county, an economic development commission, or any board administering the affairs of a special taxing district.

"Industrial development program" means any program designed to aid the growth of industry in Indiana and includes:

- (1) the construction of airports, airport facilities, and tourist attractions;
- (2) the construction, extension, or completion of sewerlines, waterlines, streets, sidewalks, bridges, roads, highways, public ways, and information and high technology infrastructure (as defined in this section);
- (3) the leasing or purchase of property, both real and personal; and
- (4) the preparation of surveys, plans, and specifications for the construction of publicly owned and operated facilities, utilities, and services.

"Information and high technology infrastructure" includes, but is not limited to, fiber optic cable and other infrastructure that supports high technology growth and the purchase and installation of such fiber optic cable and other infrastructure.

"Minority enterprise small business investment company" means an investment company licensed under 15 U.S.C. 681(D).

"Qualified entity" means a city, town, county, economic

development commission, or special taxing district.

"Small business investment company" means an investment company licensed under 15 U.S.C. 691 et seq.

"State corporation" means the state corporation (as defined by ~~IC 6-3.1-5-2~~): **organized under IC 6-3.1-5-7 (before its repeal) and IC 6-3.1-5-8 (before its repeal).**

SECTION 2. IC 5-17-1-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 11. IC 5-22-16-4(b) applies to a lease or purchase of personal property made after June 30, 2003, by an agency (as defined in IC 4-13-2-1) or a state educational institution (as defined in IC 20-12-0.5-1) to the same extent as if the lease or purchase were subject to IC 5-22.**

SECTION 3. IC 5-22-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) An offeror that is a foreign corporation must be registered with the secretary of state to do business in Indiana in order to be considered responsible.

(b) **This subsection applies to a purchase of supplies or services for a state agency under a contract entered into or purchase order sent to an offeror (in the absence of a contract) after June 30, 2003, including a purchase described in IC 5-22-8-2 or IC 5-22-8-3. A state agency may not purchase property or services from a person that is delinquent in the payment of amounts due from the person under IC 6-2.5 (gross retail and use tax) unless the person provides a statement from the department of state revenue that the person's delinquent tax liability:**

(1) has been satisfied; or

(2) has been released under IC 6-8.1-8-2.

(c) The purchasing agent may award a contract to an offeror pending the offeror's registration with the secretary of state. If, in the judgment of the purchasing agent, the offeror has not registered within a reasonable period, the purchasing agent shall cancel the contract. An offeror has no cause of action based on the cancellation of a contract under this subsection.

SECTION 4. IC 6-2.5-4-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 14. The department of administration and each purchasing agent for a state educational institution (as defined in**

IC 20-12-0.5-1) shall provide the department with a list of every person who desires to enter into a contract to sell property or services to an agency (as defined in IC 4-13-2-1) or a state educational institution. The department shall notify the department of administration or the purchasing agent of the state educational institution if a person on the list does not have a registered retail merchant certificate or is delinquent in remitting or paying amounts due to the department under this article.

SECTION 5. IC 6-2.5-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A person that:

- (1) makes retail transactions from outside Indiana to a destination in Indiana;
- (2) does not maintain a place of business in Indiana; and
- (3) **either:**
 - (A) engages in the regular or systematic soliciting of retail transactions from potential customers in Indiana;
 - (B) **enters into a contract to provide property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1); or**
 - (C) **agrees to sell property or services to an agency (as defined in IC 4-13-2-1) or an institution of higher education (as defined in IC 20-12-0.5-1);**

shall file an application for a retail merchant's certificate under this chapter and collect and remit the use tax as provided in this article. **Conduct described in subdivision (3)(B) and (3)(C) occurring after June 30, 2003, constitutes consent to be treated under this article as if the person has a place of business in Indiana or is engaging in conduct described in subdivision (3)(A), including the provisions of this article that require a person to collect and remit tax under this article.**

(b) A person is rebuttably presumed to be engaging in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person does any of the following:

- (1) Distributes catalogs, periodicals, advertising flyers, or other written solicitations of business to potential customers in Indiana, regardless of whether the distribution is by mail or otherwise and without regard to the place from which the distribution originated or in which the materials were prepared.

(2) Displays advertisements on billboards or displays other outdoor advertisements in Indiana.

(3) Advertises in newspapers published in Indiana.

(4) Advertises in trade journals or other periodicals that circulate primarily in Indiana.

(5) Advertises in Indiana editions of a national or regional publication or a limited regional edition in which Indiana is included as part of a broader regional or national publication if the advertisements are not placed in other geographically defined editions of the same issue of the same publication.

(6) Advertises in editions of regional or national publications that are not by the contents of the editions geographically targeted to Indiana but that are sold over the counter in Indiana or by subscription to Indiana residents.

(7) Broadcasts on a radio or television station located in Indiana.

(8) Makes any other solicitation by telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system.

(c) A person not maintaining a place of business in Indiana is considered to be engaged in the regular or systematic soliciting of retail transactions from potential customers in Indiana if the person engages in any of the activities described in subsection (b) and:

(1) makes at least one hundred (100) retail transactions from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months; or

(2) makes at least ten (10) retail transactions totaling more than one hundred thousand dollars (\$100,000) from outside Indiana to destinations in Indiana during a period of twelve (12) consecutive months.

(d) The location in or outside Indiana of vendors that:

(1) are independent of a person that is soliciting customers in Indiana; and

(2) provide products or services to the person in connection with the person's solicitation of customers in Indiana, including products and services such as creation of copy, printing, distribution, and recording;

is not to be taken into account in the determination of whether the person is required to collect use tax under this section.

SECTION 6. IC 6-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Any taxpayer, upon request by the department, shall furnish to the department a true and correct copy of any tax return which he has filed with the United States Internal Revenue Service which copy shall be certified to by the taxpayer under penalties of perjury.

(b) Each taxpayer shall notify the department of any modification of:

- (1) a federal income tax return filed by the taxpayer after January 1, 1978; or
- (2) the taxpayer's federal income tax liability for a taxable year which begins after December 31, 1977.

The taxpayer shall file the notice, on the form prescribed by the department, within one hundred twenty (120) days after the modification is made.

(c) If the federal modification results in a change in the taxpayer's federal or Indiana adjusted gross income, the taxpayer shall file an Indiana amended return within one hundred twenty (120) days after the modification is made.

SECTION 7. IC 6-3-4-8.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.1. (a) Any entity that is required to file a monthly return and make a monthly remittance of taxes under sections 8, 12, 13, and 15 of this chapter shall file those returns and make those remittances twenty (20) days (rather than thirty (30) days) after the end of each month for which those returns and remittances are filed, if that entity's average monthly remittance for the immediately preceding calendar year exceeds one thousand dollars (\$1,000).

(b) The department may require any entity to make the entity's monthly remittance and file the entity's monthly return twenty (20) days (rather than thirty (30) days) after the end of each month for which a return and payment are made if the department estimates that the entity's average monthly payment for the current calendar year will exceed one thousand dollars (\$1,000).

(c) If a person files a combined sales and withholding tax report and either this section or IC 6-2.5-6-1 requires the sales or withholding tax report to be filed and remittances to be made within twenty (20) days after the end of each month, then the person shall file the combined

report and remit the sales and withholding taxes due within twenty (20) days after the end of each month.

(d) If the department determines that an entity's:

- (1) estimated monthly withholding tax remittance for the current year; or
- (2) average monthly withholding tax remittance for the preceding year;

exceeds ten thousand dollars (\$10,000), the entity shall remit the monthly withholding taxes due by electronic fund transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the remittance is due.

(e) If an entity's withholding tax remittance is made by electronic fund transfer, the entity is not required to file a monthly withholding tax return. ~~However, the entity shall file a quarterly withholding tax return before the twentieth day following the end of each calendar quarter.~~

SECTION 8. IC 6-6-6.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) The registration of any taxable aircraft without payment of the tax imposed by this chapter shall be void, and the department shall take possession of the certificate of registration and other evidences of registration, until the owner shall have paid the tax together with any penalties assessed by the department.

(b) If an owner does not register his aircraft and pay the tax imposed by this chapter when required, the owner is subject to a penalty and interest on the unpaid tax. The penalty is the greater of twenty dollars (\$20) or twenty percent (20%) of the unpaid tax. The interest applies at the rate established in IC 6-8.1-10-1. The penalty and interest apply from the date the tax becomes delinquent until the aircraft is registered and the tax paid.

(c) If an airport owner does not report the aircraft based at his airport when required by section 23 of this chapter, the department may assess a penalty equal to ten dollars (\$10) for each day that the report is late.

(d) If an owner does not register the owner's aircraft and pay the gross retail or use tax when required by this chapter, the owner shall be

subject to ~~a penalty~~ **the penalties** and interest on the unpaid gross retail or use tax ~~as that are~~ established in ~~IC 6-8.1-10-1~~. **IC 6-8.1-10.**

SECTION 9. IC 6-8.1-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The department may audit any returns filed in respect to the listed taxes, may appraise property if the property's value relates to the administration or enforcement of the listed taxes, may audit gasoline distributors for financial responsibility, and may investigate any matters relating to the listed taxes.

(b) For purposes of conducting its audit or investigative functions, the department may:

- (1) subpoena the production of evidence;
- (2) subpoena witnesses; and
- (3) question witnesses under oath.

The department may serve its subpoenas or it may order the sheriff of the county in which the witness or evidence is located to serve the subpoenas.

(c) The department may enforce its audit and investigatory powers by petitioning for a court order in any court of competent jurisdiction located in the county where the tax is due or in the county in which the evidence or witness is located. If the evidence or witness is not located in Indiana or if the department does not know the location of the evidence or witness, the department may file the petition in a court of competent jurisdiction in Marion County. The petition to the court must state the evidence or testimony subpoenaed and must allege that the subpoena was served but that the person did not comply with the terms of that subpoena.

(d) Upon receiving a proper petition under subsection (c), the court shall promptly issue an order which:

- (1) sets a hearing on the petition on a date not more than ten (10) days after the date of the order; and
- (2) orders the person to appear at the hearing prepared to produce the subpoenaed evidence and give the subpoenaed testimony.

If the defendant is unable to show good cause for not producing the evidence or giving the testimony, the court shall order the defendant to comply with the subpoena.

(e) If the defendant fails to obey the court order, the court may punish ~~him~~ **the defendant** for contempt.

(f) Officers serving subpoenas or court orders and witnesses appearing in court are entitled to the normal compensation provided by law in civil cases. The department shall pay the compensation costs from the money appropriated for the administration of the listed taxes.

(g) County treasurers investigating tax matters under IC 6-9 have:

- (1) concurrent jurisdiction with the department;**
- (2) the audit, investigatory, appraisal, and enforcement powers described in this section; and**
- (3) authority to recover court costs, fees, and other expenses related to an audit, investigatory, appraisal, or enforcement action under this section.**

SECTION 10. IC 6-8.1-5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) If the department determines that a proposed assessment notice includes an individual who is not responsible for the tax liability, a new assessment may be made naming only the taxpayer that is responsible for the tax liability.**

(b) For assessments made under subsection (a), the time limitation for assessments in section 2 of this chapter does not apply.

SECTION 11. IC 6-8.1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 5. ~~(a)~~ The department shall request from each taxpayer**

- ~~(1) vehicle identification information for vehicles owned by the taxpayer; and~~**
- ~~(2) the amount of the taxpayer's gross income (as defined in Section 61 of the Internal Revenue Code) derived from sources within or outside Indiana using the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. The taxpayer shall itemize the amount of gross income derived from each source.~~**

~~(b) The department shall send a list to the bureau of motor vehicles showing by taxpayer the vehicle identification information obtained by the department. However, the name, tax identification number, and the corresponding information sent to the bureau may not include income tax information.~~

SECTION 12. IC 6-8.1-7-1, AS AMENDED BY P.L.204-2001, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This subsection does not apply to the disclosure of information concerning a conviction on a tax evasion charge. Unless in accordance with a judicial order or as otherwise provided in this chapter, the department, its employees, former employees, counsel, agents, or any other person may not divulge the amount of tax paid by any taxpayer, terms of a settlement agreement executed between a taxpayer and the department, investigation records, investigation reports, or any other information disclosed by the reports filed under the provisions of the law relating to any of the listed taxes, including required information derived from a federal return, except to:

- (1) members and employees of the department;
- (2) the governor;
- (3) the attorney general or any other legal representative of the state in any action in respect to the amount of tax due under the provisions of the law relating to any of the listed taxes; or
- (4) any authorized officers of the United States;

when it is agreed that the information is to be confidential and to be used solely for official purposes.

(b) The information described in subsection (a) may be revealed upon the receipt of a certified request of any designated officer of the state tax department of any other state, district, territory, or possession of the United States when:

- (1) the state, district, territory, or possession permits the exchange of like information with the taxing officials of the state; and
- (2) it is agreed that the information is to be confidential and to be used solely for tax collection purposes.

(c) The information described in subsection (a) relating to a person on public welfare or a person who has made application for public welfare may be revealed to the director of the division of family and children, and to any county director of family and children located in Indiana, upon receipt of a written request from either director for the information. The information shall be treated as confidential by the directors. In addition, the information described in subsection (a) relating to a person who has been designated as an absent parent by the state Title IV-D agency shall be made available to the state Title IV-D agency upon request. The information shall be subject to the

information safeguarding provisions of the state and federal Title IV-D programs.

(d) The name, address, Social Security number, and place of employment relating to any individual who is delinquent in paying educational loans owed to an institution of higher education may be revealed to that institution if it provides proof to the department that the individual is delinquent in paying for educational loans. This information shall be provided free of charge to approved institutions of higher learning (as defined by IC 20-12-21-3(2)). The department shall establish fees that all other institutions must pay to the department to obtain information under this subsection. However, these fees may not exceed the department's administrative costs in providing the information to the institution.

(e) The information described in subsection (a) relating to reports submitted under IC 6-6-1.1-502 concerning the number of gallons of gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of gallons of special fuel sold by a supplier and the number of gallons of special fuel exported by a licensed exporter or imported by a licensed transporter may be released by the commissioner upon receipt of a written request for the information.

(f) The information described in subsection (a) may be revealed upon the receipt of a written request from the administrative head of a state agency of Indiana when:

- (1) the state agency shows an official need for the information; and
- (2) the administrative head of the state agency agrees that any information released will be kept confidential and will be used solely for official purposes.

(g) The name and address of retail merchants, including township, as specified in IC 6-2.5-8-1(h) may be released solely for tax collection purposes to township assessors.

(h) The department shall notify the appropriate innkeepers' tax board, bureau, or commission that a taxpayer is delinquent in remitting innkeepers' taxes under IC 6-9.

(i) All information relating to the delinquency or evasion of the motor vehicle excise tax ~~shall~~ **may** be disclosed to the bureau of motor vehicles in Indiana and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and

collection of the taxes imposed by IC 6-6-5.

(j) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable to the bureau of motor vehicles in Indiana **must may** be disclosed to the bureau and may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(k) All information relating to the delinquency or evasion of commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the alcohol and tobacco commission solely for the purpose of the list prepared under IC 6-2.5-6-14.

SECTION 13. IC 6-9-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 34. Entertainment Facility Admissions Tax

Sec. 1. (a) Except as provided in subsection (b), after June 30 of a year but before January 1 of the following year, the fiscal body of a city may adopt an ordinance to impose an excise tax, known as the entertainment facility admissions tax, for the privilege of attending any event:

(1) held in a privately owned outdoor entertainment facility that:

- (A) has a minimum capacity of at least ten thousand (10,000) patrons; and**

- (B) is located in a geographic area that has been annexed by the city before the adoption of the ordinance; and
 - (2) to which tickets are offered for sale to the public by:
 - (A) the box office of the facility; or
 - (B) an authorized agent of the facility.
 - (b) The excise tax imposed under subsection (a) does not apply to the following:
 - (1) An event sponsored by an educational institution or an association representing an educational institution.
 - (2) An event sponsored by a religious organization.
 - (3) An event sponsored by an organization that is considered a charitable organization by the Internal Revenue Service for federal tax purposes.
 - (4) An event sponsored by a political organization.
 - (5) An event for which tickets are sold on a per-vehicle or similar basis and not on a per-person basis.
 - (c) If the fiscal body adopts an ordinance under subsection (a), the tax applies to an event ticket purchased after:
 - (1) December 31 of the calendar year in which the ordinance is adopted; or
 - (2) a later date that is set forth in the ordinance.

The tax terminates and may not be collected for events that occur after the city has satisfied any outstanding obligations described in section 5(c)(2) of this chapter.

Sec. 2. (a) As used in this section, "paid admission" refers to each person who pays a price for admission to any event described in section 1(a) of this chapter. The term does not include persons who are entitled to be at an event without having paid a price for admission.

(b) The entertainment facility admission tax equals fifty cents (\$.50) for each paid admission to an event described in section 1 of this chapter.

Sec. 3. (a) Each person who pays a price for admission to an event described in section 1(a) of this chapter is liable for the tax imposed under this chapter.

(b) The person who collects the price for admission shall collect the entertainment facility admissions tax imposed under this chapter at the same time the price for admission is paid. The person shall collect the tax as an agent of the city in which the

facility described in section 1 of this chapter is located.

Sec. 4. (a) A person who collects a tax under section 3 of this chapter shall remit the revenue collected monthly to the city fiscal officer. The tax collected from persons paying for admission to a particular event shall be remitted not more than twenty (20) days after the end of the month during which the event occurred.

(b) At the time the tax revenues are remitted, the person shall report the amount of tax collected on forms approved by the city fiscal body.

Sec. 5. (a) If a tax is imposed under this chapter, the city fiscal body shall establish a city ticket tax fund. The city fiscal officer shall deposit money received under section 4 of this chapter in the city ticket tax fund.

(b) Money earned from the investment of money in the fund becomes a part of the fund.

(c) Money in the fund may be used by the city only for the following:

(1) Costs to construct, reconstruct, or improve public thoroughfares or highways to improve ingress or egress to and from the facility.

(2) Payment of principal and interest on bonds issued, or lease rentals on leases entered into, by the city to finance the construction, reconstruction, or improvement of public thoroughfares or highways under subdivision (1). Costs payable under this subdivision include costs of capitalized interest and legal, accounting, and other costs incurred in the issuance of any bonds or the entering into of any leases.

(3) Payment of any access or connection fee imposed on the facility for access to the city's public sewer system, as long as the fee applies to all property owners served and is uniformly assessed within the city's corporate boundaries.

Sec. 6. The city fiscal body may enter into any agreement or contract with the owner of the facility to facilitate the administration of an ordinance adopted under this chapter.

Sec. 7. With respect to:

(1) bonds, leases, or other obligations to which the city has pledged revenues under this chapter; and

(2) bonds issued by a lessor that are payable from lease rentals;

the general assembly covenants with the city and the purchasers or owners of the bonds or other obligations described in this section that this chapter will not be repealed or amended in any manner that will adversely affect the collection of the tax imposed under this chapter or the money deposited in the city ticket tax fund, as long as the principal of or interest on any bonds, or the lease rentals due under any lease, are unpaid.

SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 6-3.1-5; IC 6-8.1-10-11.



P.L.255-2003

[H.1813. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 4-22-2-37.1, AS AMENDED BY HEA 1535-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

- (1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.
- (2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.
- (3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.
- (4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.
- (5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

- (6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
- (7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.
- (8) An emergency rule jointly adopted by the water pollution control board and the budget agency under IC 13-18-13-18.
- (9) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.
- (10) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an emergency.
- (11) An emergency rule adopted by the Indiana transportation finance authority under IC 8-21-12.
- (12) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.
- (13) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.
- (14) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:
 - (A) the variance procedures are included in the rules; and
 - (B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.
- (15) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.
- (16) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.
- (17) An emergency rule adopted by the Indiana gaming commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- (18) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.
- (19) An emergency rule adopted by the department of financial institutions under IC 28-15-11.
- (20) An emergency rule adopted by the office of the secretary of

family and social services under IC 12-8-1-12.

(21) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

~~(22) After December 31, 2003, an emergency rule adopted by the office of Medicaid policy and planning under IC 12-17.7-2-6 to implement the uninsured parents program.~~

~~(23)~~ **(22)** An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

~~(24)~~ **(23)** An emergency rule adopted by the Indiana state board of animal health under IC 15-2.1-18-21.

~~(25)~~ **(24)** An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

~~(26)~~ **(25)** An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34.

~~(27)~~ **(26)** An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 2. IC 6-3.5-1.1-15, AS AMENDED BY P.L.120-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) As used in this section, "attributed levy" of a civil taxing unit means the sum of:

(1) the ad valorem property tax levy of the civil taxing unit that is currently being collected at the time the allocation is made; plus

(2) the current ad valorem property tax levy of any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit; plus

(3) the amount of federal revenue sharing funds and certified

shares that were used by the civil taxing unit (or any special taxing district, authority, board, or other entity formed to discharge governmental services or functions on behalf of or ordinarily attributable to the civil taxing unit) to reduce its ad valorem property tax levies below the limits imposed by IC 6-1.1-18.5; plus

(4) in the case of a county, an amount equal to

~~(A) the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. plus~~

~~(B) after December 31, 2004, the greater of zero (0) or the difference between:~~

~~(i) the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus~~

~~(ii) the current uninsured parents program property tax levy imposed by the county.~~

(b) The part of a county's certified distribution that is to be used as certified shares shall be allocated only among the county's civil taxing units. Each civil taxing unit of a county is entitled to receive a percentage of the certified shares to be distributed in the county equal to the ratio of its attributed levy to the total attributed levies of all civil taxing units of the county.

(c) The local government tax control board established by IC 6-1.1-18.5-11 shall determine the attributed levies of civil taxing units that are entitled to receive certified shares during a calendar year. If the ad valorem property tax levy of any special taxing district, authority, board, or other entity is attributed to another civil taxing unit under subsection (b)(2), then the special taxing district, authority, board, or other entity shall not be treated as having an attributed levy of its own. The local government tax control board shall certify the attributed levy amounts to the appropriate county auditor. The county auditor shall then allocate the certified shares among the civil taxing units of the auditor's county.

(d) Certified shares received by a civil taxing unit shall be treated as additional revenue for the purpose of fixing its budget for the calendar year during which the certified shares will be received. The certified shares may be allocated to or appropriated for any purpose,

including property tax relief or a transfer of funds to another civil taxing unit whose levy was attributed to the civil taxing unit in the determination of its attributed levy.

SECTION 3. IC 6-3.5-6-17.6, AS AMENDED BY P.L.1-2003, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.6. (a) This section applies to a county containing a consolidated city.

(b) On or before July 2 of each year, the budget agency shall make the following calculation:

STEP ONE: Determine the cumulative balance in a county's account established under section 16 of this chapter as of the end of the current calendar year.

STEP TWO: Divide the amount estimated under section 17(b) of this chapter before any adjustments are made under section 17(c) or 17(d) of this chapter by twelve (12).

STEP THREE: Multiply the STEP TWO amount by three (3).

STEP FOUR: Subtract the amount determined in STEP THREE from the amount determined in STEP ONE.

(c) For 1995, the budget agency shall certify the STEP FOUR amount to the county auditor on or before July 15, 1994. Not later than January 31, 1995, the auditor of state shall distribute the STEP FOUR amount to the county auditor to be used to retire outstanding obligations for a qualified economic development tax project (as defined in IC 36-7-27-9).

(d) After 1995, the STEP FOUR amount shall be distributed to the county auditor in January of the ensuing calendar year. The STEP FOUR amount shall be distributed by the county auditor to the civil taxing units within thirty (30) days after the county auditor receives the distribution. Each civil taxing unit's share equals the STEP FOUR amount multiplied by the quotient of:

(1) the maximum permissible property tax levy under IC 6-1.1-18.5 for the civil taxing unit, plus, for a county, an amount equal to

(A) the property taxes imposed by the county in 1999 for the county's welfare administration fund; ~~plus~~

(B) ~~after December 31, 2004, the greater of zero (0) or the difference between:~~

(i) the county hospital care for the indigent property tax levy

imposed by the county in 2004 adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus

(ii) the current uninsured parents program property tax levy imposed by the county; divided by

(2) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 for all civil taxing units of the county, plus an amount equal to

(A) the property taxes imposed by the county in 1999 for the county's welfare administration fund. plus

(B) after December 31, 2004, the greater of zero (0) or the difference between:

(i) the county hospital care for the indigent property tax levy imposed by the county in 2004 adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus

(ii) the current uninsured parents program property tax levy imposed by the county.

SECTION 4. IC 6-3.5-6-18, AS AMENDED BY P.L.1-2003, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) The revenue a county auditor receives under this chapter shall be used to:

(1) replace the amount, if any, of property tax revenue lost due to the allowance of an increased homestead credit within the county;

(2) fund the operation of a public communications system and computer facilities district as provided in an election, if any, made by the county fiscal body under IC 36-8-15-19(b);

(3) fund the operation of a public transportation corporation as provided in an election, if any, made by the county fiscal body under IC 36-9-4-42;

(4) make payments permitted under IC 36-7-15.1-17.5;

(5) make payments permitted under subsection (i); and

(6) make distributions of distributive shares to the civil taxing units of a county.

(b) The county auditor shall retain from the payments of the county's certified distribution, an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. This money shall be distributed to the civil taxing units and school corporations of

the county as though they were property tax collections and in such a manner that no civil taxing unit or school corporation shall suffer a net revenue loss due to the allowance of an increased homestead credit.

(c) The county auditor shall retain the amount, if any, specified by the county fiscal body for a particular calendar year under subsection (i), IC 36-7-15.1-17.5, IC 36-8-15-19(b), and IC 36-9-4-42 from the county's certified distribution for that same calendar year. The county auditor shall distribute amounts retained under this subsection to the county.

(d) All certified distribution revenues that are not retained and distributed under subsections (b) and (c) shall be distributed to the civil taxing units of the county as distributive shares.

(e) The amount of distributive shares that each civil taxing unit in a county is entitled to receive during a month equals the product of the following:

(1) The amount of revenue that is to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the total property taxes that are first due and payable to the civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. ~~and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.~~ The denominator of the fraction equals the sum of the total property taxes that are first due and payable to all civil taxing units of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. ~~and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the~~

~~current uninsured parents program property tax levy imposed by the county:~~

(f) The department of local government finance shall provide each county auditor with the fractional amount of distributive shares that each civil taxing unit in the auditor's county is entitled to receive monthly under this section.

(g) Notwithstanding subsection (e), if a civil taxing unit of an adopting county does not impose a property tax levy that is first due and payable in a calendar year in which distributive shares are being distributed under this section, that civil taxing unit is entitled to receive a part of the revenue to be distributed as distributive shares under this section within the county. The fractional amount such a civil taxing unit is entitled to receive each month during that calendar year equals the product of the following:

(1) The amount to be distributed as distributive shares during that month; multiplied by

(2) A fraction. The numerator of the fraction equals the budget of that civil taxing unit for that calendar year. The denominator of the fraction equals the aggregate budgets of all civil taxing units of that county for that calendar year.

(h) If for a calendar year a civil taxing unit is allocated a part of a county's distributive shares by subsection (g), then the formula used in subsection (e) to determine all other civil taxing units' distributive shares shall be changed each month for that same year by reducing the amount to be distributed as distributive shares under subsection (e) by the amount of distributive shares allocated under subsection (g) for that same month. The department of local government finance shall make any adjustments required by this subsection and provide them to the appropriate county auditors.

(i) Notwithstanding any other law, a county fiscal body may pledge revenues received under this chapter to the payment of bonds or lease rentals to finance a qualified economic development tax project under IC 36-7-27 in that county or in any other county if the county fiscal body determines that the project will promote significant opportunities for the gainful employment or retention of employment of the county's residents.

SECTION 5. IC 6-3.5-6-18.5, AS AMENDED BY P.L.120-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 18.5. (a) This section applies to a county containing a consolidated city.

(b) Notwithstanding section 18(e) of this chapter, the distributive shares that each civil taxing unit in a county containing a consolidated city is entitled to receive during a month equals the following:

(1) For the calendar year beginning January 1, 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month multiplied by the following factor:

Center Township	.0251
Decatur Township	.00217
Franklin Township	.0023
Lawrence Township	.01177
Perry Township	.01130
Pike Township	.01865
Warren Township	.01359
Washington Township	.01346
Wayne Township	.01307
Lawrence-City	.00858
Beech Grove	.00845
Southport	.00025
Speedway	.00722
Indianapolis/Marion County	.86409

(2) Notwithstanding subdivision (1), for the calendar year beginning January 1, 1995, the distributive shares for each civil taxing unit in a county containing a consolidated city shall be not less than the following:

Center Township	\$1,898,145
Decatur Township	\$164,103
Franklin Township	\$173,934
Lawrence Township	\$890,086
Perry Township	\$854,544
Pike Township	\$1,410,375
Warren Township	\$1,027,721
Washington Township	\$1,017,890
Wayne Township	\$988,397
Lawrence-City	\$648,848
Beech Grove	\$639,017
Southport	\$18,906

Speedway \$546,000

(3) For each year after 1995, calculate the total amount of revenues that are to be distributed as distributive shares during that month as follows:

STEP ONE: Determine the total amount of revenues that were distributed as distributive shares during that month in calendar year 1995.

STEP TWO: Determine the total amount of revenue that the department has certified as distributive shares for that month under section 17 of this chapter for the calendar year.

STEP THREE: Subtract the STEP ONE result from the STEP TWO result.

STEP FOUR: If the STEP THREE result is less than or equal to zero (0), multiply the STEP TWO result by the ratio established under subdivision (1).

STEP FIVE: Determine the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5 and IC 6-1.1-18.6 for each civil taxing unit for the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; ~~and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county;~~ divided by

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 and IC 6-1.1-18.6 for all civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. ~~and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after~~

~~2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.~~

STEP SIX: If the STEP THREE result is greater than zero (0), the STEP ONE amount shall be distributed by multiplying the STEP ONE amount by the ratio established under subdivision (1).

STEP SEVEN: For each taxing unit determine the STEP FIVE ratio multiplied by the STEP TWO amount.

STEP EIGHT: For each civil taxing unit determine the difference between the STEP SEVEN amount minus the product of the STEP ONE amount multiplied by the ratio established under subdivision (1). The STEP THREE excess shall be distributed as provided in STEP NINE only to the civil taxing units that have a STEP EIGHT difference greater than or equal to zero (0).

STEP NINE: For the civil taxing units qualifying for a distribution under STEP EIGHT, each civil taxing unit's share equals the STEP THREE excess multiplied by the ratio of:

(A) the maximum permissible property tax levy under IC 6-1.1-18.5 and IC 6-1.1-18.6 for the qualifying civil taxing unit during the calendar year in which the month falls, plus, for a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund; ~~and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county; divided by~~

(B) the sum of the maximum permissible property tax levies under IC 6-1.1-18.5 and IC 6-1.1-18.6 for all qualifying civil taxing units of the county during the calendar year in which the month falls, and an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund

and welfare administration fund. ~~and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.~~

SECTION 6. IC 6-3.5-7-12, AS AMENDED BY P.L.192-2002(ss), SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) Except as provided in sections 23, 25, and 26 of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

- (1) The amount of the certified distribution for that month; multiplied by
- (2) A fraction. The numerator of the fraction equals the sum of the following:

(A) Total property taxes that are first due and payable to the county, city, or town during the calendar year in which the month falls; plus

(B) For a county, an amount equal to

- (i) the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. ~~plus~~
- (ii) ~~after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.~~

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls,

plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. ~~and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004; adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus the current uninsured parents program property tax levy imposed by the county:~~

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

- (1) The ordinance is effective January 1 of the following year.
- (2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:

- (A) the amount of the certified distribution for the month; multiplied by
- (B) a fraction. For a city or town, the numerator of the fraction equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.

- (3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

- (1) The county.
- (2) A city or town in the county.
- (3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development

income tax.

(e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

(f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.

(g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

SECTION 7. IC 6-6-5-10, AS AMENDED BY P.L.120-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) The bureau shall establish procedures necessary for the collection of the tax imposed by this chapter and for the proper accounting for the same. The necessary forms and records shall be subject to approval by the state board of accounts.

(b) The county treasurer, upon receiving the excise tax collections, shall receipt such collections into a separate account for settlement thereof at the same time as property taxes are accounted for and settled in June and December of each year, with the right and duty of the treasurer and auditor to make advances prior to the time of final settlement of such property taxes in the same manner as provided in IC 5-13-6-3.

(c) The county auditor shall determine the total amount of excise taxes collected for each taxing unit in the county and the amount so collected (and the distributions received under section 9.5 of this chapter) shall be apportioned and distributed among the respective funds of each taxing unit in the same manner and at the same time as property taxes are apportioned and distributed. ~~However, after December 31, 2004, an amount equal to the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004~~

by the statewide average assessed value growth quotient described in IC 12-16-14-3; minus the current uninsured parents program property tax levy imposed by the county; shall be treated as property taxes apportioned to the county unit. However, for purposes of determining distributions under this section for 2000 and each year thereafter, the state welfare allocation for each county equals the greater of zero (0) or the amount determined under STEP FIVE of the following STEPS:

STEP ONE: For 1997, 1998, and 1999, determine the result of:

- (i) the amounts appropriated by the county in the year from the county's county welfare fund and county welfare administration fund; divided by
- (ii) the total amounts appropriated by all the taxing units in the county in the year.

STEP TWO: Determine the sum of the results determined in STEP ONE.

STEP THREE: Divide the STEP TWO result by three (3).

STEP FOUR: Determine the amount that would otherwise be distributed to all the taxing units in the county under this subsection without regard to this subdivision.

STEP FIVE: Determine the result of:

- (i) the STEP FOUR amount; multiplied by
- (ii) the STEP THREE result.

The state welfare allocation shall be deducted from the total amount available for apportionment and distribution to taxing units under this section before any apportionment and distribution is made. The county auditor shall remit the state welfare allocation to the treasurer of state for deposit in a special account within the state general fund.

(d) Such determination shall be made from copies of vehicle registration forms furnished by the bureau of motor vehicles. Prior to such determination, the county assessor of each county shall, from copies of registration forms, cause information pertaining to legal residence of persons owning taxable vehicles to be verified from the assessor's records, to the extent such verification can be so made. The assessor shall further identify and verify from the assessor's records the several taxing units within which such persons reside.

(e) Such verifications shall be done by not later than thirty (30) days after receipt of vehicle registration forms by the county assessor, and the assessor shall certify such information to the county auditor for the

auditor's use as soon as it is checked and completed.

SECTION 8. IC 12-7-2-52.2, AS AMENDED BY P.L.283-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 52.2. ~~(a)~~ "Crowd out", for purposes of IC 12-17.6, has the meaning set forth in IC 12-17.6-1-2.

~~(b) "Crowd out", for purposes of IC 12-17.7, has the meaning set forth in IC 12-17.7-1-3.~~

SECTION 9. IC 12-7-2-69, AS AMENDED BY P.L.1-2002, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 69. (a) "Division", except as provided in subsections (b) and (c), refers to any of the following:

- (1) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1.
- (2) The division of family and children established by IC 12-13-1-1.
- (3) The division of mental health and addiction established by IC 12-21-1-1.

(b) The term refers to the following:

- (1) For purposes of the following statutes, the division of disability, aging, and rehabilitative services established by IC 12-9-1-1:

- (A) IC 12-9.
- (B) IC 12-10.
- (C) IC 12-11.
- (D) IC 12-12.

- (2) For purposes of the following statutes, the division of family and children established by IC 12-13-1-1:

- (A) IC 12-13.
- (B) IC 12-14.
- (C) IC 12-15.
- (D) IC 12-16.
- ~~(E) IC 12-16.1.~~
- ~~(F)~~ (E) IC 12-17.
- ~~(G)~~ (F) IC 12-17.2.
- ~~(H)~~ (G) IC 12-17.4.
- ~~(I)~~ (H) IC 12-18.
- ~~(J)~~ (I) IC 12-19.
- ~~(K)~~ (J) IC 12-20.

(3) For purposes of the following statutes, the division of mental health and addiction established by IC 12-21-1-1:

- (A) IC 12-21.
- (B) IC 12-22.
- (C) IC 12-23.
- (D) IC 12-25.

(c) With respect to a particular state institution, the term refers to the division whose director has administrative control of and responsibility for the state institution.

(d) For purposes of IC 12-24, IC 12-26, and IC 12-27, the term refers to the division whose director has administrative control of and responsibility for the appropriate state institution.

SECTION 10. IC 12-7-2-76.5, AS AMENDED BY P.L.283-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 76.5. (a) "Emergency", for purposes of IC 12-20, means an unpredictable circumstance or a series of unpredictable circumstances that:

- (1) place the health or safety of a household or a member of a household in jeopardy; and
- (2) cannot be remedied in a timely manner by means other than township assistance.

(b) "Emergency", for purposes of IC 12-17.6, has the meaning set forth in IC 12-17.6-1-2.6.

~~(c) "Emergency", for purposes of IC 12-17.7, has the meaning set forth in IC 12-17.7-1-4.~~

SECTION 11. IC 12-7-2-110, AS AMENDED BY P.L.120-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 110. "Hospital" means the following:

- (1) For purposes of IC 12-15-11.5, the meaning set forth in IC 12-15-11.5-1.
- (2) For purposes of IC 12-15-18, the meaning set forth in IC 12-15-18-2.
- (3) For purposes of IC 12-16, except IC 12-16-1, ~~and for purposes of IC 12-16-1~~, the term refers to a hospital licensed under IC 16-21.

SECTION 12. IC 12-7-2-134, AS AMENDED BY P.L.283-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 134. "Office" means the following:

(1) Except as provided in subdivisions (2) and (3), the office of Medicaid policy and planning established by IC 12-8-6-1.

(2) For purposes of IC 12-10-13, the meaning set forth in IC 12-10-13-4.

(3) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-4.

~~(4) For purposes of IC 12-17.7, the meaning set forth in IC 12-17.7-1-5.~~

SECTION 13. IC 12-7-2-146, AS AMENDED BY P.L.283-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 146. "Program" refers to the following:

(1) For purposes of IC 12-10-7, the adult guardianship services program established by IC 12-10-7-5.

(2) For purposes of IC 12-10-10, the meaning set forth in IC 12-10-10-5.

(3) For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-5.

~~(4) For purposes of IC 12-17.7, the meaning set forth in IC 12-17.7-1-6.~~

SECTION 14. IC 12-7-2-149, AS AMENDED BY P.L.283-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 149. "Provider" means the following:

(1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17-10.

(D) IC 12-17-11.

(E) IC 12-17.6.

~~(F) IC 12-17.7.~~

(3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.

(4) For the purposes of IC 12-17.2, a person who operates a child

care center or child care home under IC 12-17.2.

(5) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 15. IC 12-7-2-164, AS AMENDED BY P.L.120-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 164. "Resident" has the following meaning:

(1) For purposes of IC 12-10-15, the meaning set forth in IC 12-10-15-5.

(2) For purposes of IC 12-16, except IC 12-16-1, ~~and for purposes of IC 12-16-1~~; an individual who has actually resided in Indiana for at least ninety (90) days.

(3) For purposes of IC 12-20-8, the meaning set forth in IC 12-20-8-1.

(4) For purposes of IC 12-24-5, the meaning set forth in IC 12-24-5-1.

SECTION 16. IC 12-15-15-1.1, AS AMENDED BY P.L.1-2003, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.1. (a) This section applies to a hospital that is:

(1) licensed under IC 16-21; and

(2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, ~~2000~~, **2003**, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, ~~and or~~ IC 16-23.

STEP TWO: For the aggregate inpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, ~~and or~~ IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate ~~an amount equal to a~~

~~percentage of a reasonable estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles. The office shall apply in this STEP the maximum percentage permitted for the state under federal Medicaid law.~~

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount equal to one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of inpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

~~STEP FIVE:~~ **SEVEN:** Distribute an amount equal to the amount calculated under STEP ~~FOUR~~ **SIX** to the eligible hospitals established and operated under IC 16-22-2 or IC 16-23 described in subsection (c) in proportion to each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), reimbursement for a state fiscal year under this section consists of ~~a single payment~~ **payments** made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, ~~2001,~~ **2003**, shall be made before December 31 following the state fiscal year's end. A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer is made under subsection (d).

(d) Subject to subsection (e), a hospital may make an intergovernmental transfer under this subsection, or an intergovernmental transfer may be made on behalf of the hospital, after the close of each state fiscal year. An intergovernmental transfer under

this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under STEP FIVE SEVEN of subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP FIVE SEVEN of subsection (b). The office shall use the intergovernmental transfer to fund payments made under this section and as otherwise provided under ~~IC 12-15-20-2(5)~~. **IC 12-15-20-2(8)**.

(e) A hospital making an intergovernmental transfer under subsection (d) may appeal under IC 4-21.5 the amount determined by the office to be paid the hospital under STEP FIVE SEVEN of subsection (b). The periods described in subsections (c) and (d) for the hospital to make an intergovernmental transfer are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under STEP FIVE SEVEN of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE SEVEN of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based upon estimates and trends calculated by the office.

(f) For purposes of this section:

(1) ~~a hospital's~~ **the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23** is calculated as follows:

STEP ONE: The office shall identify the inpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the inpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate ~~an amount equal to~~

~~a percentage of a reasonable estimate of the amount that would have been paid by the office for the inpatient hospital services described in STEP ONE under Medicare payment principles; The office shall apply in this STEP the maximum percentage permitted for the state under federal Medicaid law; and~~

- (2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

SECTION 17. IC 12-15-15-1.3, AS ADDED BY P.L.120-2002, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.3. (a) This section applies to a hospital that is:

- (1) licensed under IC 16-21; and
 (2) established and operated under IC 16-22-2, IC 16-22-8, or IC 16-23.

(b) For a state fiscal year ending after June 30, ~~2000~~, **2003**, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the aggregate outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by hospitals established and operated under IC 16-22-2, IC 16-22-8, ~~and or~~ IC 16-23.

STEP TWO: For the aggregate outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals established and operated under IC 16-22-2, IC 16-22-8, ~~and or~~ IC 16-23, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate ~~an amount equal to a~~

~~percentage of~~ a reasonable estimate of the amount that would have been paid in the aggregate by the office under Medicare payment principles for the outpatient hospital services described in STEP ONE. ~~The office shall apply in this STEP the maximum percentage permitted for the state under federal Medicaid law.~~

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Subject to subsection (g), from the amount calculated under STEP FOUR, allocate to a hospital established and operated under IC 16-22-8 an amount equal to one hundred percent (100%) of the difference between:

(A) the total cost for the hospital's provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year; and

(B) the total payment to the hospital for its provision of outpatient services covered under this article for the hospital's fiscal year ending during the state fiscal year, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP SIX: Subtract the amount calculated under STEP FIVE from the amount calculated under STEP FOUR.

~~STEP FIVE: SEVEN:~~ Distribute an amount equal to the amount calculated under ~~STEP FOUR SIX~~ **SIX** to the eligible hospitals **established and operated under IC 16-22-2 or IC 16-23** described in subsection (c) in proportion to each hospital's Medicaid shortfall as defined in subsection (f).

(c) Subject to subsection (e), the reimbursement for a state fiscal year under this section consists of ~~a single payment~~ **payments** made before December 31 following the end of the state fiscal year. A hospital is not eligible for a payment described in this subsection unless an intergovernmental transfer is made under subsection (d).

(d) Subject to subsection (e), a hospital may make an intergovernmental transfer under this subsection, or an intergovernmental transfer may be made on behalf of the hospital, after the close of each state fiscal year. An intergovernmental transfer under this subsection must be made to the Medicaid indigent care trust fund in an amount equal to a percentage, as determined by the office, of the amount to be distributed to the hospital under ~~STEP FIVE SEVEN~~ of

subsection (b). In determining the percentage, the office shall apply the same percentage of not more than eighty-five percent (85%) to all hospitals eligible for reimbursement under STEP FIVE SEVEN of subsection (b). The office shall use the intergovernmental transfer to fund payments made under this section and as otherwise provided under ~~IC 12-15-20-2(5)~~. **IC 12-15-20-2(8)**.

(e) A hospital making an intergovernmental transfer under subsection (d) may appeal under IC 4-21.5 the amount determined by the office to be paid by the hospital under STEP FIVE SEVEN of subsection (b). The periods described in subsections (c) and (d) for the hospital to make an intergovernmental transfer are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5. The distribution to other hospitals under STEP FIVE SEVEN of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE SEVEN of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals must be made. A partial distribution may be calculated by the office based upon estimates and trends.

(f) For purposes of this section:

(1) ~~a hospital's~~ **the Medicaid shortfall of a hospital established and operated under IC 16-22-2 or IC 16-23** is calculated as follows:

STEP ONE: The office shall identify the outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospital.

STEP TWO: For the outpatient hospital services identified under STEP ONE, the office shall calculate the payments made under this article and under the state Medicaid plan to the hospital, excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate ~~an amount equal to a percentage of~~ a reasonable estimate of the amount that would have been paid by the office for the outpatient hospital services described in STEP ONE under Medicare payment

principles; ~~The office shall apply in this STEP the maximum percentage permitted for the state under federal Medicaid law;~~
and

(2) a hospital's Medicaid shortfall is equal to the amount by which the amount calculated in STEP THREE of subdivision (1) is greater than the amount calculated in STEP TWO of subdivision (1).

(g) The actual distribution of the amount calculated under STEP FIVE of subsection (b) to a hospital established and operated under IC 16-22-8 shall be made under the terms and conditions provided for the hospital in the state plan for medical assistance. Payment to a hospital under STEP FIVE of subsection (b) is not a condition precedent to the tender of payments to hospitals under STEP SEVEN of subsection (b).

SECTION 18. IC 12-15-15-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. (a) This section applies to a hospital that:**

- (1) is licensed under IC 16-21;**
- (2) is not a unit of state or local government; and**
- (3) is not owned or operated by a unit of state or local government.**

(b) For a state fiscal year ending after June 30, 2003, in addition to reimbursement received under section 1 of this chapter, a hospital eligible under this section is entitled to reimbursement in an amount calculated as follows:

STEP ONE: The office shall identify the total inpatient hospital services and the total outpatient hospital services, reimbursable under this article and under the state Medicaid plan, that were provided during the state fiscal year by the hospitals described in subsection (a).

STEP TWO: For the total inpatient hospital services and the total outpatient hospital services identified under STEP ONE, the office shall calculate the aggregate payments made under this article and under the state Medicaid plan to hospitals described in subsection (a), excluding payments under IC 12-15-16, IC 12-15-17, and IC 12-15-19.

STEP THREE: The office shall calculate a reasonable

estimate of the amount that would have been paid in the aggregate by the office for the inpatient hospital services and the outpatient hospital services identified in STEP ONE under Medicare payment principles.

STEP FOUR: Subtract the amount calculated under STEP TWO from the amount calculated under STEP THREE.

STEP FIVE: Distribute an amount equal to the amount calculated under STEP FOUR to the eligible hospitals described in subsection (a) as follows:

(A) Subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payment, the first ten million dollars (\$10,000,000) of the amount calculated under STEP FOUR for a state fiscal year shall be paid to a hospital described in subsection (a) that has more than seventy thousand (70,000) Medicaid inpatient days.

(B) Following the payment to the hospital under clause (A) and subject to the availability of funds under IC 12-15-20-2(8)(D) to serve as the non-federal share of such payments, the remaining amount calculated under STEP FOUR for a state fiscal year shall be paid to all hospitals described in subsection (a). The payments shall be made on a pro rata basis based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services.

(C) Subject to IC 12-15-20.7, in the event the entirety of the amount calculated under STEP FOUR is not distributed following the payments made under clauses (A) and (B), the remaining amount may be paid to hospitals described in subsection (a) that are eligible under this clause. A hospital is eligible for a payment under this clause only if the non-federal share of the hospital's payment is provided by or on behalf of the hospital. The remaining amount shall be paid to those eligible hospitals on a pro rata basis in relation to all hospitals eligible under this clause based on the hospitals' Medicaid inpatient days or other payment methodology approved by the Centers for Medicare and Medicaid Services.

(D) For purposes of the clauses (A), (B) and (C), a hospital's Medicaid inpatient days are based on the Medicaid inpatient days allowed for the hospital by the office for purposes of the office's most recent determination of eligibility for the Medicaid disproportionate payment program under IC 12-15-16.

(c) Reimbursement for a state fiscal year under this section consists of payments made after the close of each state fiscal year. Payment for a state fiscal year ending after June 30, 2003, shall be made before December 31 following the end of the state fiscal year.

(d) A hospital described in subsection (a) may appeal under IC 4-21.5 the amount determined by the office to be paid to the hospital under STEP FIVE of subsection (b). The distribution to other hospitals under STEP FIVE of subsection (b) may not be delayed due to an administrative appeal or judicial review instituted by a hospital under this subsection. If necessary, the office may make a partial distribution to the other eligible hospitals under STEP FIVE of subsection (b) pending the completion of a hospital's administrative appeal or judicial review, at which time the remaining portion of the payments due to the eligible hospitals shall be made. A partial distribution may be based on estimates and trends calculated by the office.

SECTION 19. IC 12-15-15-9, AS AMENDED BY HEA 1167-2003, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) ~~Subject to subsections (e), (f), (g), and (h),~~ For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5 for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and:

- (1) who is a resident of the county;
- (2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or
- (3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending ~~June 30, 1998, June 30, 1999,~~

June 30, 2000; June 30, 2001; June 30, 2002, **after** June 30, 2003, and June 30, 2004; a hospital licensed under IC 16-21-2 that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5 is entitled to a payment under this section.

(b) Subject to subsections (c), (f), (g), and (h), total payments to hospitals under this section for a state fiscal year shall be equal to all amounts transferred from the state hospital care for the indigent fund established under IC 12-16 or IC 12-16.1 for Medicaid current obligations during the state fiscal year, including amounts of the fund appropriated for Medicaid current obligations:

(c) The payment due to a hospital under this section must be based on a policy developed by the office. The policy:

- (1) is not required to provide for equal payments to all hospitals;
- (2) must attempt, to the extent practicable as determined by the office, to establish a payment rate that minimizes the difference between the aggregate amount paid under this section to all hospitals in a county for a state fiscal year and the amount of the county's hospital care for the indigent property tax levy for that state fiscal year; and
- (3) must provide that no hospital will receive a payment under this section less than the amount the hospital received under section 8 of this chapter for the state fiscal year ending June 30, 1997.

(d) Following the transfer of funds under subsection (b), an amount equal to the amount determined in the following STEPS shall be deposited in the Medicaid indigent care trust fund under IC 12-15-20-2(2) and used to fund a portion of the state's share of the disproportionate share payments to providers for the state fiscal year:

STEP ONE: Determine the difference between:

- (A) the amount transferred from the state hospital care for the indigent fund under subsection (b); and
- (B) thirty-five million dollars (\$35,000,000).

STEP TWO: Multiply the amount determined under STEP ONE by the federal medical assistance percentage for the state fiscal year:

(e) If funds are transferred under IC 12-16-14.1-2(e), those funds must be used for the state's share of funding for payments to hospitals under this subsection. A payment under this subsection shall be made

to all hospitals that received a payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004. Payments under this subsection shall be in proportion to each hospital's payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004.

(f) If the office does not implement an uninsured parents program as provided for in IC 12-17-7 before July 1, 2005, and funds are transferred under IC 12-16-14.1-3, a hospital is entitled to a payment under this section for the state fiscal year beginning on July 1, 2004. Payments under this subsection shall be made after July 1, 2005, but before December 31, 2005.

(g) If the office does not implement an uninsured parents program as provided for in IC 12-17-7 before July 1, 2005, a hospital is entitled to a payment under this section for state fiscal years ending after June 30, 2005.

(h) If funds are transferred under IC 12-17-7-9-2, those funds shall be used for the state's share of payments to hospitals under this subsection. A payment under this subsection shall be made to all hospitals that received a payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004. Payments under this subsection shall be in proportion to each hospital's payment under this section for the state fiscal year beginning July 1, 2003, and ending June 30, 2004.

(c) For a state fiscal year, subject to section 9.6 of this chapter, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP SIX of the following STEPS:

STEP ONE: Identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 during the state fiscal year; and

(B) the county to which each payable claim is attributed.

STEP TWO: For each county identified in STEP ONE, identify:

(A) each hospital that submitted to the division one (1) or more payable claims under IC 12-16-7.5 attributed to the

county during the state fiscal year; and

(B) the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP THREE: For each county identified in STEP ONE, identify the amount of county funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP FOUR: For each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, calculate the hospital's percentage share of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b). Each hospital's percentage share is based on the total amount of the hospital's payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year, calculated as a percentage of the total amount of all hospital payable claims submitted to the division under IC 12-16-7.5 attributed to the county during the state fiscal year.

STEP FIVE: Subject to subsection (j), for each hospital identified in STEP ONE, with respect to each county identified in STEP ONE, multiply the hospital's percentage share calculated under STEP FOUR by the amount of the county's funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).

STEP SIX: Determine the sum of all amounts calculated under STEP FIVE for each hospital identified in STEP ONE with respect to each county identified in STEP ONE.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of a hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is funded from the funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) of each county to which a payable claim under IC 12-16-7.5 submitted to the division during the state fiscal year by the hospital

is attributed.

(f) The amount of a county's transferred funds available to be used to fund the non-federal share of a payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) that the total amount of the hospital's payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year bears to the total amount of all hospital payable claims under IC 12-16-7.5 attributed to the county submitted to the division during the state fiscal year.

(g) Any county's funds identified in subsection (f) that remain after the non-federal share of a hospital's payment has been funded are available to serve as the non-federal share of a payment to a hospital under section 9.5 of this chapter.

(h) For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).

(i) For purposes of this section:

(1) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had been a Medicaid enrollee; and

(2) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

(j) The amount calculated under STEP FIVE of subsection (c) for a hospital with respect to a county may not exceed the total amount of the hospital's payable claims attributed to the county during the state fiscal year.

SECTION 20. IC 12-15-15-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9.5. (a) For purposes of this section and IC 12-16-7.5-4.5, a payable claim is attributed to a county if the payable claim is submitted to the division by a hospital licensed under IC 16-21-2 for payment under IC 12-16-7.5

for care provided by the hospital to an individual who qualifies for the hospital care for the indigent program under IC 12-16-3.5-1 or IC 12-16-3.5-2 and;

- (1) who is a resident of the county;
- (2) who is not a resident of the county and for whom the onset of the medical condition that necessitated the care occurred in the county; or
- (3) whose residence cannot be determined by the division and for whom the onset of the medical condition that necessitated the care occurred in the county.

(b) For each state fiscal year ending after June 30, 2003, a hospital licensed under IC 16-21-2:

- (1) that submits to the division during the state fiscal year a payable claim under IC 12-16-7.5; and
- (2) whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year;

is entitled to a payment under this section.

(c) For a state fiscal year, subject to section 9.6 of this chapter, the office shall pay to a hospital referred to in subsection (b) an amount equal to the amount, based on information obtained from the division and the calculations and allocations made under IC 12-16-7.5-4.5, that the office determines for the hospital under STEP EIGHT of the following STEPS:

STEP ONE: Identify each county whose transfer of funds to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year was less than the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP TWO: For each county identified in STEP ONE, calculate the difference between the amount of funds of the county transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and the total amount of all hospital payable claims attributed to the county and submitted to the division during the state fiscal year.

STEP THREE: Calculate the sum of the amounts calculated for the counties under STEP TWO.

STEP FOUR: Identify each hospital whose payment under section 9(c) of this chapter was less than the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP FIVE: Calculate for each hospital identified in STEP FOUR the difference between the hospital's payment under section 9(c) of this chapter and the total amount of the hospital's payable claims under IC 12-16-7.5 submitted by the hospital to the division during the state fiscal year.

STEP SIX: Calculate the sum of the amounts calculated for each of the hospitals under STEP FIVE.

STEP SEVEN: For each hospital identified in STEP FOUR, calculate the hospital's percentage share of the amount calculated under STEP SIX. Each hospital's percentage share is based on the amount calculated for the hospital under STEP FIVE calculated as a percentage of the sum calculated under STEP SIX.

STEP EIGHT: For each hospital identified in STEP FOUR, multiply the hospital's percentage share calculated under STEP SEVEN by the sum calculated under STEP THREE. The amount calculated under this STEP for a hospital may not exceed the amount by which the hospital's total payable claims under IC 12-16-7.5 submitted during the state fiscal year exceeded the amount of the hospital's payment under section 9(c) of this chapter.

(d) A hospital's payment under subsection (c) is in the form of a Medicaid add-on payment. The amount of the hospital's add-on payment is subject to the availability of funding for the non-federal share of the payment under subsection (e). The office shall make the payments under subsection (c) before December 15 that next succeeds the end of the state fiscal year.

(e) The non-federal share of a payment to a hospital under subsection (c) is derived from funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) and not expended under section 9 of this chapter. To the extent possible, the funds shall be derived on a proportional basis from the funds transferred by each county identified in subsection (c),

STEP ONE:

(1) to which at least one (1) payable claim submitted by the

hospital to the division during the state fiscal year is attributed; and

(2) whose funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) were not completely expended under section 9 of this chapter.

The amount available to be derived from the remaining funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) to serve as the non-federal share of the payment to a hospital under subsection (c) is an amount that bears the same proportion to the total amount of funds transferred by all the counties identified in subsection (c), STEP ONE, that the amount calculated for the hospital under subsection (c), STEP FIVE, bears to the amount calculated under subsection (c), STEP SIX.

(f) Except as provided in subsection (g), the office may not make a payment under this section until the payments due under section 9 of this chapter for the state fiscal year have been made.

(g) If a hospital appeals a decision by the office regarding the hospital's payment under section 9 of this chapter, the office may make payments under this section before all payments due under section 9 of this chapter are made if:

(1) a delay in one (1) or more payments under section 9 of this chapter resulted from the appeal; and

(2) the office determines that making payments under this section while the appeal is pending will not unreasonably affect the interests of hospitals eligible for a payment under this section.

(h) Any funds transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b) remaining after payments are made under this section shall be used as provided in IC 12-15-20-2(8)(D).

(i) For purposes of this section:

(1) "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b);

(2) the amount of a payable claim is an amount equal to the amount the hospital would have received under the state's fee-for-service Medicaid reimbursement principles for the hospital care for which the payable claim is submitted under IC 12-16-7.5 if the individual receiving the hospital care had

been a Medicaid enrollee; and

(3) a payable hospital claim under IC 12-16-7.5 includes a payable claim under IC 12-16-7.5 for the hospital's care submitted by an individual or entity other than the hospital, to the extent permitted under the hospital care for the indigent program.

SECTION 21. IC 12-15-15-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.6. The total amount of payments to hospitals under sections 9 and 9.5 of this chapter may not exceed the amount transferred to the Medicaid indigent care trust fund under STEP FOUR of IC 12-16-7.5-4.5(b).**

SECTION 22. IC 12-15-20-2, AS AMENDED BY P.L.120-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.** The Medicaid indigent care trust fund is established to pay the **state's non-federal** share of the following:

(1) Enhanced disproportionate share payments to providers under IC 12-15-19-1.

(2) Subject to subdivision ~~(5)~~, **(8)**, disproportionate share payments to providers under IC 12-15-19-2.1.

(3) Medicaid payments for pregnant women described in IC 12-15-2-13 and infants and children described in IC 12-15-2-14.

(4) Municipal disproportionate share payments to providers under IC 12-15-19-8.

(5) Payments to hospitals under IC 12-15-15-9.

(6) Payments to hospitals under IC 12-15-15-9.5.

(7) Payments, funding, and transfers as otherwise provided in clauses **(8)(D) and **(8)(F)**.**

(8) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, the following apply:

(A) The entirety of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for state fiscal years ending on or before June 30, 2000, shall be used to fund the state's share of the disproportionate share payments to providers under IC 12-15-19-2.1.

(B) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year

ending June 30, 2001, an amount equal to one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999, shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal year shall be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(C) Of the intergovernmental transfers deposited into the Medicaid indigent care trust fund, for state fiscal years beginning July 1, 2001, **and** July 1, 2002, ~~and July 1, 2003~~, an amount equal to:

- (i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998; minus
- (ii) an amount equal to the amount deposited into the Medicaid indigent care trust fund under IC 12-15-15-9(d) for the state fiscal years beginning July 1, 2001, **and** July 1, 2002; ~~and July 1, 2003~~;

shall be used to fund the state's share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, must be used to fund the state's share of additional Medicaid payments to hospitals licensed under IC 16-21 pursuant to a methodology adopted by the office.

(D) Of the intergovernmental transfers, **which shall include amounts transferred under IC 12-16-7.5-4.5(b), STEP FOUR**, deposited into the Medicaid indigent care trust fund for state fiscal years ending after June 30, ~~2004~~, **2003**, an amount equal to:

- (i) one hundred percent (100%) of the total intergovernmental transfers deposited into the Medicaid indigent care trust fund for the state fiscal year beginning July 1, 1998, and ending June 30, 1999; minus
- (ii) an amount equal to the amount deposited into the

Medicaid indigent care trust fund under ~~IC 12-15-15-9(d)~~
STEP FOUR of IC 12-16-7.5-4.5(b) for the state fiscal year
 ending ~~after~~ June 30, ~~2004~~; **2003**;

shall be used to fund the ~~state's~~ **non-federal** share of disproportionate share payments to providers under IC 12-15-19-2.1. The remainder of the intergovernmental transfers, if any, for the state fiscal years shall be ~~transferred to~~ **used to fund, in descending order of priority, the non-federal share of payments to hospitals under IC 12-15-15-9, the non-federal share of payments to hospitals under IC 12-15-15-9.5, the amount to be transferred under clause (F), and the non-federal share of payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b), the state uninsured parents program fund established under IC 12-17-8-2-1 to fund the state's share of funding for the uninsured parents program established under IC 12-17-7.**

(E) If the office does not implement an uninsured parents program as provided for in ~~IC 12-17-7~~ before July 1, 2005; the intergovernmental transfers transferred to the state uninsured parents program fund under clause (B) shall be returned to the Medicaid indigent care trust fund to be used to fund the state's share of Medicaid add-on payments to hospitals licensed under ~~IC 16-21~~ under a payment methodology which shall be developed by the office. The total amount of intergovernmental transfers used to fund the non-federal share of payments to hospitals under IC 12-15-15-9 and IC 12-15-15-9.5 shall not exceed the amount calculated under STEP TWO of the following formula:

STEP ONE: Calculate the total amount of funds transferred to the Medicaid indigent care trust fund under **STEP FOUR of IC 12-16-7.5-4.5(b).**

STEP TWO: Multiply the state Medicaid medical assistance percentage for the state fiscal year for which the payments under IC 12-15-15-9 and IC 12-15-15-9.5 are to be made by the amount calculated under STEP ONE.

(F) As provided in clause (D), for each fiscal year ending after June 30, 2003, an amount equal to the amount

calculated under STEP THREE of the following formula shall be transferred to the office:

STEP ONE: Calculate the product of thirty-five million dollars (\$35,000,000) multiplied by the federal medical assistance percentage for federal fiscal year 2003.

STEP TWO: Calculate the sum of the amounts, if any, reasonably estimated by the office to be transferred or otherwise made available to the office for the state fiscal year, and the amounts, if any, actually transferred or otherwise made available to the office for the state fiscal year, under arrangements whereby the office and a hospital licensed under IC 16-21-2 agree that an amount transferred or otherwise made available to the office by the hospital or on behalf of the hospital shall be included in the calculation under this STEP.

STEP THREE: Calculate the amount by which the product calculated under STEP ONE exceeds the sum calculated under STEP TWO.

(F) If funds are transferred under IC 12-17-7-9-2 or IC 12-17-8-2-4(d) to the Medicaid indigent care trust fund, the funds shall be used to fund the state's share of Medicaid add-on payments to hospitals licensed under IC 16-21 under a payment methodology which the office shall develop.

SECTION 23. IC 12-15-20.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 20.7. Payment Schedule

Sec. 1. As used in this chapter:

(1) "Medicaid inpatient payments for safety-net hospitals" means the payments provided for in the Medicaid state plan for inpatient services provided by hospitals that satisfy the definition of a safety-net hospital under the Medicaid state plan; and

(2) "Medicaid outpatient payments for safety-net hospitals" means the payments provided for in the Medicaid state plan for outpatient services provided by hospitals that satisfy the definition of a safety-net hospital under the Medicaid state plan.

Sec. 2. For each state fiscal year, subject to section 3 of this

chapter, the office shall make the payments identified in this section in the following order:

- (1) First, payments under IC 12-15-15-9 and IC 12-15-15-9.5.
- (2) Second, payments under clauses (A) and (B) of STEP FIVE of IC 12-15-15-1.5(b).
- (3) Third, Medicaid inpatient payments for safety-net hospitals and Medicaid outpatient payments for safety-net hospitals.
- (4) Fourth, payments under IC 12-15-15-1.1 and 12-15-15-1.3.
- (5) Fifth, payments under IC 12-15-19-8 for municipal disproportionate share hospitals.
- (6) Sixth, payments under IC 12-15-19-2.1 for disproportionate share hospitals.
- (7) Seventh, payments under clause (C) of STEP FIVE of IC 12-15-15-1.5(b).

Sec. 3. The office may change the order of payment in section 2 of this chapter if the change is necessary for the proper administration of one (1) or more of the payment programs listed in section 2 of this chapter.

SECTION 24. IC 12-16-2.5-2, AS ADDED BY P.L.120-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The division shall adopt necessary forms to be used by the patients, hospitals, physicians, **transportation providers**, and county offices in carrying out the hospital care for the indigent program.

SECTION 25. IC 12-16-4.5-1, AS ADDED BY P.L.120-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) To receive payment from the division for the costs incurred in providing care to care provided to an indigent person, a hospital must file an application regarding the person with the county office of the county in which the hospital is located: **division.**

(b) Upon receipt of an application under subsection (a), the division shall determine whether the person is a resident of Indiana and, if so, the person's county of residence. If the person is a resident of Indiana, the division shall provide a copy of the application to the county office of the person's county of residence. If the person is not a resident of Indiana, the division shall provide

a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred. If the division cannot determine whether the person is a resident of Indiana or, if the person is a resident of Indiana, the person's county of residence, the division shall provide a copy of the application to the county office of the county where the onset of the medical condition that necessitated the care occurred.

(c) A county office that receives a request from the division shall cooperate with the division in determining whether a person is a resident of Indiana and, if the person is a resident of Indiana, the person's county of residence.

SECTION 26. IC 12-16-4.5-2, AS ADDED BY P.L.120-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A hospital must file the application with a ~~county office~~ **the division** not more than thirty (30) days after the ~~patient person~~ has been admitted to, **or otherwise provided care by**, the hospital, unless the ~~patient person~~ is medically unable and the next of kin or legal representative is unavailable.

SECTION 27. IC 12-16-4.5-8, AS ADDED BY P.L.120-2002, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A ~~patient person~~ may file an application directly with the ~~county office in the county where the hospital providing care is located~~ **division** if the application is filed not more than thirty (30) days after the ~~patient's admission~~ **person was admitted to, or provided care by**, the hospital.

(b) Reimbursement for the costs incurred in providing care to an eligible person may only be made to the providers of the care.

SECTION 28. IC 12-16-5.5-1, AS ADDED BY P.L.120-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. ~~A county office~~ **The division** shall, upon receipt of an application of **or for a patient person who was** admitted to, **or who was otherwise provided care by**, a hospital, promptly investigate to determine the ~~patient's person's~~ eligibility under the hospital care for the indigent program. **The county office located in:**

- (1) **the county where the person is a resident; or**
- (2) **the county where the onset of the medical condition that necessitated the care occurred if the person's Indiana residency or Indiana county of residence cannot be**

determined;

shall cooperate with the division in determining the person's eligibility under the program.

SECTION 29. IC 12-16-5.5-3, AS ADDED BY P.L.120-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) Subject to subsection (b)**, if the division ~~or county office~~ is unable after prompt and diligent efforts to verify information contained in the application that is reasonably necessary to determine eligibility, the division ~~or county office~~ may deny assistance under the hospital care for the indigent program.

(b) Before denying assistance under the hospital care for the indigent program, the division must provide the person and the hospital written notice of:

- (1) the specific information or verification needed to determine eligibility; and**
- (2) the date on which the application will be denied if the information or verification is not provided within ten (10) days after the date of the notice.**

SECTION 30. IC 12-16-5.5-4, AS ADDED BY P.L.120-2002, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The division ~~or county office~~ shall notify in writing the **patient person** and the hospital of the following:

- (1) A decision concerning eligibility.
- (2) The reasons for a denial of eligibility.
- (3) That either party has the right to appeal the decision.

SECTION 31. IC 12-16-6.5-1, AS ADDED BY P.L.120-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If the division ~~or county office~~ determines that a **patient person** is not eligible for payment of medical ~~or care~~, hospital care, **or transportation services**, an affected person, **physician, hospital, or transportation provider** may appeal to the division not later than ninety (90) days after the mailing of notice of that determination to the affected person, **physician, hospital, or transportation provider** at the ~~person's~~ last known address **of the person, physician, hospital, or transportation provider.**

SECTION 32. IC 12-16-6.5-2, AS ADDED BY P.L.120-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. If the division: ~~or county office:~~

(1) fails to complete an investigation and determination of eligibility under the hospital care for the indigent program not more than forty-five (45) days after the receipt of the application filed under IC 12-16-4.5; or

(2) fails or refuses to accept responsibility for payment of medical or hospital care under the hospital care for the indigent program;

a person, **physician, hospital, or transportation provider** affected may appeal to the division not more than ninety (90) days after the receipt of the application filed under IC 12-16-4.5.

SECTION 33. IC 12-16-6.5-4, AS ADDED BY P.L.120-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A notice of the hearing shall be served upon all persons interested in the matter, **including any affected physician, hospital, or transportation provider**, at least twenty (20) days before the time fixed for the hearing.

SECTION 34. IC 12-16-6.5-5, AS ADDED BY P.L.120-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The division shall determine the eligibility of the person for payment of the cost of medical or hospital care under the hospital care for the indigent program.

(b) If the person is found eligible, the division shall pay the reasonable cost of the care **covered under IC 12-16-3.5-1 or IC 12-16-3.5-2** to the ~~persons~~ **physicians** furnishing the ~~care~~, **covered medical care and the transportation providers furnishing the covered transportation services**, subject to the limitations in IC 12-16-7.5.

(c) **If the person is found eligible, the payment for the hospital services and items covered under IC 12-16-3.5-1 or IC 12-16-3.5-2 shall be calculated using the office's applicable Medicaid fee-for-service reimbursement principles. Payment to the hospital shall be made:**

(1) under IC 12-15-15-9; and

(2) if the hospital is eligible, under IC 12-15-15-9.5.

SECTION 35. IC 12-16-7.5-1, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The division shall pay the following, subject to the limitations in section ~~4~~ **5** of this chapter:

(1) The ~~necessary costs~~ **reasonable cost** of medical ~~or hospital~~

care for indigent patients: covered under IC 12-16-3.5-1 or IC 12-16-3.5-2.

(2) The reasonable cost of transportation to the place of treatment arising out of the medical care.

SECTION 36. IC 12-16-7.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) Payable claims shall be segregated by state fiscal year.**

(b) For purposes of this chapter, IC 12-15-15-9, IC 12-15-15-9.5, and IC 12-16-14:

(1) a "payable claim" is a claim for payment for physician care, hospital care, or transportation services under this chapter:

(A) that includes, on forms prescribed by the division, all the information required for timely payment;

(B) that is for a period during which the person is determined to be financially and medically eligible for the hospital care for the indigent program; and

(C) for which the payment amounts for the care and services are determined by the division; and

(2) a physician, hospital, or transportation provider that submits a payable claim to the division is considered to have submitted the payable claim during the state fiscal year during which the division determined, initially or upon appeal, the amount to pay for the care and services comprising the payable claim.

(c) The division shall promptly determine the amount to pay for the care and services comprising a payable claim.

SECTION 37. IC 12-16-7.5-3, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. (a) A payment made to a hospital physician or a transportation provider under the hospital care for the indigent program this chapter must be on a warrant drawn on the state hospital care for the indigent fund established by IC 12-16-14.**

(b) A payment made to a hospital under this chapter shall be made under IC 12-15-15-9 and IC 12-15-15-9.5.

SECTION 38. IC 12-16-7.5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2003]: **Sec. 4.5. (a) Not later than October 31 following the end of each state fiscal year, the division shall:**

(1) calculate for each county the total amount of payable claims submitted to the division during the state fiscal year attributed to:

(A) patients who were residents of the county; and

(B) patients:

(i) who were not residents of Indiana;

(ii) whose state of residence could not be determined by the division; and

(iii) who were residents of Indiana but whose county of residence in Indiana could not be determined by the division;

and whose medical condition that necessitated the care or service occurred in the county;

(2) notify each county of the amount of payable claims attributed to the county under the calculation made under subdivision (1); and

(3) with respect to payable claims attributed to a county under subdivision (1):

(A) calculate the total amount of payable claims submitted during the state fiscal year for:

(i) each hospital;

(ii) each physician; and

(iii) each transportation provider; and

(B) determine the amount of each payable claim for each hospital, physician, and transportation provider listed in clause (A).

(b) Before November 1 following the end of a state fiscal year, the division shall allocate the funds transferred from a county's hospital care for the indigent fund to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year as required under the following STEPS:

STEP ONE: Determine the total amount of funds transferred from a county's hospital care for the indigent fund by the county to the state hospital care for the indigent fund under IC 12-16-14 during or for the state fiscal year.

STEP TWO: Of the total amount of payable claims submitted to the division during the state fiscal year attributed to the

county under subsection (a), determine the amount of total hospital payable claims, total physician payable claims, and total transportation provider payable claims. Of the amounts determined for physicians and transportation providers, calculate the sum of those amounts as a percentage of an amount equal to the sum of the total payable physician claims and total payable transportation provider claims attributed to all the counties submitted to the division during the state fiscal year.

STEP THREE: Multiply three million dollars (\$3,000,000) by the percentage calculated under STEP TWO.

STEP FOUR: Transfer to the Medicaid indigent care trust fund for purposes of IC 12-15-20-2(8)(D) an amount equal to the amount calculated under STEP ONE, minus an amount equal to the amount calculated under STEP THREE.

STEP FIVE: The division shall retain an amount equal to the amount remaining in the state hospital care for the indigent fund after the transfer in STEP FOUR for purposes of making payments under section 5 of this chapter.

(c) The costs of administering the hospital care for the indigent program, including the processing of claims, shall be paid from the funds transferred to the state hospital care for the indigent fund.

SECTION 39. IC 12-16-7.5-5, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Before **December 15 following** the end of each state fiscal year, the division shall, ~~to the extent there is money in the state hospital care for the indigent fund;~~ **from the amounts combined from the counties' hospital care for the indigent funds and retained under section 4.5(b) STEP FIVE of this chapter,** pay each **physician and transportation provider under the hospital care for the indigent program** a pro rata part of the one-third ($1/3$) balance on each approved claim for patients admitted during the preceding year: **that amount. The total payments available under this section may not exceed three million dollars (\$3,000,000).**

SECTION 40. IC 12-16-7.5-7, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The division ~~and a county office are~~ **is** not responsible under the hospital care for the indigent program for the

payment of any part of the costs of providing care in a hospital to an individual who is not either of the following:

- (1) A citizen of the United States.
- (2) A lawfully admitted alien.

SECTION 41. IC 12-16-7.5-8, AS ADDED BY P.L.120-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. The division ~~and a county office~~ **are is** not liable for any part of the cost of care provided to an individual who has been determined to be a patient described in the rules adopted under IC 12-16-10.5.

SECTION 42. IC 12-16-9.5-1, AS ADDED BY P.L.120-2002, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **Notwithstanding any other provision of this article**, the rate of payment for the services and materials provided by ~~hospitals and~~ **physicians and transportation providers** under the hospital care for the indigent program is the same rate as payment for the same type of services and materials under the rules adopted by the ~~secretary under office for the fee-for-service Medicaid program~~.

SECTION 43. IC 12-16-12.5-3, AS ADDED BY P.L.120-2002, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The hospital providing care shall, **subject to the requirements of the federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. 1395dd)**, transfer the patient to a hospital operated by the health and hospital corporation as soon as the attending physician determines that the patient's medical condition permits the transfer without injury to the patient.

SECTION 44. IC 12-16-14-3, AS AMENDED BY P.L.120-2002, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) ~~Except as provided in sections 3-4 and 3-7 of this chapter,~~ **For purposes of this section, "payable claim" has the meaning set forth in IC 12-16-7.5-2.5(b)(1).**

(b) For taxes first due and payable in 2003, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

- (1) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2002; multiplied by**
- (2) the county's assessed value growth quotient determined under IC 6-1.1-18.5-2 for taxes first due and payable in 2003.**

(c) For taxes first due and payable in 2004, 2005, and 2006, each county shall impose a hospital care for the indigent property tax levy equal to the product of:

(1) the county's hospital care for the indigent property tax levy for taxes first due and payable in the preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

(d) Except as provided in subsection (e):

(1) for taxes first due and payable in 2007, each county shall impose a hospital care for the indigent property tax levy equal to the product of: (1) for the initial annual levy under this chapter after July 1, 2004: (A) a levy equal to ninety percent (90%) of the hospital care for the indigent property tax levy for taxes first due and payable in calendar year 2004; multiplied by (B) the statewide average assessed value growth quotient; using all the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for the year in which the tax levy under this subdivision will be first due and payable; the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the state fiscal years beginning:

(A) July 1, 2003;

(B) July 1, 2004; and

(C) July 1, 2005; and

(2) for all subsequent annual levies under this section, (A) a levy

equal to the hospital care for the indigent program property tax levy for taxes first due and payable in the preceding calendar year; multiplied by (B) the statewide average assessed value growth quotient; using all the county assessed value growth quotients determined under IC 6-1.1-18.5-2 for the year in which the tax levy under this subdivision will be first due and payable: the average annual amount of payable claims attributed to the county under IC 12-16-7.5-4.5 during the three (3) most recently completed state fiscal years.

(e) A county may not impose an annual levy under subsection (d) in an amount greater than the product of:

(1) The greater of:

(A) the county's hospital care for the indigent property tax levy for taxes first due and payable in 2006; or

(B) the amount of the county's maximum hospital care for the indigent property tax levy determined under this subsection for taxes first due and payable in the immediately preceding year; multiplied by

(2) the assessed value growth quotient determined in the last STEP of the following STEPS:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the county's total assessed value of all taxable property in the particular calendar year, divided by the county's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

SECTION 45. IC 16-18-2-168, AS AMENDED BY P.L.44-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 168. (a) "Health records", for purposes of IC 16-39, means written, electronic, or printed information possessed or maintained by a provider concerning any diagnosis, treatment, or

prognosis of the patient, **including such information possessed or maintained on microfiche, microfilm, or in a digital format.** The term includes mental health records and alcohol and drug abuse records.

(b) For purposes of IC 16-39-5-3(e), the term includes information that describes services provided to a patient and a provider's charges for services provided to a patient.

(c) The term does not include information concerning emergency ambulance services described in IC 16-31-2-11(d).

SECTION 46. IC 16-22-8-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. A member of the governing board is entitled to receive ~~six hundred dollars (\$600)~~ **one thousand two hundred dollars (\$1,200)** each year and the member who is chairman of the board is entitled to receive an additional ~~three hundred dollars (\$300)~~ **six hundred dollars (\$600)** each year. These payments shall be made quarterly from funds appropriated for that purpose in the regular budget of the corporation.

SECTION 47. IC 16-22-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) The governing board shall by rule provide for regular meetings to be held at a designated interval throughout the year.

(b) The chairman or a majority of the members of the board may call a special meeting. The board shall by rule establish a procedure for calling special meetings. The board shall publish notice of a special meeting one (1) time, not less than twenty-four (24) hours before the time of the meeting, in two (2) ~~daily~~ newspapers of general circulation in the county in which the corporation is established.

(c) Regular and special meetings are open to the public.

SECTION 48. IC 16-22-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) The governing board shall hold the annual meeting the second Monday in January of each year. At the meeting, the board shall select from among the members a chairman **and vice chairman** and shall make the appointments of personnel provided under this chapter.

(b) **A vacancy occurs if the chairman or vice chairman of the board dies, resigns, changes residence from the county, or is impeached. If the office of chairman or vice chairman becomes vacant, the board shall select from among the members a successor**

chairman or vice chairman at the next meeting of the board.

SECTION 49. IC 16-22-8-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) Not more than seven (7) days after the introduction of a proposed draft of an ordinance nor less than seven (7) days before the final passage of a proposed draft of an ordinance, the board shall publish a notice that the proposed ordinance is pending final action by the board. The notice shall be published one (1) time in two (2) ~~daily~~ newspapers that have a general circulation in the jurisdiction of the corporation. Notice of an ordinance establishing a budget shall be in accordance with the general law relating to budgets of first class cities.

(b) The notice must state the following:

- (1) The subject of the proposed ordinance.
- (2) The time and place of the hearing.
- (3) That the proposed draft of an ordinance is available for public inspection at the office of the board.

(c) The board may include in one (1) notice a reference to the subject matter of each draft of a pending ordinance for which notice has not been given.

(d) An ordinance is not invalid because the reference to the subject matter of the draft of an ordinance was inadequate if the reference is sufficient to advise the public of the general subject matter.

SECTION 50. IC 16-22-8-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The governing board shall appoint an executive director of the board who is qualified by education and experience to serve for a term of four (4) years unless sooner removed. The executive director is eligible for reappointment.

The executive director must be a resident of the county.

(b) In addition to the duties as executive director of the board, the executive director acts as secretary of the board.

SECTION 51. IC 16-22-8-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37. The powers, authority, and duties conferred on the corporation and the corporation's officers and employees under this chapter extend throughout the county **and may extend outside the county on terms and conditions the board prescribes that are consistent with this chapter.**

SECTION 52. IC 16-22-8-39, AS AMENDED BY P.L.91-2002, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 39. (a) A hospital owned, operated, or managed by the corporation shall be for the benefit of the residents of the county and of every person who becomes sick, injured, or maimed within the county.

(b) A patient who is able to pay shall pay to the corporation a reasonable compensation for medicine or hospital services according to the rules prescribed by the board. The board or the board's authorized representative may exclude from the hospital a person who willfully violates the rules. **On terms and conditions the board prescribes, the board corporation may:**

(1) extend the privileges and use of the hospital, the corporation's health care programs, and health care facilities including nursing facilities owned or operated by the corporation, to persons residing outside of the county; on terms and conditions the board prescribes; and

(2) own or operate nursing facilities located inside or outside of the county.

(c) There may not be discrimination against practitioners of any school of medicine holding unlimited licenses to practice medicine recognized in Indiana. The licensed practitioners are entitled to equal privileges in treating patients in the hospital.

SECTION 53. IC 16-22-8-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 46. The board shall appoint a treasurer of the corporation to serve for a term of four (4) years unless sooner removed for cause. The treasurer shall give bond in the amount and with the conditions prescribed by the board and with surety approved by the board. All money payable to the corporation shall be paid to the treasurer and the treasurer shall deposit the money in accordance with Indiana law relating to the deposit of public funds by municipal corporations. However, if trust funds are received or managed under a trust indenture, the terms and conditions of the trust indenture shall be followed. **The treasurer must be a resident of the county.**

SECTION 54. IC 34-6-2-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 60. "Hospital medical record", for purposes of IC 34-43-1, means the hospital's clinical record maintained on each hospital patient **as provided in IC 16-18-2-168.**

SECTION 55. THE FOLLOWING ARE REPEALED [EFFECTIVE

JULY 1, 2003]: IC 12-7-2-24.7; IC 12-16-2.5-6; IC 12-16-3.5-5; IC 12-16-4.5-9; IC 12-16-5.5-5; IC 12-16-6.5-8; IC 12-16-7.5-2; IC 12-16-7.5-4; IC 12-16-7.5-6; IC 12-16-7.5-11; IC 12-16-7.5-13; IC 12-16-8.5-6; IC 12-16-9.5-2; IC 12-16-10.5-6; IC 12-16-11.5-3; IC 12-16-12.5-6; IC 12-16-13.5-3; IC 12-16-14-3.4; IC 12-16-14-3.7; IC 12-16-14.1; IC 12-16-15.5-7; IC 12-16-16.5-4; IC 12-16.1; IC 12-17.7; IC 12-17.8; IC 35-43-5-7.3.

P.L.256-2003

[H.1814. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 4-21.5-2-4, AS AMENDED BY P.L.198-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This article does not apply to any of the following agencies:

- (1) The governor.
- (2) The state board of accounts.
- (3) The state educational institutions (as defined by IC 20-12-0.5-1).
- (4) The department of workforce development.
- (5) The unemployment insurance review board of the department of workforce development.
- (6) The worker's compensation board **of Indiana**.
- (7) The military officers or boards.
- (8) The Indiana utility regulatory commission.
- (9) The department of state revenue (excluding an agency action related to the licensure of private employment agencies).

(10) The department of local government finance.

(b) This article does not apply to action related to railroad rate and tariff regulation by the Indiana department of transportation.

SECTION 2. IC 6-1.1-8-27, AS AMENDED BY P.L.90-2002,

SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) As soon as the department of local government finance determines its final assessments of distributable property, the department shall certify to the county assessor and the county auditor of each county

(+) the distributable property assessed values which the department determines are distributable to the taxing districts of the county. ~~and~~

(2) ~~the assessed values, according to the department's records, of fixed property located in the taxing districts of the county.~~

In addition, if a public utility company has appealed the department of local government finance's final assessment of the company's distributable property, the department shall notify the county auditor of the appeal.

(b) The county assessor shall review the department of local government finance's certification to determine if any of a public utility company's property which has a definite situs in the county has been omitted. The county auditor shall enter for taxation the assessed valuation of a public utility company's distributable property which the department distributes to a taxing district of the county.

SECTION 3. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.90-2002, SECTION 120, AND AS AMENDED BY P.L.178-2002, SECTION 17, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction under this chapter. The *state board of tax commissioners department of local government finance* shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment or new research and development equipment, or both, that the person

proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment or new research and development equipment, or both, and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

With the approval of the state board of tax commissioners, department of local government finance The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment or new research and development equipment, or both, is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

whether the estimate of the number of individuals who will be

employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment or new research and development equipment, or both.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) *Except as provided in subsection (f), an owner of new manufacturing equipment whose statement of benefits is approved before May 1, 1991, is entitled to a deduction from the assessed value of that equipment for a period of five (5) years. Except as provided in subsections (f) and (i), subsection (h), an owner of new manufacturing equipment or new research and development equipment, or both, whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (h): (g). Except as provided in subsections subsection (f) and (g), and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:*

(1) the assessed value of the new manufacturing equipment or

new research and development equipment, or both, in the year *that the equipment is installed*; of deduction under the table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%

8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) *With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:*

- (1) *the deduction under this section as in effect on March 1, 2001; and*
- (2) *the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.*

Notwithstanding subsections (d) and (e), a deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment or new research and development equipment, or both, to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in which the equipment is located (excluding personal property that is assessed as construction in process) to be less than the assessed value of all of the personal property of the owner in that taxing district (excluding personal property that is assessed as construction in process) in the immediately preceding year.

(g) *If a deduction is not fully allowed under subsection (f) in the*

first year the deduction is claimed, then the percentages specified in subsection (d) or (e) apply in the subsequent years to the amount of deduction that was allowed in the first year.

~~(h)~~ (g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the *state board of tax commissioners: department of local government finance*. A certified copy of the resolution shall be sent to the county auditor. ~~and the state board of tax commissioners: department of local government finance.~~

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

~~(i)~~ (h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 4. IC 6-1.1-12.1-4.6, AS AMENDED BY P.L.90-2002, SECTION 121, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.6. (a) A designating body may adopt a resolution to authorize a property owner to relocate new manufacturing equipment for which a deduction is being granted under

this chapter. The resolution may provide that the new manufacturing equipment may only be relocated to:

- (1) a new location within the same economic revitalization area;
- or
- (2) a new location within a different economic revitalization area if the area is within the jurisdiction of the designating body.

(b) Before adopting a resolution under this section, the designating body shall conduct a public hearing on the proposed resolution. Notice of the public hearing shall be published in accordance with IC 5-3-1. In addition, the designating body shall notify each taxing unit within the original and the new economic revitalization area of the proposed resolution, including the date and time of the public hearing. If a resolution is adopted under this section, the designating body shall deliver a copy of the adopted resolution to the county auditor ~~and the department of local government finance~~ within thirty (30) days after its adoption.

(c) New manufacturing equipment relocated under this section remains eligible for the assessed value deduction under this chapter. The same deduction percentage is to be applied as if the new manufacturing equipment had not been relocated.

SECTION 5. IC 6-1.1-12.1-5.4, AS ADDED BY P.L.1-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the department of local government finance with

- (1) the auditor of the county in which the new manufacturing equipment or new research and development equipment, or both, is located. ~~and~~
- (2) ~~the department of local government finance.~~

A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment or new research and development equipment, or both, is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment or new research and development equipment, or both, is installed must file the application between March 1 and the extended due date for that year.

(b) The deduction application required by this section must contain the following information:

- (1) The name of the owner of the new manufacturing equipment or new research and development equipment, or both.
- (2) A description of the new manufacturing equipment or new research and development equipment, or both.
- (3) Proof of the date the new manufacturing equipment or new research and development equipment, or both, was installed.
- (4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment or new research and development equipment, or both, for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body, and the designating body shall adopt a resolution under section ~~4.5(h)(2)~~ **4.5(g)(2)** of this chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment or new research and development equipment, or both, is installed and in each of the immediately succeeding years the deduction is allowed.

(e) **On verification of the correctness of a deduction application by the assessor of the township in which the property is located, the department of local government finance county auditor shall:**

- ~~(1) review and verify the correctness of each deduction application; and shall notify the county auditor of the county in which the property is located that the deduction application is approved or denied~~
- ~~(2) approve, deny, or that alter the amount of the deduction. is altered.~~

Upon ~~notification of~~ approval of the deduction application or of alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment or new

research and development equipment, or both, changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

- (1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and
- (2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) ~~If a person desires to initiate an appeal of the department of local government finance's final determination, the person must file a petition with the Indiana board not more than forty-five (45) days after the department of local government finance gives the person notice of the final determination.~~

(i) ~~If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination, the person must petition for judicial review under IC 4-21.5-5 not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.~~

SECTION 6. IC 6-1.1-12.1-5.8, AS AMENDED BY P.L.90-2002, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment or new research and development equipment, or both, or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) as determined by the ~~department of local government finance.~~ **assessor of the township in which the property is located.**

SECTION 7. IC 6-1.1-12.1-5.9, AS AMENDED BY P.L.90-2002, SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.9. (a) This section does not apply to:

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 1991.

(b) ~~Within~~ **Not later than** forty-five (45) days after receipt of the information described in section 5.1 or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3 or 4.5 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

~~If a notice mailed to a property owner concerns a statement of benefits approved under section 4.5 of this chapter, the designating body shall also mail a copy of the notice to the department of local government finance.~~

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section

3 or 4.5 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

(d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

- (1) the property owner; **and**
- (2) the county auditor. **and**
- ~~(3) the department of local government finance if the deduction was granted under section 4.5 of this chapter.~~

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

(e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

(f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

SECTION 8. IC 6-1.1-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. A county assessor shall inquire into the assessment of the classes of tangible property in the various townships of the county ~~before July~~ **after March 1** in the year in which the general reassessment ~~is to commence.~~ **becomes effective.** The county assessor shall make any changes, whether

increases or decreases, in the assessed values which are necessary in order to equalize these values in and between the various townships of the county. In addition, the county assessor shall determine the percent to be added to or deducted from the assessed values in order to make a just, equitable, and uniform equalization of assessments in and between the townships of the county.

SECTION 9. IC 6-1.1-14-8, AS AMENDED BY P.L.90-2002, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) If a petition for review of an equalization order is filed with a county auditor under section 7 of this chapter, the county auditor shall immediately mail a certified copy of the petition and any information relevant to the petition to the department of local government finance. Within a reasonable period of time, the department of local government finance shall fix a date for a hearing on the petition. The hearing shall be held in the county to which the equalization order has been directed. At least three (3) days before the date fixed for the hearing, the department of local government finance shall give notice of the hearing by mail to the township and county assessors whose assessments are affected by the order and to the first ten (10) taxpayers whose names appear on the petition for review at the addresses listed by those taxpayers on the petition. In addition, the department of local government finance shall give the notice, if any, required under section 9(a) of this chapter.

(b) After the hearing required by subsection (a), the department of local government finance may affirm, modify, or set aside its equalization order. The department shall certify its action with respect to the order to the county auditor. The county auditor shall immediately make any changes in the assessed values required by the action of the department of local government finance.

(c) A person whose name appears on the petition for review may petition for judicial review of the final determination of the department of local government finance under subsection (b). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (b).

SECTION 10. IC 6-1.1-14-11, AS AMENDED BY P.L.90-2002, SECTION 137, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The department of local government finance shall give notice by mail to a taxpayer whose

assessment is to be reviewed under section 10 of this chapter. The notice shall state the time, place, and object of a hearing on the assessment. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed. After the hearing, the department of local government finance shall assess the property in question and mail a certified notice of its final determination to the appropriate county auditor. In addition, the department of local government finance shall notify the taxpayer by mail of its final determination. An assessment or reassessment may not be made under this section unless notice of the final determination of the department of local government finance is given to the taxpayer within the same time period prescribed, in IC 6-1.1-9-3 or IC 6-1.1-9-4, for giving an assessment adjustment notice. **A taxpayer may initiate an appeal of the department's final determination by filing a petition with the Indiana board not more than forty-five (45) days after the department gives the taxpayer notice of the final determination.**

SECTION 11. IC 6-1.1-15-3, AS AMENDED BY P.L.90-2002, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A taxpayer may obtain a review by the Indiana board of a county property tax assessment board of appeals action with respect to the assessment of that taxpayer's tangible property if the county property tax assessment board of appeals' action requires the giving of notice to the taxpayer. A township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original determination under appeal under this section ~~or a county auditor who made the original enterprise zone inventory credit determination under appeal under IC 6-1.1-20-8~~, is a party to the review under this section to defend the determination. At the time that notice is given to the taxpayer, the taxpayer shall also be informed in writing of:

- (1) the taxpayer's opportunity for review under this section; and
- (2) the procedures the taxpayer must follow in order to obtain review under this section.

(b) A township assessor or county assessor may obtain a review by the Indiana board of any assessment which the township assessor or the county assessor has made, upon which the township assessor or the county assessor has passed, or which has been made over the township

assessor's or the county assessor's protest.

(c) In order to obtain a review by the Indiana board under this section, the party must file a petition for review with the appropriate county assessor within thirty (30) days after the notice of the county property tax assessment board of appeals action is given to the taxpayer.

(d) The Indiana board shall prescribe the form of the petition for review of an assessment determination by the county property tax assessment board of appeals. The Indiana board shall issue instructions for completion of the form. The form and the instructions must be clear, simple, and understandable to the average individual. An appeal of such a determination must be made on the form prescribed by the Indiana board. The form must require the petitioner to specify the following:

- (1) The items listed in section 1(e)(1) and 1(e)(2) of this chapter.
- (2) The reasons why the petitioner believes that the assessment determination by the county property tax assessment board of appeals is erroneous.

(e) The county assessor shall transmit the petition for review to the Indiana board within ten (10) days after it is filed.

(f) If a township assessor or a member of the county property tax assessment board of appeals files a petition for review under this section concerning the assessment of a taxpayer's property, the county assessor must send a copy of the petition to the taxpayer.

SECTION 12. IC 6-1.1-15-5, AS AMENDED BY P.L.178-2002, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Within fifteen (15) days after the Indiana board gives notice of its final determination under section 4 of this chapter to the party or the maximum allowable time for the issuance of a final determination by the Indiana board under section 4 of this chapter expires, a party to the proceeding may request a rehearing before the Indiana board. The Indiana board may conduct a rehearing and affirm or modify its final determination, giving the same notices after the rehearing as are required by section 4 of this chapter. The Indiana board has fifteen (15) days after receiving a petition for a rehearing to determine whether to grant a rehearing. Failure to grant a rehearing within fifteen (15) days after receiving the petition shall be treated as a final determination to deny the petition. A petition for a

rehearing does not toll the time in which to file a petition for judicial review unless the petition for rehearing is granted. If the Indiana board determines to rehear a final determination, the Indiana board:

- (1) may conduct the additional hearings that the Indiana board determines necessary or review the written record without additional hearings; and
- (2) shall issue a final determination within ninety (90) days after notifying the parties that the Indiana board will rehear the final determination.

Failure of the Indiana board to make a final determination within the time allowed under subdivision (2) shall be treated as a final determination affirming the original decision of the Indiana board.

(b) A person may petition for judicial review of the final determination of the Indiana board regarding the assessment of that person's tangible property. The action shall be taken to the tax court under IC 4-21.5-5. Petitions for judicial review may be consolidated at the request of the appellants if it can be done in the interest of justice. The property tax assessment board of appeals that made the determination under appeal under this section may, with the approval of the county executive, file an amicus curiae brief in the review proceeding under this section. The expenses incurred by the property tax assessment board of appeals in filing the amicus curiae brief shall be paid from the reassessment fund under ~~IC 6-1.1-4-27~~. **IC 6-1.1-4-27.5**. In addition, the executive of a taxing unit may file an amicus curiae brief in the review proceeding under this section if the property whose assessment is under appeal is subject to assessment by that taxing unit. The department of local government finance may intervene in an action taken under this subsection if the interpretation of a rule of the department is at issue in the action. A

~~(1) township assessor, county assessor, member of a county property tax assessment board of appeals, or county property tax assessment board of appeals that made the original assessment determination under appeal under this section or~~

~~(2) county auditor who made the original enterprise zone inventory credit determination under appeal under IC 6-1.1-20.8;~~ is a party to the review under this section to defend the determination.

(c) To initiate a proceeding for judicial review under this section, a person must take the action required by subsection (b) within:

(1) forty-five (45) days after the Indiana board gives the person notice of its final determination, unless a rehearing is conducted under subsection (a); or

(2) thirty (30) days after the Indiana board gives the person notice under subsection (a) of its final determination, if a rehearing is conducted under subsection (a) or the maximum time elapses for the Indiana board to make a determination under this section.

(d) The failure of the Indiana board to conduct a hearing within the period prescribed in section 4(f) or 4(g) of this chapter does not constitute notice to the person of an Indiana board final determination.

(e) The county executive may petition for judicial review to the tax court in the manner prescribed in this section upon request by the county assessor or elected township assessor.

(f) If the county executive determines upon a request under this subsection to not appeal to the tax court:

(1) the entity described in subsection (b) that made the original determination under appeal under this section may take an appeal to the tax court in the manner prescribed in this section using funds from that entity's budget; and

(2) the petitioner may not be represented by the attorney general in an action described in subdivision (1).

SECTION 13. IC 6-1.1-15-12, AS AMENDED BY P.L.90-2002, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) Subject to the limitations contained in subsections (c) and (d), a county auditor shall correct errors which are discovered in the tax duplicate for any one (1) or more of the following reasons:

(1) The description of the real property was in error.

(2) The assessment was against the wrong person.

(3) Taxes on the same property were charged more than one (1) time in the same year.

(4) There was a mathematical error in computing the taxes or penalties on the taxes.

(5) There was an error in carrying delinquent taxes forward from one (1) tax duplicate to another.

(6) The taxes, as a matter of law, were illegal.

(7) There was a mathematical error in computing an assessment.

(8) Through an error of omission by any state or county officer the

taxpayer was not given credit for an exemption or deduction permitted by law.

(b) The county auditor shall correct an error described under subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when the county auditor finds that the error exists.

(c) If the tax is based on an assessment made or determined by the state board of tax commissioners (before the board was abolished) or the department of local government finance, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the department of local government finance or ordered by the tax court.

(d) If the tax is not based on an assessment made or determined by the state board of tax commissioners (before the board was abolished) or the department of local government finance, the county auditor shall correct an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

- (1) The township assessor.
- (2) The county auditor.
- (3) The county assessor.

If two (2) of these officials do not approve such a correction, the county auditor shall refer the matter to the county property tax assessment board of appeals for determination. The county property tax assessment board of appeals shall provide a copy of the determination to the taxpayer and to the county auditor.

(e) A taxpayer may appeal a determination of the county property tax assessment board of appeals to the Indiana board for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The Indiana board shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor.

(f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor.

(g) A taxpayer that files a personal property tax return under

IC 6-1.1-3 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's personal property tax return. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's personal property tax return, the taxpayer must instead file an amended personal property tax return under IC 6-1.1-3-7.5.

(h) A taxpayer that files a statement under IC 6-1.1-8-19 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead initiate an objection under IC 6-1.1-8-28.

(i) A taxpayer that files a statement under IC 6-1.1-8-23 may not petition under this section for the correction of an error made by the taxpayer on the taxpayer's statement. If the taxpayer wishes to correct an error made by the taxpayer on the taxpayer's statement, the taxpayer must instead file an amended statement not more than six (6) months after the due date of the statement.

SECTION 14. IC 6-1.1-17-3, AS AMENDED BY P.L.178-2002, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The proper officers of a political subdivision shall formulate its estimated budget and its proposed tax rate and tax levy on the form prescribed by the department of local government finance and approved by the state board of accounts. The political subdivision shall give notice by publication to taxpayers of:

- (1) the estimated budget;
- (2) the estimated maximum permissible levy;
- (3) the current and proposed tax levies of each fund; and
- (4) the amounts of excessive levy appeals to be requested.

In the notice, the political subdivision shall also state the time and place at which a public hearing will be held on these items. The notice shall be published twice in accordance with IC 5-3-1 with the first publication at least ten (10) days before the date fixed for the public hearing.

(b) The board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal) may conduct the public hearing required under subsection (a):

- (1) in any county of the solid waste management district; and

(2) in accordance with the annual notice of meetings published under IC 13-21-5-2.

(c) The trustee of each township in the county shall estimate the amount necessary to meet the cost of poor relief in the township for the ensuing calendar year. The township board shall adopt with the township budget a tax rate sufficient to meet the estimated cost of poor relief. The taxes collected as a result of the tax rate adopted under this subsection are credited to the township poor relief fund.

SECTION 15. IC 6-1.1-17-16, AS AMENDED BY P.L.90-2002, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Subject to the limitations and requirements prescribed in this section, the department of local government finance may revise, reduce, or increase a political subdivision's budget, tax rate, or tax levy which the department reviews under section 8 or 10 of this chapter.

(b) Subject to the limitations and requirements prescribed in this section, the department of local government finance may review, revise, reduce, or increase the budget, tax rate, or tax levy of any of the political subdivisions whose tax rates compose the aggregate tax rate within a political subdivision whose budget, tax rate, or tax levy is the subject of an appeal initiated under this chapter.

(c) Except as provided in subsection ~~(i)~~, **(j)**, before the department of local government finance reviews, revises, reduces, or increases a political subdivision's budget, tax rate, or tax levy under this section, the department must hold a public hearing on the budget, tax rate, and tax levy. The department of local government finance shall hold the hearing in the county in which the political subdivision is located. The department of local government finance may consider the budgets, tax rates, and tax levies of several political subdivisions at the same public hearing. At least five (5) days before the date fixed for a public hearing, the department of local government finance shall give notice of the time and place of the hearing and of the budgets, levies, and tax rates to be considered at the hearing. The department of local government finance shall publish the notice in two (2) newspapers of general circulation published in the county. However, if only one (1) newspaper of general circulation is published in the county, the department of local government finance shall publish the notice in that newspaper.

(d) Except as provided in subsection ~~(h)~~, **(i)**, IC 6-1.1-19, or IC 6-1.1-18.5, the department of local government finance may not increase a political subdivision's budget, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the political subdivision. The department of local government finance shall give the political subdivision written notification specifying any revision, reduction, or increase the department proposes in a political subdivision's tax levy or tax rate. The political subdivision has one (1) week from the date the political subdivision receives the notice to provide a written response to the department of local government finance's Indianapolis office specifying how to make the required reductions in the amount budgeted for each office or department. The department of local government finance shall make reductions as specified in the political subdivision's response if the response is provided as required by this subsection and sufficiently specifies all necessary reductions. The department of local government finance may make a revision, a reduction, or an increase in a political subdivision's budget only in the total amounts budgeted for each office or department within each of the major budget classifications prescribed by the state board of accounts.

(e) The department of local government finance may not approve a levy for lease payments by a city, town, county, library, or school corporation if the lease payments are payable to a building corporation for use by the building corporation for debt service on bonds and if:

- (1) no bonds of the building corporation are outstanding; or
- (2) the building corporation has enough legally available funds on hand to redeem all outstanding bonds payable from the particular lease rental levy requested.

~~(f) The action of the department of local government finance on a budget, tax rate, or tax levy is final.~~ The department of local government finance shall certify its action to:

- (1) the county auditor; and
- (2) the political subdivision if the department acts pursuant to an appeal initiated by the political subdivision.

(g) The following may petition for judicial review of the final determination of the department of local government finance under subsection (f):

- (1) If the department acts under an appeal initiated by a**

political subdivision, the political subdivision.

(2) If the department acts under an appeal initiated by taxpayers under section 13 of this chapter, a taxpayer who signed the petition under that section.

(3) If the department acts under an appeal initiated by the county auditor under section 14 of this chapter, the county auditor.

The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (f).

(h) The department of local government finance is expressly directed to complete the duties assigned to it under this section not later than February 15th of each year for taxes to be collected during that year.

(h) (i) Subject to the provisions of all applicable statutes, the department of local government finance may increase a political subdivision's tax levy to an amount that exceeds the amount originally fixed by the political subdivision if the increase is:

(1) requested in writing by the officers of the political subdivision;

(2) either:

(A) based on information first obtained by the political subdivision after the public hearing under section 3 of this chapter; or

(B) results from an inadvertent mathematical error made in determining the levy; and

(3) published by the political subdivision according to a notice provided by the department.

(h) (j) The department of local government finance shall annually review the budget of each school corporation not later than April 1. The department of local government finance shall give the school corporation written notification specifying any revision, reduction, or increase the department proposes in the school corporation's budget. A public hearing is not required in connection with this review of the budget.

SECTION 16. IC 6-1.1-18-6, AS AMENDED BY P.L.90-2002, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) The proper officers of a

political subdivision may transfer money from one major budget classification to another within a department or office if:

- (1) they determine that the transfer is necessary;
- (2) the transfer does not require the expenditure of more money than the total amount set out in the budget as finally determined under this article; **and**
- (3) the transfer is made at a regular public meeting and by proper ordinance or resolution. **and**
- ~~(4) the transfer is certified to the county auditor:~~

(b) A transfer may be made under this section without notice and without the approval of the department of local government finance.

SECTION 17. IC 6-1.1-18.5-8, AS AMENDED BY P.L.90-2002, SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit if the civil taxing unit is committed to levy the taxes to pay or fund either:

- (1) bonded indebtedness; or
- (2) lease rentals under a lease with an original term of at least five (5) years.

(b) ~~Before a civil taxing unit may incur bonded indebtedness or enter into a lease with an original term of at least five (5) years, the A~~ **civil taxing unit must request and obtain file a petition requesting approval from the department of local government finance to incur the bonded indebtedness or execute the a lease with an original term of at least five (5) years not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2), unless the civil taxing unit demonstrates that a longer period is reasonable in light of the civil taxing unit's facts and circumstances. A civil taxing unit must obtain approval from the department of local government finance before the civil taxing unit may:**

- (1) incur the bonded indebtedness; or**
- (2) enter into the lease.**

The department of local government finance may seek recommendations from the local government tax control board established by section 11 of this chapter when determining whether to authorize incurring the bonded indebtedness or the execution of the

lease.

(c) The department of local government finance shall render a decision within three (3) months after the date it receives a request for approval under subsection (b). However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the civil taxing unit. **A civil taxing unit may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this section.**

(d) A civil taxing unit does not need approval under subsection (b) to obtain temporary loans made in anticipation of and to be paid from current revenues of the civil taxing unit actually levied and in the course of collection for the fiscal year in which the loans are made.

(e) For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a calendar year does not include that part of its levy that is committed to fund or pay bond indebtedness or lease rentals with an original term of five (5) years in subsection (a).

(f) A taxpayer may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

SECTION 18. IC 6-1.1-18.5-13, AS AMENDED BY P.L.192-2002(ss), SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. With respect to an appeal filed under section 12 of this chapter, the local government tax control board may recommend that a civil taxing unit receive any one (1) or more of the following types of relief:

(1) Permission to the civil taxing unit to reallocate the amount set aside as a property tax replacement credit as required by IC 6-3.5-1.1 for a purpose other than property tax relief. However, whenever this occurs, the local government tax control board shall also state the amount to be reallocated.

(2) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if in the judgment of the local government tax control board the increase is reasonably necessary due to increased costs of the civil taxing unit resulting from annexation, consolidation, or other extensions of governmental services by the civil taxing unit to additional geographic areas or persons.

(3) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to meet the civil taxing unit's share of the costs of operating a court established by statute enacted after December 31, 1973. Before recommending such an increase, the local government tax control board shall consider all other revenues available to the civil taxing unit that could be applied for that purpose. The maximum aggregate levy increases that the local government tax control board may recommend for a particular court equals the civil taxing unit's share of the costs of operating a court for the first full calendar year in which it is in existence.

(4) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the quotient determined under STEP SIX of the following formula is equal to or greater than one and three-hundredths (1.03):

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the civil taxing unit's total assessed value of all taxable property in the particular calendar year, divided by the civil taxing unit's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Compute separately, for each of the calendar

years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth (0.0001)) of the total assessed value of all taxable property of all civil taxing units in the state in the particular calendar year, divided by the total assessed value of all taxable property of all civil taxing units in the state in the calendar year immediately preceding the particular calendar year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Divide the STEP THREE amount by the STEP FIVE amount.

In addition, before the local government tax control board may recommend the relief allowed under this subdivision, the civil taxing unit must show a need for the increased levy because of special circumstances, and the local government tax control board must consider other sources of revenue and other means of relief. (5) Permission to the civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the civil taxing unit needs the increase to pay the costs of furnishing fire protection for the civil taxing unit through a volunteer fire department. For purposes of determining a township's need for an increased levy, the local government tax control board shall not consider the amount of money borrowed under IC 36-6-6-14 during the immediately preceding calendar year. However, any increase in the amount of the civil taxing unit's levy recommended by the local government tax control board under this subdivision for the ensuing calendar year may not exceed the lesser of:

(A) ten thousand dollars (\$10,000); or

(B) twenty percent (20%) of:

(i) the amount authorized for operating expenses of a volunteer fire department in the budget of the civil taxing unit for the immediately preceding calendar year; plus

(ii) the amount of any additional appropriations authorized during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department under this chapter; minus

(iii) the amount of money borrowed under IC 36-6-6-14

during that calendar year for the civil taxing unit's use in paying operating expenses of a volunteer fire department.

(6) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter in order to raise revenues for pension payments and contributions the civil taxing unit is required to make under IC 36-8. The maximum increase in a civil taxing unit's levy that may be recommended under this subdivision for an ensuing calendar year equals the amount, if any, by which the pension payments and contributions the civil taxing unit is required to make under IC 36-8 during the ensuing calendar year exceeds the product of one and one-tenth (1.1) multiplied by the pension payments and contributions made by the civil taxing unit under IC 36-8 during the calendar year that immediately precedes the ensuing calendar year. For purposes of this subdivision, "pension payments and contributions made by a civil taxing unit" does not include that part of the payments or contributions that are funded by distributions made to a civil taxing unit by the state.

(7) Permission to increase its levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the township's poor relief ad valorem property tax rate is less than one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation; and

(B) the township needs the increase to meet the costs of providing poor relief under IC 12-20 and IC 12-30-4.

The maximum increase that the board may recommend for a township is the levy that would result from an increase in the township's poor relief ad valorem property tax rate of one and sixty-seven hundredths cents (\$0.0167) per one hundred dollars (\$100) of assessed valuation minus the township's ad valorem property tax rate per one hundred dollars (\$100) of assessed valuation before the increase.

(8) Permission to a civil taxing unit to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) the increase has been approved by the legislative body of the municipality with the largest population where the civil taxing unit provides public transportation services; and

(B) the local government tax control board finds that the civil taxing unit needs the increase to provide adequate public transportation services.

The local government tax control board shall consider tax rates and levies in civil taxing units of comparable population, and the effect (if any) of a loss of federal or other funds to the civil taxing unit that might have been used for public transportation purposes. However, the increase that the board may recommend under this subdivision for a civil taxing unit may not exceed the revenue that would be raised by the civil taxing unit based on a property tax rate of one cent (\$0.01) per one hundred dollars (\$100) of assessed valuation.

(9) Permission to a civil taxing unit to increase the unit's levy in excess of the limitations established under section 3 of this chapter if the local government tax control board finds that:

(A) the civil taxing unit is:

(i) a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000);

(ii) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000);

(iii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

(iv) a city having a population of more than fifteen thousand four hundred (15,400) but less than sixteen thousand six hundred (16,600); or

(v) a city having a population of more than seven thousand (7,000) but less than seven thousand three hundred (7,300); and

(B) the increase is necessary to provide funding to undertake removal (as defined in IC 13-11-2-187) and remedial action (as defined in IC 13-11-2-185) relating to hazardous substances (as defined in IC 13-11-2-98) in solid waste disposal facilities or industrial sites in the civil taxing unit that have become a menace to the public health and welfare.

The maximum increase that the local government tax control board may recommend for such a civil taxing unit is the levy that

would result from a property tax rate of six and sixty-seven hundredths cents (\$.0667) for each one hundred dollars (\$100) of assessed valuation. For purposes of computing the ad valorem property tax levy limit imposed on a civil taxing unit under section 3 of this chapter, the civil taxing unit's ad valorem property tax levy for a particular year does not include that part of the levy imposed under this subdivision. In addition, a property tax increase permitted under this subdivision may be imposed for only two (2) calendar years.

(10) Permission for a county having a population of more than eighty thousand (80,000) but less than ninety thousand (90,000) to increase the county's levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the county needs the increase to meet the county's share of the costs of operating a jail or juvenile detention center, including expansion of the facility, if the jail or juvenile detention center is opened after December 31, 1991. Before recommending an increase, the local government tax control board shall consider all other revenues available to the county that could be applied for that purpose. An appeal for operating funds for a jail or juvenile detention center shall be considered individually, if a jail and juvenile detention center are both opened in one (1) county. The maximum aggregate levy increases that the local government tax control board may recommend for a county equals the county's share of the costs of operating the jail or juvenile detention center for the first full calendar year in which the jail or juvenile detention center is in operation.

(11) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township needs the increase so that the property tax rate to pay the costs of furnishing fire protection for a township, or a portion of a township, enables the township to pay a fair and reasonable amount under a contract with the municipality that is furnishing the fire protection. However, for the first time an appeal is granted the resulting rate increase may not exceed fifty percent (50%) of the difference between the rate imposed for fire protection within the

municipality that is providing the fire protection to the township and the township's rate. A township is required to appeal a second time for an increase under this subdivision if the township wants to further increase its rate. However, a township's rate may be increased to equal but may not exceed the rate that is used by the municipality. More than one (1) township served by the same municipality may use this appeal.

(12) Permission for a township to increase its levy in excess of the limitations established under section 3 of this chapter, if the local government tax control board finds that the township has been required, for the three (3) consecutive years preceding the year for which the appeal under this subdivision is to become effective, to borrow funds under IC 36-6-6-14 to furnish fire protection for the township or a part of the township. However, the maximum increase in a township's levy that may be allowed under this subdivision is the least of the amounts borrowed under IC 36-6-6-14 during the preceding three (3) calendar years. A township may elect to phase in an approved increase in its levy under this subdivision over a period not to exceed three (3) years. A particular township may appeal to increase its levy under this section not more frequently than every fourth calendar year.

(13) Permission to a city having a population of more than twenty-nine thousand (29,000) but less than thirty-one thousand (31,000) to increase its levy in excess of the limitations established under section 3 of this chapter if:

(A) an appeal was granted to the city under subdivision (1) in 1998, 1999, and 2000; and

(B) the increase has been approved by the legislative body of the city, and the legislative body of the city has by resolution determined that the increase is necessary to pay normal operating expenses.

The maximum amount of the increase is equal to the amount of property tax replacement credits under IC 6-3.5-1.1 that the city petitioned to have reallocated in 2001 under subdivision (1) for a purpose other than property tax relief.

SECTION 19. IC 6-1.1-18.5-15, AS AMENDED BY P.L.90-2002, SECTION 170, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. **(a)** The department of local

government finance, upon receiving a recommendation made under section 13 or 14 of this chapter, shall enter an order adopting, rejecting, or adopting in part and rejecting in part the recommendation of the local government tax control board. ~~The decision of the department of local government finance is final.~~

(b) A civil taxing unit may petition for judicial review of the final determination of the department of local government finance under subsection (a). The action must be taken to the tax court under IC 6-1.1-15 in the same manner that an action is taken to appeal a final determination of the Indiana board. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under subsection (a).

SECTION 20. IC 6-1.1-19-7, AS AMENDED BY P.L.90-2002, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a)** Any recommendation that is to be made by the tax control board to the department of local government finance pursuant to any provision of this chapter shall be made at such a time as is prescribed in this chapter and, if no time for the making of such a recommendation is prescribed in this chapter, then the recommendation shall be made at such a time as will permit the department to complete those duties of the department that are defined in IC 6-1.1-17 within the time allowed by law for the completion of those duties, or such additional time as is reasonably necessary for the department and the tax control board to complete the duties provided by this chapter. No tax levy shall be invalid because of the failure of either the tax control board or the department of local government finance to complete its duties within the time or time limits provided by this chapter or any other law. Subject to the provisions of this chapter, the department of local government finance may accept, reject, or accept in part and reject in part any recommendation of the tax control board that is made to it under this chapter and may make any order that is consistent with the provisions of IC 6-1.1-17. The department of local government finance may not approve or authorize an excessive tax levy except in accordance with the provisions of this chapter.

(b) A school corporation may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not

more than forty-five (45) days after the department enters its order under subsection (a).

SECTION 21. IC 6-1.1-19-8, AS AMENDED BY P.L.90-2002, SECTION 189, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A school corporation ~~may not~~ **must file a petition requesting approval from the department of local government finance to** incur bond indebtedness, enter into a lease rental agreement, or repay from the debt service fund loans made for the purchase of school buses under IC 20-9.1-6-5 ~~unless the school corporation has first obtained the department of local government finance's approval of the lease rental agreement; bond issue or not later than twenty-four (24) months after the first date of publication of notice of a preliminary determination under IC 6-1.1-20-3.1(2), unless the school corporation demonstrates that a longer period is reasonable in light of the school corporation's facts and circumstances. A school corporation must obtain approval from the department of local government finance before the school corporation may:~~

- (1) incur the indebtedness;**
- (2) enter into the lease agreement; or**
- (3) repay the school bus purchase loan.**

This restriction does not apply to ad valorem property taxes which a school corporation levies to pay or fund bond or lease rental indebtedness created or incurred before July 1, 1974.

(b) The department of local government finance may either approve, disapprove, or modify then approve a school corporation's proposed lease rental agreement, bond issue or school bus purchase loan. Before it approves or disapproves a proposed lease rental agreement, bond issue or school bus purchase loan, the department of local government finance may seek the recommendation of the tax control board.

(c) The department of local government finance shall render a decision not more than three (3) months after the date it receives a request for approval under subsection (a). However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the school corporation. **A school corporation may petition for judicial review of the final**

determination of the department of local government finance under this section. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this section.

(d) After December 31, 1995, the department of local government finance may not approve a school corporation's proposed lease rental agreement or bond issue to finance the construction of additional classrooms unless the school corporation first:

- (1) establishes that additional classroom space is necessary; and
- (2) conducts a feasibility study, holds public hearings, and hears public testimony on using a twelve (12) month school term (instead of the nine (9) month school term (as defined in IC 20-10.1-2-2)) rather than expanding classroom space.

(e) This section does not apply to school bus purchase loans made by a school corporation which will be repaid solely from the general fund of the school corporation.

(f) A taxpayer may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than thirty (30) days after the department enters its order under this section.

SECTION 22. IC 6-1.1-20-6, AS AMENDED BY P.L.90-2002, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Upon receipt of a certified petition filed in the manner prescribed in section 5(b) of this chapter, the department of local government finance shall fix a time and place for a hearing on the matter. The department of local government finance shall hold the hearing not less than five (5) or more than thirty (30) days after the department receives the petition, and the department shall hold the hearing in the political subdivision or in the county where the political subdivision is located. At least five (5) days before the date fixed for the hearing, the department of local government finance shall give notice of the hearing, by mail, to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition. The mailings shall be addressed to the officer and the taxpayers at their usual place of residence.

(b) After the hearing required by this section, the department of local government finance may approve, disapprove, or reduce the

amount of the proposed issue. The department of local government finance must render a decision not later than three (3) months after the hearing, and if no decision is rendered within that time, the issue is considered approved unless the department takes the extension provided for in this section. A three (3) month extension of the time period during which the decision must be rendered may be taken by the department of local government finance if the department by mail gives notice of the extension to the executive officer of the political subdivision and to the first ten (10) taxpayers who signed the petition, at least ten (10) days before the end of the original three (3) month period. If no decision is rendered within the extension period, the issue is considered approved. ~~The action taken by the department of local government finance on the proposed issue is final.~~

(c) A:

(1) taxpayer who signed a petition referred to in subsection (a); or

(2) political subdivision against which a petition referred to in subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (b). The petition must be filed in the tax court not more than forty-five (45) days after the department renders its decision under subsection (b).

SECTION 23. IC 6-1.1-20.8-2.5, AS ADDED BY P.L.198-2001, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.5. (a) A person that desires to claim the credit provided by section 1 of this chapter shall file a certified application, on forms prescribed by the department of local government finance, with

~~(1) the auditor of the county where the property for which the credit is claimed was located on the assessment date. and~~

~~(2) the department of local government finance.~~

A person that timely files a personal property return under IC 6-1.1-3-7(a) for an assessment year must file the application between March 1 and May 15 of that year in order to obtain the credit in the following year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for an assessment year must file the application between March 1 and the extended due date for that year in order to obtain the credit in the following year.

(b) A taxpayer shall include on an application filed under this section all information that the department of local government finance requires to determine eligibility for the credit provided under this chapter.

(c) Compliance with this chapter does not exempt a person from compliance with IC 4-4-6.1-2.5.

SECTION 24. IC 6-1.1-20.8-3, AS AMENDED BY P.L.198-2001, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The county auditor shall determine the eligibility of each applicant under this chapter and shall notify the applicant the department of local government finance, and the Indiana board of the determination before August 15 of the year in which the application is made. This notice must contain a statement that:

- (1) the applicant is entitled to appeal a denial of eligibility; and
- (2) the department of local government finance may, upon its own initiative, review the application and deny the credit.

(b) If the county auditor determines that an applicant is not eligible, the applicant may appeal for a review of the application by the Indiana board. An appeal is perfected by the filing of a written request for review with the Indiana board not later than thirty (30) days after the date on the county auditor's notice. The request must:

- (1) state the name of the applicant;
- (2) identify the application; and
- (3) state the reasons the applicant believes that the county auditor's decision is incorrect.

(c) The Indiana board shall review the application of any applicant who files an appeal under subsection (b). The Indiana board shall notify the applicant and the county auditor of the Indiana board's decision to allow or disallow the credit.

(d) The department of local government finance may review any application and if it finds that the applicant has been denied but is eligible or that the applicant is not eligible, the department shall notify the applicant and the county auditor of the department's decision to allow or disallow the credit.

(e) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under subsection (c), the person must petition for judicial review under IC 4-21.5-5 not more than forty-five (45) days after the Indiana board gives the person notice of

the final determination.

(f) If a person desires to initiate an appeal of the decision of the department of local government finance to disallow the credit under subsection (d), the person shall file a petition for review with the Indiana board not more than forty-five (45) days after the department gives the person notice of the decision.

(g) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under subsection (f), the person must petition for judicial review under IC 4-21-5-5 not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

SECTION 25. IC 6-1.1-21.2-11, AS ADDED BY P.L.192-2002(ss), SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **By July 15 Not later than September 1** of a year **in which a general reassessment does not become effective**, the governing body shall estimate the tax increment replacement amount for each allocation area under the jurisdiction of the governing body for the next calendar year. **In a year in which a general reassessment becomes effective, the department of local government finance may extend the deadline under this subsection by giving written notice to the governing body before the deadline.**

(b) The tax increment replacement amount is the amount determined in STEP THREE of the following formula:

STEP ONE: The governing body shall estimate the amount of tax increment revenues it would receive in the next calendar year if the property tax replacement credits payable with respect to the general fund levies imposed by all school corporations with jurisdiction in the allocation area were determined under IC 6-1.1-21 as in effect on January 1, 2001.

STEP TWO: The governing body shall estimate the amount of tax increment revenues it will receive in the next calendar year after implementation of the increase in the property tax credits payable under IC 6-1.1-21, as amended by the general assembly in 2002, with respect to general fund levies imposed by all school corporations with jurisdiction in the allocation area.

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

SECTION 26. IC 6-1.1-21.2-14, AS ADDED BY P.L.192-2002(ss),

SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The department of local government finance shall approve an appeal filed under section 13 of this chapter if the department determines that:

(1) the governing body's estimate of the tax replacement amount under section 11 of this chapter is reasonable;

(2) a tax levy in excess of the amount determined under section 12(d) of this chapter would:

(A) create a significant financial hardship on taxpayers residing in the district in which the governing body exercises jurisdiction;

(B) significantly reduce the benefits from the increase in the property tax credits payable under IC 6-1.1-21, as amended by the general assembly in 2002, with respect to general fund levies imposed by all school corporations with jurisdiction in the district; or

(C) have a disproportionate impact on small businesses or low income families or individuals; and

(3) the governing body has made reasonable efforts to limit its use of the special fund for the allocation area to appropriations for payments of:

(A) the principal and interest on loans or bonds;

(B) lease rentals on leases;

(C) amounts due on other contractual obligations; and

(D) additional credits described in IC 8-22-3.5-10(a), IC 36-7-14-39.5(c), IC 36-7-14.5-12.5(d)(5), IC 36-7-15.1-26.5(e), IC 36-7-15.1-35(d), or IC 36-7-30-25(b)(2)(E).

(b) In a year in which a general reassessment does not become effective, the department of local government finance shall make a final determination on an appeal filed under this section by November 1 of a the year. In a year in which a general reassessment becomes effective, the department may extend the deadline under this subsection by giving written notice to the appellant before the deadline.

(c) If the department approves an appeal filed under this section, it shall order a distribution from the property tax replacement fund in the amount determined under section 13(b) of this chapter in the same

manner as distributions are made under IC 6-1.1-21-4.

(d) If the department denies an appeal filed under section 13 of this chapter, or does not grant the maximum permissible distribution under section 13(b) of this chapter, the legislative body of the unit that established the district may increase the levy imposed under this chapter to an amount that, when combined with any distribution received under this chapter, does not exceed the tax increment replacement amount.

SECTION 27. IC 6-1.1-26-2, AS AMENDED BY P.L.178-2002, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The county auditor shall forward a claim for refund filed under section 1 of this chapter to the department of local government finance for review by the department if:

(1) the claim is for the refund of taxes paid on an assessment made or determined by the state board of tax commissioners (before the board was abolished) or the department of local government finance; and

(2) the claim is based upon the grounds specified in ~~section 1(4)(ii)~~ **section 1(4)(B)** or ~~1(4)(iii)~~ **1(4)(C)** of this chapter.

(b) The department of local government finance shall review each refund claim forwarded to it under this section. The department shall certify its approval or disapproval on the claim and shall return the claim to the county auditor.

(c) Before the department of local government finance disapproves a refund claim that is forwarded to it under this section, the department shall notify the claimant of its intention to disapprove the claim and of the time and place fixed for a hearing on the claim. The department shall hold the hearing within thirty (30) days after the date of the notice. The claimant has a right to be heard at the hearing. After the hearing, the department shall give the claimant notice of the department's final determination on the claim.

(d) If a person desires to initiate an appeal of the final determination of the department of local government finance to disapprove a claim under subsection (c), the person shall file a petition for review with the appropriate county assessor not more than forty-five (45) days after the department gives the person notice of the final determination.

(e) If a person desires to initiate a proceeding for judicial review of the Indiana board's final determination under subsection (d), the person

must petition for judicial review under IC 4-21.5-5 not more than forty-five (45) days after the Indiana board gives the person notice of the final determination.

SECTION 28. IC 6-1.1-33.5-3, AS AMENDED BY P.L.192-2002(ss), SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The division of data analysis shall:

- (1) conduct continuing studies in the areas in which the department of local government finance operates;
- (2) make periodic field surveys and audits of:
 - (A) tax rolls;
 - (B) plat books;
 - (C) building permits;
 - (D) real estate transfers; ~~federal income tax returns~~; and
 - (E) other data that may be useful in checking property valuations or taxpayer returns;
- (3) make test checks of property valuations to serve as the bases for special reassessments under this article;
- (4) conduct biennially a coefficient of dispersion study for each township and county in Indiana;
- (5) conduct quadrennially a sales assessment ratio study for each township and county in Indiana;
- (6) compute school assessment ratios under IC 6-1.1-34; and
- (7) report annually to the executive director of the legislative services agency, in a form prescribed by the legislative services agency, the information obtained or determined under this section for use by the executive director and the general assembly, including:
 - (A) all information obtained by the division of data analysis from units of local government; and
 - (B) all information included in:
 - (i) the local government data base; and
 - (ii) any other data compiled by the division of data analysis.

SECTION 29. IC 6-1.1-35.2-2, AS AMENDED BY P.L.177-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) In any year in which an assessing official or a county assessor takes office for the first time, the department of local government finance shall conduct training sessions determined under

the rules adopted by the department under IC 4-22-2 for these new assessing officials and county assessors. These sessions must be held at the locations described in subsection (b).

(b) To ensure that all newly elected or appointed assessing officials and assessors have an opportunity to attend the training sessions required by this section, the department of local government finance shall conduct the training sessions at a minimum of four (4) separate regional locations. The department shall determine the locations of the training sessions, but:

- (1) at least one (1) training session must be held in the northeastern part of Indiana;
- (2) at least one (1) training session must be held in the northwestern part of Indiana;
- (3) at least one (1) training session must be held in the southeastern part of Indiana; and
- (4) at least one (1) training session must be held in the southwestern part of Indiana.

The four (4) regional training sessions may not be held in Indianapolis. However, the department of local government finance may, after the conclusion of the four (4) training sessions, provide additional training sessions at locations determined by the department.

(c) Any new assessing official or county assessor who attends:

- (1) a required session during the official's or assessor's term of office; or**
- (2) training between the date the person is elected to office and January 1 of the year the person takes office for the first time;**

is entitled to receive the per diem per session set by the department of local government finance by rule adopted under IC 4-22-2 and a mileage allowance from the county in which the official resides.

(d) A person is entitled to a mileage allowance under this section only for travel between the person's place of work and the training session nearest to the person's place of work.

(e) For training between the date a person is elected to office and January † of the year the person takes office for the first time:

- (1) the department of local government finance may approve the per diem per session; and
- (2) the county in which the person resides may approve the

mileage allowance;
referred to in subsection (c):

SECTION 30. IC 6-1.1-41-9, AS AMENDED BY P.L.90-2002, SECTION 280, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) After a hearing upon a proposal, the department of local government finance shall certify approval, disapproval, or modification of the proposal to the county auditor. ~~The action of the department of local government finance with respect to the proposed levy is final and conclusive.~~

(b) A:

(1) taxpayer who signed a petition filed under section 6 of this chapter; or

(2) political subdivision against which a petition under section 6 of this chapter is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (a).

SECTION 31. IC 6-1.5-4-1, AS ADDED BY P.L.198-2001, SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The Indiana board shall conduct an impartial review of all appeals concerning:

(1) the assessed valuation of tangible property;

(2) property tax deductions; **or**

(3) property tax exemptions; **or**

~~(4) property tax credits;~~

that are made from a determination by an assessing official or a county property tax assessment board of appeals to the Indiana board under any law.

(b) Appeals described in this section shall be conducted under IC 6-1.1-15.

SECTION 32. IC 6-1.5-5-1, AS AMENDED BY P.L.178-2002, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:

(1) IC 6-1.1-8.

~~(2) IC 6-1.1-12.1.~~

~~(3) IC 6-1.1-14.~~

(2) IC 6-1.1-14-11.

~~(4) (3) IC 6-1.1-16.~~

~~(5) (4) IC 6-1.1-26-2.~~

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

(1) the opportunity for review under this section; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(c) Except as provided in ~~subsections subsection~~ **subsection (e), and (f)**; in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor within forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board within ten (10) days after it is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

(f) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under ~~IC 6-1.1-12.1-5.7(h)~~, **IC 6-1.1-12.1-5.4(h)**, the person must follow the procedures in ~~IC 6-1.1-12.1-5.7(h)~~; **IC 6-1.1-12.1-5.4(h)**.

SECTION 33. IC 8-16-3.5-8, AS AMENDED BY P.L.90-2002, SECTION 325, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) When the lessor corporation and the county have agreed upon the terms and conditions of any lease proposed to be entered into under this chapter and before the final execution of the lease, a notice must be published in accordance with IC 5-3-1 of a hearing before the county executive. The notice must name the day, place, and hour of the hearing and must set forth a brief summary of the principal terms of the lease agreed upon, including the location, name of the proposed lessor corporation and character of the bridge to be leased, the rental to be paid, and the number of years the contract is to be in effect. The proposed lease, drawings, plans, specifications, and estimates for the bridge shall be available for

inspection by the public during the ten (10) day period and at the meeting. All interested persons shall have a right to be heard at the time fixed, concerning the necessity for the execution of the lease and whether the rental to the lessor corporation is a fair and reasonable rental for the proposed bridge. The hearing may be adjourned to a later date, and following the hearing the county executive may either authorize the execution of the lease as originally agreed upon or may make modifications as agreed upon with the lessor corporation. However, the lease rentals as set out in the published notice may not be increased. The cost of the publication of the notice shall be borne by lessor corporations.

(b) If the execution of the lease as originally agreed upon, or as modified by agreement, is authorized by the county executive, it shall give notice of the execution of the contract by publication in accordance with IC 5-3-1. Ten (10) or more taxpayers in the lessee county affected by the proposed lease may file a petition in the office of the county auditor of the lessee county, within thirty (30) days after publication of notice of the execution of the lease, setting forth their objections and facts showing that the execution of the lease is unnecessary or unwise, or that the lease rental is not fair and reasonable. Upon the filing of any petition, the county auditor shall certify a copy, together with any other data as may be necessary in order to present the questions involved, to the department of local government finance and upon the receipt of the certified petition and information, the department of local government finance shall fix a time and place for the hearing in the county not less than five (5) or more than thirty (30) days after receipt of the petition. Notice of the hearing shall be given by the department of local government finance to the county commissioners of the lessee county, and to the first ten (10) taxpayer-petitioners appearing on the petition by a letter signed by one (1) member of the department of local government finance, and enclosed with full prepaid postage addressed to those persons at their usual place of residence, at least five (5) days before the date of the hearing. ~~The decision of the department of local government finance of the appeal, upon the necessity for the execution of said lease and as to whether the rental is fair and reasonable, is final.~~ **A:**

(1) taxpayer who signed the petition; or

(2) political subdivision against which a petition is filed;

may petition for judicial review of the final determination of the department of local government finance under this subsection. The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

(c) No action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease shall be instituted at any time later than thirty (30) days after publication of notice of the execution of the lease by the county executive or if an appeal has been taken to the department of local government finance, then within thirty (30) days after the decision of the department.

SECTION 34. IC 16-22-5-11, AS AMENDED BY P.L.90-2002, SECTION 385, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. **(a)** After the hearing, the department of local government finance shall approve, disapprove, or modify the proposal and certify the department's action to the auditor of the county. ~~The action of the department of local government finance is final:~~

(b) A:

(1) taxpayer who signed a petition filed under section 8 of this chapter; or

(2) county against which a petition under section 8 of this chapter is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department's action under subsection (a).

SECTION 35. IC 20-14-13-9, AS AMENDED BY P.L.90-2002, SECTION 415, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a)** After a hearing upon the petition under section 8 of this chapter, the department of local government finance shall certify its approval, disapproval, or modification of the plan to the library board and the auditor of the county. ~~The action of the department of local government finance with respect to the plan is final:~~

(b) A:

(1) taxpayer who signed a petition filed under section 7 of this chapter; or

(2) library district against which a petition under section 7 of

**this chapter is filed;
may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (a).**

SECTION 36. IC 21-2-15-8, AS AMENDED BY P.L.90-2002, SECTION 445, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) After a hearing upon the petition under section 7 of this chapter, the department of local government finance shall certify its approval, disapproval, or modification of the plan to the governing body and the auditor of the county. The department of local government finance may seek the recommendation of the school property tax control board with respect to this determination. ~~The action of the department of local government finance with respect to the plan is final.~~

(b) A governing body may petition for judicial review of the final determination of the department of local government finance under this subsection. The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (a).

SECTION 37. IC 36-6-6-14.5, AS AMENDED BY P.L.90-2002, SECTION 472, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14.5. (a) If the legislative body issues a special order under section 14 of this chapter authorizing the executive to borrow money, not less than ten (10) taxpayers in the township who disagree with the special order may file a petition in the office of the county auditor not more than thirty (30) days after notice of the special order is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the special order to be unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing. ~~The decision by the department of local government finance on the objections presented in the petition is final.~~

(e) A:

(1) taxpayer who signed a petition filed under subsection (a);

or

(2) township against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

SECTION 38. IC 36-8-13-6.5, AS AMENDED BY P.L.90-2002, SECTION 498, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.5. (a) If the executive and the legislative body determine that money should be borrowed under section 6 of this chapter, not less than ten (10) taxpayers in the township who disagree with the determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

(b) The county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for the hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after the receipt of the certified documents.

(c) The hearing shall be held in the county where the petition arose.

(d) Notice of the hearing shall be given by the department of local government finance to the township and to the first ten (10) taxpayer petitioners listed on the petition by letter. The letter shall be sent to the first ten (10) taxpayer petitioners at the taxpayer's usual place of

residence at least five (5) days before the date of the hearing. ~~The decision by the department of local government finance on the objections presented in the petition is final.~~

(e) A:

- (1) taxpayer who signed a petition filed under subsection (a);
- or
- (2) township against which a petition under subsection (a) is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

SECTION 39. IC 36-8-19-8.5, AS AMENDED BY P.L.90-2002, SECTION 500, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.5. (a) Participating units may agree to establish an equipment replacement fund under this section to be used to purchase fire protection equipment, including housing, that will be used to serve the entire territory. To establish the fund, the legislative bodies of all participating units must adopt identical ordinances after January 1 but before April 1 authorizing the provider unit to establish the fund. The ordinance must include at least the following:

- (1) The name of each participating unit and the provider unit.
- (2) An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.
- (3) The contents of the agreement to establish the fund.

An ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(b) If a fund is established, the participating units may agree to:

- (1) impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;
- (2) incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or
- (3) transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent (5%) of the levy for the fire protection territory fund for that year; or any combination of these options. The property tax rate for the levy

imposed under this section may not exceed ~~ten~~ **three and thirty-three hundredths cents (\$0.10): (\$0.0333) per one hundred dollars (\$100) of assessed value.** Before debt may be incurred, the fiscal bodies of all participating units must adopt identical ordinances specifying the amount and purpose of the debt. In addition, the department of local government finance must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund.

SECTION 40. IC 36-9-16-4, AS AMENDED BY P.L.90-2002, SECTION 512, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A cumulative building fund or cumulative capital improvement fund may be established by a resolution that is:

- (1) adopted by the unit's legislative body; and
- (2) approved by the department of local government finance.

(b) Notice of the proposed levy to provide money for the cumulative building fund or cumulative capital improvement fund shall be given to all taxpayers in the unit before the proposed action is presented to the department of local government finance for approval. Notice shall be given by publication of the proposal in accordance with IC 5-3-1.

(c) If, after the public hearing, the proposed action is submitted for approval to the department of local government finance, the department shall require notice of that submission to be given to the taxing district involved in the manner prescribed by subsection (b).

(d) Fifty (50) or more taxpayers in the taxing district who will be affected by the tax rate may, not later than ten (10) days after the publication of the notice, file with the county auditor a petition setting forth their objections to the proposed levy. The county auditor shall immediately certify the petition to the department of local government finance, which, within a reasonable time, shall fix a date for a hearing on the petition. The hearing shall be held in the county in which the unit is located. Notice of the hearing shall be given to the executive of the unit and to the first ten (10) taxpayers whose names appear upon the petition, by a letter signed by the commissioner or deputy commissioner of the department of local government finance and sent

by mail to the executive and the taxpayers at their usual place of residence at least five (5) days before the date fixed for the hearing.

(e) After a hearing upon the proposal, the department of local government finance shall certify its approval, disapproval, or modification of the proposed tax levy to the auditor of the county in which the unit is located. ~~The action of the department of local government finance with respect to the proposed levy is final and conclusive.~~

(f) A:

**(1) taxpayer who signed a petition filed under subsection (d);
or**

(2) unit against which a petition under subsection (d) is filed; may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies its action under subsection (e).

SECTION 41. [EFFECTIVE JULY 1, 2003] (a) This SECTION applies to a certified statement sent by the county auditor in 2001 that complied with IC 6-1.1-17-1, except that the statement was sent after August 1, 2001.

(b) A certified statement described in subsection (a) has the same legal effect as if the statement had been sent before August 2, 2001.

(c) This SECTION expires January 1, 2004.

SECTION 42. [EFFECTIVE JULY 1, 2003] (a) The following, all as amended by this act, apply only to property taxes first due and payable after December 31, 2004:

(1) IC 6-1.1-12.1-4.5.

(2) IC 6-1.1-12.1-4.6.

(3) IC 6-1.1-12.1-5.4.

(4) IC 6-1.1-12.1-5.8.

(5) IC 6-1.1-12.1-5.9.

(6) IC 6-1.1-18.5-13.

(7) IC 36-8-19-8.5.

(b) This SECTION expires January 1, 2006.

SECTION 43. [EFFECTIVE JULY 1, 2003] (a) IC 6-1.1-18.5-8 and IC 6-1.1-19-8, both as amended by this act, apply only to bonds and leases for which the first date of publication under

IC 6-1.1-20-3.1(2) of notice of a preliminary determination is after June 30, 2003.

(b) This SECTION expires January 1, 2004.

SECTION 44. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)] **(a) This SECTION applies to property that:**

- (1) is used for a fraternity for students attending Indiana University;**
- (2) is owned by a nonprofit corporation that was previously determined by the auditor of the county in which the property is located to be eligible to receive a property tax exemption under IC 6-1.1-10-16 or IC 6-1.1-10-24; and**
- (3) is not eligible for the property tax exemption under IC 6-1.1-10-16 or IC 6-1.1-10-24 for property taxes first due and payable in 2001 or 2002 because the nonprofit corporation failed to timely file an application under IC 6-1.1-11-3.5.**

(b) Notwithstanding IC 6-1.1-11-1 and IC 6-1.1-11-3.5, the auditor of the county in which the property described in subsection (a) is located shall:

- (1) waive noncompliance with the timely filing requirement for the exemption application in question; and**
- (2) grant the appropriate exemption.**

(c) A property tax exemption granted under this SECTION applies to:

- (1) property taxes first due and payable in 2001; and**
- (2) property taxes first due and payable in 2002.**

(d) This SECTION expires December 31, 2004.

SECTION 45. An emergency is declared for this act.

P.L.257-2003

[H.1815. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.5-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 5. (a) **Except as provided in subsection (b), "gross retail income" means the total gross receipts, of any kind or character, received in a retail transaction, except including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:**

- (1) the seller's cost of the property sold;
- (2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- (4) delivery charges;
- (5) installation charges; or
- (6) the value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(b) **"Gross retail income" does not include** that part of the gross receipts attributable to:

- (1) the value of any tangible personal property received in a like kind exchange in the retail transaction, **if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or**
- (2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a

promissory note or an installment sales contract; ~~(b)~~

(3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; or

(5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

(c) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 2. IC 6-2.5-1-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 11. "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume.**

SECTION 3. IC 6-2.5-1-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 12. "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. The term does not include any preparation:**

(1) containing flour; or

(2) requiring refrigeration.

SECTION 4. IC 6-2.5-1-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 13. "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.**

SECTION 5. IC 6-2.5-1-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 14. "Computer software" means a set of coded instructions designed to cause a computer or automatic data**

processing equipment to perform a task.

SECTION 6. IC 6-2.5-1-15 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2004]: **Sec. 15. "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.**

SECTION 7. IC 6-2.5-1-16 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2004]: **Sec. 16. "Dietary supplement" means any product, other than tobacco, that:**

- (1) is intended to supplement the diet;**
- (2) contains one (1) or more of the following dietary ingredients:**
 - (A) a vitamin;**
 - (B) a mineral;**
 - (C) an herb or other botanical;**
 - (D) an amino acid;**
 - (E) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or**
 - (F) a concentrate, a metabolite, a constituent, an extract, or a combination of any ingredient described in this subdivision;**
- (3) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and**
- (4) is required to be labeled as a dietary supplement, identifiable by the "Supplemental Facts" box found on the label and as required under 21 CFR 101.36.**

SECTION 8. IC 6-2.5-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2004]: **Sec. 17. "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation that is:**

- (1) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;**
- (2) intended for use in the diagnosis, cure, mitigation,**

treatment, or prevention of disease; or

(3) intended to affect the structure or any function of the body.

The term does not include food and food ingredients, dietary supplements, or alcoholic beverages.

SECTION 9. IC 6-2.5-1-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 18. "Durable medical equipment" means equipment, including repair and replacement parts for the equipment, that:**

(1) can withstand repeated use;

(2) is primarily and customarily used to serve a medical purpose;

(3) generally is not useful to a person in the absence of illness or injury; and

(4) is not worn in or on the body.

The term does not include mobility enhancing equipment.

SECTION 10. IC 6-2.5-1-19 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 19. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.**

SECTION 11. IC 6-2.5-1-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 20. "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and that are consumed for their taste or nutritional value. The term does not include alcoholic beverages, candy, dietary supplements, or soft drinks.**

SECTION 12. IC 6-2.5-1-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 21. (a) "Lease" or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. "Lease" or "rental" does not include:**

(1) a transfer of possession or control of property under a

security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(2) a transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or

(3) providing tangible personal property along with an operator for a fixed or indeterminate period, if:

(A) the operator is necessary for the equipment to perform as designed; and

(B) the operator does more than maintain, inspect, or set up the tangible personal property.

(b) "Lease" or "rental" includes agreements covering motor vehicles and trailers in which the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1).

(c) The definition of "lease" or "rental" set forth in this section applies throughout this article, regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the uniform commercial code (IC 26-1), or other provisions of federal, state, or local law.

(d) This section applies only to leases or rentals entered into after June 30, 2003, and has no retroactive effect on leases or rentals entered into before July 1, 2003.

SECTION 13. IC 6-2.5-1-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 22. "Mobility enhancing equipment" means equipment, including repair and replacement parts for the equipment, that:

(1) is primarily and customarily used to provide or increase the ability to move from one (1) place to another and is appropriate for use either in a home or a motor vehicle;

(2) is not generally used by persons with normal mobility; and

(3) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle

manufacturer.

The term does not include durable medical equipment.

SECTION 14. IC 6-2.5-1-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 23. "Prescription" means an order, a formula, or a recipe issued in any form of oral, written, electronic, or other means of transmission by a licensed practitioner authorized by Indiana law.**

SECTION 15. IC 6-2.5-1-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 24. Subject to the following provisions, "prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser:**

- (1) The combining of two (2) or more prewritten computer software programs or prewritten parts of the programs does not cause the combination to be other than prewritten computer software.**
- (2) Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser.**
- (3) If a person modifies or enhances computer software of which the person is not the author or creator, the person is considered to be the author or creator only of the person's modifications or enhancements.**
- (4) Prewritten computer software or a prewritten part of the software that is modified or enhanced to any degree, where the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software. However, where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such a modification or enhancement, the modification or enhancement is not prewritten computer software.**

SECTION 16. IC 6-2.5-1-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2004]: **Sec. 25. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:**

- (1) artificially replace a missing part of the body;**
- (2) prevent or correct physical deformity or malfunction; or**
- (3) support a weak or deformed part of the body.**

SECTION 17. IC 6-2.5-1-26 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2004]: **Sec. 26. "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. The term does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume.**

SECTION 18. IC 6-2.5-1-27 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2004]: **Sec. 27. "Tangible personal property" means personal property that:**

- (1) can be seen, weighed, measured, felt, or touched; or**
- (2) is in any other manner perceptible to the senses.**

The term includes electricity, water, gas, steam, and prewritten computer software.

SECTION 19. IC 6-2.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 1. (a) A person is a retail merchant making a retail transaction when he engages in selling at retail.**

(b) A person is engaged in selling at retail when, in the ordinary course of his regularly conducted trade or business, he:

- (1) acquires tangible personal property for the purpose of resale; and**
- (2) transfers that property to another person for consideration.**

(c) For purposes of determining what constitutes selling at retail, it does not matter whether:

- (1) the property is transferred in the same form as when it was acquired;**
- (2) the property is transferred alone or in conjunction with other property or services; or**
- (3) the property is transferred conditionally or otherwise.**

(d) Notwithstanding subsection (b), a person is not selling at retail

if he is making a wholesale sale as described in section 2 of this chapter.

(e) The gross retail income received from selling at retail is only taxable under this article to the extent that the income represents:

(1) the price of the property transferred, without the rendition of any service; and

(2) except as provided in subsection (g), any bona fide charges which are made for preparation, fabrication, alteration, modification, finishing, completion, delivery, or other service performed in respect to the property transferred before its transfer and which are separately stated on the transferor's records.

For purposes of subdivision (2), charges for delivery are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(f) Notwithstanding subsection (e):

(1) in the case of retail sales of gasoline (as defined in IC 6-6-1.1-103) and special fuel (as defined in IC 6-6-2.5-22), the gross retail income received from selling at retail is the total sales price of the gasoline or special fuel minus the part of that price attributable to tax imposed under IC 6-6-1.1, IC 6-6-2.5, or Section 4041(a) or Section 4081 of the Internal Revenue Code; and

(2) in the case of retail sales of cigarettes (as defined in IC 6-7-1-2), the gross retail income received from selling at retail is the total sales price of the cigarettes including the tax imposed under IC 6-7-1.

(g) Gross retail income does not include income that represents charges for serving or delivering food ~~or beverages and food ingredients~~ furnished, prepared, or served for consumption at a location, or on equipment, provided by the retail merchant. However, the exclusion under this subsection only applies if the charges for the serving or delivery are stated separately from the price of the food ~~or beverages and food ingredients~~ when the purchaser pays the charges.

SECTION 20. IC 6-2.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 10. (a) A person, other than a public utility, is a retail merchant making a retail

transaction when he rents or leases tangible personal property to another person **other than for subrent or sublease**.

(b) A person is a retail merchant making a retail transaction when the person sells any tangible personal property which has been rented or leased in the regular course of the person's rental or leasing business.

(c) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when the person rents or leases motion picture film, audio tape, or video tape to another person. However, this exclusion only applies if:

(1) the person who pays to rent or lease the film charges admission to those who view the film; or

(2) the person who pays to rent or lease the film or tape broadcasts the film or tape for home viewing or listening.

SECTION 21. IC 6-2.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. Transactions involving animals, feed, seed, plants, fertilizer, insecticides, fungicides, and other tangible personal property are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for his direct use in the direct production of food **and food ingredients** or commodities for sale or for further use in the production of food **and food ingredients** or commodities for sale; and

(2) the person acquiring the property is occupationally engaged in the production of food **and food ingredients** or commodities which he sells for human or animal consumption or uses for further food **and food ingredient** or commodity production.

SECTION 22. IC 6-2.5-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. (a) Transactions involving agricultural machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, extraction, harvesting, or processing of agricultural commodities.

(b) Transactions involving agricultural machinery or equipment are exempt from the state gross retail tax if:

(1) the person acquiring the property acquires it for use in conjunction with the production of food **and food ingredients** or commodities for sale;

(2) the person acquiring the property is occupationally engaged in

the production of food or commodities which he sells for human or animal consumption or uses for further food **and food ingredients** or commodity production; and

(3) the machinery or equipment is designed for use in gathering, moving, or spreading animal waste.

SECTION 23. IC 6-2.5-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 18. (a) Sales of **durable medical equipment, prosthetic devices**, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical ~~equipment~~ supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

(b) Rentals of **durable** medical equipment **and other medical** supplies and devices are exempt from the state gross retail tax, if the rentals are prescribed by a person licensed to issue the prescription.

(c) Sales of hearing aids are exempt from the state gross retail tax if the hearing aids are fitted or dispensed by a person licensed or registered for that purpose. In addition, sales of hearing aid parts, attachments, or accessories are exempt from the state gross retail tax. For purposes of this subsection, a hearing aid is a device which is worn on the body and which is designed to aid, improve, or correct defective human hearing.

(d) Sales of colostomy bags, ileostomy bags, and the medical equipment, supplies, and devices used in conjunction with those bags are exempt from the state gross retail tax.

(e) Sales of equipment and devices used to administer insulin are exempt from the state gross retail tax.

SECTION 24. IC 6-2.5-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 19. (a) As used in this section, "legend drug" ~~has the meaning set forth in~~ **means a drug as defined in IC 6-2.5-1-17 that is also a legend drug for purposes of IC 16-18-2-199.**

(b) As used in this section, "nonlegend drug" means a drug (as defined in ~~IC 16-18-2-101(a)~~ **IC 6-2.5-1-17**) that is not a legend drug.

(c) Sales of legend drugs and sales of nonlegend drugs are exempt from the state gross retail tax if:

(1) a registered pharmacist makes the sale upon the prescription of a practitioner who is licensed to prescribe, dispense, and

administer those drugs to human beings or animals in the course of his professional practice; or

(2) the licensed practitioner makes the sales.

(d) Sales of a nonlegend drug are exempt from the state gross retail tax, if:

(1) the nonlegend drug is dispensed upon an original prescription or a drug order (as defined in IC 16-42-19-3); and

(2) the ultimate user of the drug is a person confined to a hospital or health care facility.

(e) Sales of insulin, oxygen, blood, or blood plasma are exempt from the state gross retail tax, if the purchaser purchases the insulin, oxygen, blood, or plasma for medical purposes.

(f) Sales of drugs, insulin, oxygen, blood, and blood plasma are exempt from the state gross retail tax if:

(1) the purchaser is a practitioner licensed to prescribe, dispense, and administer drugs to human beings or animals; and

(2) the purchaser buys the items for:

(A) direct consumption in his practice; or

(B) resale to a patient that the practitioner is treating, in the case of sales of legend or nonlegend drugs.

SECTION 25. IC 6-2.5-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 20. (a) Sales of food **and food ingredients** for human consumption are exempt from the state gross retail tax.

(b) For purposes of this section, the term "food **and food ingredients** for human consumption" includes **the following items if sold without eating utensils provided by the seller:**

(1) cereals and cereal products;

(2) milk and milk products, including ice cream;

(3) meat and meat products;

(4) fish and fish products;

(5) eggs and egg products;

(6) vegetables and vegetable products;

(7) fruit and fruit products, including fruit juices;

(8) sugar, sugar substitutes, and sugar products;

(9) coffee and coffee substitutes;

(10) tea, cocoa, and cocoa products;

(11) spices, condiments, extracts, and salt;

- (12) oleomargarine; and
- (13) natural spring water.

(1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).

(2) Food sold in an unheated state by weight or volume as a single item.

(3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include:

- (1) candy; confectionery; and chewing gum;
- (2) alcoholic beverages;
- (3) cocktail mixes;
- (4) (3) soft drinks; sodas; and other similar beverages;
- (5) medicines; tonics; vitamins; and other dietary supplements;
- (6) water (except natural spring water); mineral water; carbonated water; and ice;
- (7) pet food;
- (8) food furnished; prepared; or served for consumption at a location; or on equipment; provided by the retail merchant;
- (9) meals served by a retail merchant off the merchant's premises;
- (10) food sold by a retail merchant who ordinarily bags; wraps; or packages the food for immediate consumption on or near the merchant's premises; including food sold on a "take out" or "to go" basis; and
- (11) (4) food sold through a vending machine; or by a street vendor.

(5) food sold in a heated state or heated by the seller;

(6) two (2) or more food ingredients mixed or combined by the seller for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne

illnesses); or

(7) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

SECTION 26. IC 6-2.5-5-21, AS AMENDED BY P.L.192-2002(ss), SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 21. (a) For purposes of this section, "private benefit or gain" does not include reasonable compensation paid to an employee for work or services actually performed.

(b) Sales of food **and food ingredients** are exempt from the state gross retail tax if:

(1) the seller meets the filing requirements under subsection (d) and is any of the following:

(A) A fraternity, a sorority, or a student cooperative housing organization that is connected with and under the supervision of a college, a university, or any other educational institution if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(B) Any:

- (i) institution;
- (ii) trust;
- (iii) group;
- (iv) united fund;
- (v) affiliated agency of a united fund;
- (vi) nonprofit corporation;
- (vii) cemetery association; or
- (viii) organization;

that is organized and operated exclusively for religious, charitable, scientific, literary, educational, or civic purposes if no part of its income is used for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(C) A group, an organization, or a nonprofit corporation that is organized and operated for fraternal or social purposes, or as a business league or association, and not for the private benefit or gain of any member, trustee, shareholder, employee, or associate.

(D) A:

- (i) hospital licensed by the state department of health;
 - (ii) shared hospital services organization exempt from federal income taxation by Section 501(c)(3) or 501(e) of the Internal Revenue Code;
 - (iii) labor union;
 - (iv) church;
 - (v) monastery;
 - (vi) convent;
 - (vii) school that is a part of the Indiana public school system;
 - (viii) parochial school regularly maintained by a recognized religious denomination; or
 - (ix) trust created for the purpose of paying pensions to members of a particular profession or business who created the trust for the purpose of paying pensions to each other; if the taxpayer is not organized or operated for private profit or gain;
- (2) the purchaser is a person confined to his home because of age, sickness, or infirmity;
 - (3) the seller delivers the food **and food ingredients** to the purchaser; and
 - (4) the delivery is prescribed as medically necessary by a physician licensed to practice medicine in Indiana.

(c) Sales of food **and food ingredients** are exempt from the state gross retail tax if the seller is an organization described in subsection (b)(1), and the purchaser is a patient in a hospital operated by the seller.

(d) To obtain the exemption provided by this section, a taxpayer must file an application for exemption with the department:

- (1) before January 1, 2003, under IC 6-2.1-3-19 (repealed); or
- (2) not later than one hundred twenty (120) days after the taxpayer's formation.

In addition, the taxpayer must file an annual report with the department on or before the fifteenth day of the fifth month following the close of each taxable year. If a taxpayer fails to file the report, the department shall notify the taxpayer of the failure. If within sixty (60) days after receiving such notice the taxpayer does not provide the report, the taxpayer's exemption shall be canceled. However, the department may

reinstate the taxpayer's exemption if the taxpayer shows by petition that the failure was due to excusable neglect.

SECTION 27. IC 6-2.5-5-21.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 21.5. Sales of food **and food ingredients** prescribed as medically necessary by a physician licensed to practice medicine in Indiana are exempt from the state gross retail tax if:

- (1) a registered pharmacist makes the sale upon the prescription of a practitioner who is licensed to practice medicine in Indiana; or
- (2) the licensed practitioner makes the sale of the food **and food ingredients** described in this section.

SECTION 28. IC 6-2.5-5-22, AS AMENDED BY P.L.192-2002(ss), SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 22. (a) Sales of school meals are exempt from the state gross retail tax if:

- (1) the seller is a school containing students in any grade, one (1) through twelve (12);
- (2) the purchaser is one (1) of those students or a school employee; and
- (3) the school furnishes the food **and food ingredients** on its premises.

(b) Sales of food **and food ingredients** by not-for-profit colleges or universities are exempt from the state gross retail tax, if the purchaser is a student at the college or university.

(c) Sales of meals after December 31, 1976, by a fraternity, sorority, or student cooperative housing organization described in section 21(b)(1)(A) of this chapter are exempt from the state gross retail tax, if the purchaser:

- (1) is a member of the fraternity, sorority, or student cooperative housing organization; and
- (2) is enrolled in the college, university, or educational institution with which the fraternity, sorority, or student cooperative housing organization is connected and by which it is supervised.

SECTION 29. IC 6-2.5-5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 35. Transactions involving tangible personal property are exempt from the state gross retail tax if:

(1) the:

(A) person acquires the property to facilitate the service or consumption of food **and food ingredients** that is not exempted from the state gross retail tax under section 20 of this chapter; and

(B) property is:

(i) used, consumed, or removed in the service or consumption of the food **and food ingredients**; and

(ii) made unusable for further ~~food~~ service or consumption **of food and food ingredients** after the property's first use for ~~food~~ service or consumption **of food and food ingredients**; or

(2) the:

(A) person acquiring the property is engaged in the business of renting or furnishing rooms, lodgings, or accommodations in a commercial hotel, motel, inn, tourist camp, or tourist cabin; and

(B) the property acquired is:

(i) used up, removed, or otherwise consumed during the occupation of the rooms, lodgings, or accommodations by a guest; or

(ii) rendered nonreusable by the property's first use by a guest during the occupation of the rooms, lodgings, or accommodations.

SECTION 30. IC 6-2.5-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 9. (a) In determining the amount of state gross retail and use taxes which he must remit under section 7 of this chapter, a retail merchant shall, **subject to subsection (c)**, deduct from his gross retail income from retail transactions made during a particular reporting period, an amount equal to his receivables which:

(1) resulted from retail transactions in which the retail merchant did not collect the state gross retail or use tax from the purchaser;

(2) resulted from retail transactions on which the retail merchant has previously paid the state gross retail or use tax liability to the department; and

(3) were written off as an uncollectible debt for federal tax purposes **under Section 166 of the Internal Revenue Code**

during the particular reporting period.

(b) If a retail merchant deducts a receivable under subsection (a) and subsequently collects **all or part of** that receivable, then the retail merchant shall, **subject to subsection (c)(6)**, include the amount collected as part of his gross retail income from retail transactions for the particular reporting period in which he makes the collection.

(c) **The following provisions apply to a deduction for a receivable treated as uncollectible debt under subsection (a):**

(1) **The deduction does not include interest.**

(2) **The amount of the deduction shall be determined in the manner provided by Section 166 of the Internal Revenue Code for bad debts but shall be adjusted to exclude:**

(A) **financing charges or interest;**

(B) **sales or use taxes charged on the purchase price;**

(C) **uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid;**

(D) **expenses incurred in attempting to collect any debt;**
and

(E) **repossessed property.**

(3) **The deduction shall be claimed on the return for the period during which the receivable is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subdivision, a claimant who is not required to file federal income tax returns may deduct an uncollectible receivable on a return filed for the period in which the receivable is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant were required to file a federal income tax return.**

(4) **If the amount of uncollectible receivables claimed as a deduction by a retail merchant for a particular reporting period exceeds the amount of the retail merchant's taxable sales for that reporting period, the retail merchant may file a refund claim under IC 6-8.1-9. However, the deadline for refund claim shall be measured from the due date of the return for the reporting period on which the deduction for the uncollectible receivables could first be claimed.**

(5) **If a retail merchant's filing responsibilities have been**

assumed by a certified service provider (as defined in IC 6-2.5-11-2), the certified service provider may claim, on behalf of the retail merchant, any deduction or refund for uncollectible receivables provided by this section. The certified service provider must credit or refund the full amount of any deduction or refund received to the retail merchant.

(6) For purposes of reporting a payment received on a previously claimed uncollectible receivable, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property and the state gross retail tax or use tax thereon, and secondly to interest, service charges, and any other charges.

(7) A retail merchant claiming a deduction for an uncollectible receivable may allocate that receivable among the states that are members of the streamlined sales and use tax agreement if the books and records of the retail merchant support that allocation.

SECTION 31. IC 6-2.5-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 12. Taxing Situs of Nonmobile Telecommunications Service

Sec. 1. As used in this chapter, "air to ground radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

Sec. 2. As used in this chapter, "call by call basis" means any method of charging for telecommunications services by which the price is measured by individual calls.

Sec. 3. As used in this chapter, "communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

Sec. 4. As used in this chapter, "customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service

is the customer of the telecommunication service, but this sentence only applies for the purpose of sourcing sales of telecommunications services under this chapter. The term does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

Sec. 5. As used in this chapter, "customer channel termination point" means the location where the customer either inputs or receives the communications.

Sec. 6. As used in this chapter, "end user" means the person who uses the telecommunications service. In the case of an entity, "end user" means the individual who uses the service on behalf of the entity.

Sec. 7. As used in this chapter, "home service provider" means the facilities based carrier or reseller with which the customer contracts for the provision of mobile telecommunications service.

Sec. 8. As used in this chapter, "mobile telecommunications service" means commercial mobile radio service, as defined in 47 CFR 20.3 as in effect on June 1, 1999.

Sec. 9. As used in this chapter, "place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

Sec. 10. As used in this chapter, "post paid calling service" means the telecommunications service obtained by making a payment on a call by call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A post paid calling service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunications service.

Sec. 11. As used in this chapter, "prepaid calling service" means the right to access exclusively telecommunications services, which

must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

Sec. 12. As used in this chapter, "private communication service" means a telecommunications service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

Sec. 13. As used in this chapter, "service address" means the following:

- (1) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.
- (2) If the location described in subdivision (1) is not known, the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.
- (3) If neither of the locations described in subdivision (1) or (2) is known, the location of the customer's place of primary use.

Sec. 14. Except for the telecommunications services listed in section 16 of this chapter, the sale of telecommunications service sold on a call by call basis shall be sourced to:

- (1) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction; or
- (2) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

Sec. 15. Except for the telecommunications services listed in section 16 of this chapter, a sale of telecommunications services sold on a basis other than a call by call basis is sourced to the

customer's place of primary use.

Sec. 16. The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services, other than air to ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act and IC 6-8.1-15.

(2) A sale of post paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

(A) the seller's telecommunications system; or

(B) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service is sourced in the following manner:

(A) When the service is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(B) When the service is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(C) When clauses (A) and (B) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(D) When clauses (A) through (C) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(E) When clauses (A) through (D) do not apply, including

the circumstance in which the seller is without sufficient information to apply the previous clauses, the location will be determined by either:

- (i) the address from which tangible personal property was shipped, from which any digital good or computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold); or**
- (ii) in the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, the location associated with the mobile telephone number.**

(4) A sale of a private communications service is sourced as follows:

(A) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(B) Service where all customer termination points are located entirely within one (1) jurisdiction or level of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(C) Service for segments of a channel between two (2) customer channel termination points located in different jurisdictions and which segments of channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located.

(D) Service for segments of a channel located in more than one (1) jurisdiction or level of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

SECTION 32. IC 6-2.5-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]:

Chapter 13. General Sourcing Rules

Sec. 1. (a) As used in this section, the terms "receive" and "receipt" mean:

- (1)** taking possession of tangible personal property;
- (2)** making first use of services; or
- (3)** taking possession or making first use of digital goods;

whichever comes first. The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

(b) This section:

- (1)** applies regardless of the characterization of a product as tangible personal property, a digital good, or a service;
- (2)** applies only to the determination of a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product; and
- (3)** does not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(c) This section does not apply to sales or use taxes levied on the following:

- (1)** The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes. These items must be sourced according to the requirements of this article.
- (2)** The retail sale, excluding lease or rental, of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g). The retail sale of these items shall be sourced according to the requirements of this article, and the lease or rental of these items must be sourced according to subsection (f).
- (3)** Telecommunications services, as set forth in IC 6-2.5-12, shall be sourced in accordance with IC 6-2.5-12.

(d) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

- (1)** When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.
- (2)** When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's

donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(3) When subdivisions (1) and (2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) When subdivisions (1), (2), and (3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(5) When none of the previous rules of subdivision (1), (2), (3), or (4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

(e) The lease or rental of tangible personal property, other than property identified in subsection (f) or (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (d). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different

locations, such as use of business property that accompanies employees on business trips and service calls.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or an accelerated basis, or on the acquisition of property for lease.

(f) The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (g), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (d).

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(g) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (d), notwithstanding the exclusion of lease or rental in subsection (d). As used in this subsection, "transportation equipment" means any of the following:

(1) Locomotives and railcars that are used for the carriage of persons or property in interstate commerce.

(2) Trucks and truck-tractors with a gross vehicle weight rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

(A) registered through the International Registration Plan;
and

(B) operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or

another federal authority to engage in the carriage of persons or property in interstate commerce.

(3) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

(4) Containers designed for use on and component parts attached or secured on the items set forth in subdivisions (1) through (3).

Sec. 2. (a) Notwithstanding section 1 of this chapter, a business purchaser that:

(1) is not a holder of a direct pay permit; and

(2) knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one (1) jurisdiction;

shall deliver to the seller in conjunction with its purchase a form disclosing this fact ("multiple points of use" or "MPU" exemption form).

(b) Upon receipt of the MPU exemption form, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(c) A purchaser delivering the MPU exemption form may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(d) The MPU exemption form remains in effect for all future sales by the seller to the purchaser (except as to the subsequent sale's specific apportionment that is governed by the principle of subsection (c) and the facts existing at the time of the sale) until it is revoked in writing.

(e) A holder of a direct pay permit shall not be required to deliver a MPU exemption form to the seller. A direct pay permit holder shall follow the provisions of subsection (c) in apportioning the tax due on a digital good or a service that will be concurrently available for use in more than one (1) jurisdiction.

Sec. 3. (a) Notwithstanding section 1 of this chapter, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a direct mail form or information to show the jurisdictions to which the direct mail is delivered to recipients.

(b) Upon receipt of the direct mail form, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A direct mail form remains in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(c) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax under the delivery information provided by the purchaser.

(d) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a direct mail form or delivery information, as required by subsection (a), the seller shall collect the tax according to section 1(d)(5) of this chapter. Nothing in this subsection limits a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(e) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a direct mail form or delivery information to the seller.

SECTION 33. IC 6-9-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 3. (a) Subject to section 4 of this chapter, the tax imposed under this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in a county in which a consolidated first class city is located; and
- (3) by a retail merchant for a consideration.

(b) Transactions described in subsection (a)(1) include, but are not limited to transactions in which food or beverage is:

- (1) served by a retail merchant off his premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.
- (2) food sold in a heated state or heated by a retail merchant;**
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or**
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).**

SECTION 34. IC 6-9-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include, but are not limited to, transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or

~~(3) sold by a street vendor.~~

(2) food sold in a heated state or heated by a retail merchant;
(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 35. IC 6-9-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- ~~(2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or~~
- ~~(3) sold by a street vendor.~~
- (2) food sold in a heated state or heated by a retail merchant;**
- (3) two (2) or more food ingredients mixed or combined by a**

retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 36. IC 6-9-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(2) food sold in a heated state or heated by a retail merchant;
(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal

foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 37. IC 6-9-24-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the municipality in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

(2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or

(3) sold by a street vendor.

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne

illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The municipal food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 38. IC 6-9-25-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location, or on equipment, provided by a retail merchant;
- (2) in the county in which the tax is imposed; and
- (3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises; including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.

(2) food sold in a heated state or heated by a retail merchant;
(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses,

cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The county food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 39. IC 6-9-26-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 7. Transactions described in section 6(1) of this chapter include transactions in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.
- (2) food sold in a heated state or heated by a retail merchant;**
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or**
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).**

SECTION 40. IC 6-9-27-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to a transaction in which food or beverage is furnished, prepared, or served:

- (1) for consumption at a location or on equipment provided by a retail merchant;

(2) in the town in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

(1) served by a retail merchant off the merchant's premises;

~~(2) sold by a retail merchant that ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or~~

~~(3) sold by a street vendor.~~

(2) food sold in a heated state or heated by a retail merchant;

(3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or

(4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

(c) The town food and beverage tax does not apply to the furnishing, preparing, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 41. IC 6-9-33-4, AS ADDED BY P.L.8-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

(1) for consumption at a location, or on equipment, provided by a retail merchant;

(2) in the county in which the tax is imposed; and

(3) by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions

in which food or beverage is:

- (1) served by a retail merchant off the merchant's premises;
- (2) sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3) sold by a street vendor.
- (2) food sold in a heated state or heated by a retail merchant;**
- (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or**
- (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).**

(c) The county supplemental food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

SECTION 42. [EFFECTIVE UPON PASSAGE] (a) The department of state revenue shall adopt the initial rules and prescribe the initial forms to implement this act before December 1, 2003. The department of state revenue may adopt the initial rules required under this SECTION in the same manner that emergency rules are adopted under IC 4-22-2-37.1. A rule adopted under this SECTION expires on the earlier of the following:

- (1) The date that the rule is superseded, amended, or repealed by a permanent rule adopted under IC 4-22-2 or another rule adopted under this SECTION.**
- (2) July 1, 2005.**
- (b) This SECTION expires July 1, 2005.**

SECTION 43. An emergency is declared for this act.

P.L.258-2003

[H.1834. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning financial institutions.

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

SECTION 1. IC 24-4.5-1-102, AS AMENDED BY P.L.82-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 102. Purposes; Rules of Construction)(1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

- (a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;
- (b) to provide rate ceilings to assure an adequate supply of credit to consumers;
- (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;
- (d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;
- (e) to permit and encourage the development of fair and economically sound consumer credit practices;
- (f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and
- (g) to make uniform the law including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted pursuant to this article.

(4) A reference to a federal law in IC 24-4.5 is a reference to the law in effect December 31, ~~2001~~ **2002**.

SECTION 2. IC 24-4.5-7-401, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 401. (1) Except as provided in subsection (2), a small loan may not be made for a term of less than fourteen (14) days.

(2) After the consumer's third consecutive small loan, ~~renewal~~; another small loan may not be made to that consumer within seven (7) days after the date of the third consecutive small loan unless the new small loan is for a term of twenty-eight (28) days or longer.

SECTION 3. IC 24-4.5-7-413, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 413. (1) A person engaged in making small loans under this chapter shall post a bond to the department in the amount of fifty thousand dollars (\$50,000) for each location where small loans will be made, up to a maximum bond amount of five hundred thousand dollars (\$500,000).

(2) A bond posted under subsection (1) must continue in effect for ~~five (5)~~ **two (2)** years after the lender ceases operation in Indiana. The bond must be available to pay damages and penalties to a consumer harmed by a violation of this chapter.

SECTION 4. IC 28-1-2-23, AS AMENDED BY P.L.134-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 23. (a) A corporation or an individual acting directly, indirectly, or through or in concert with one (1) or more other corporations or individuals may not acquire control of any bank, trust company, stock savings bank, ~~bank~~ holding company, corporate fiduciary, or industrial loan and investment company unless the department has received an application for change in control by which the department is given one hundred twenty (120) days prior written notice of the proposed change in control and within that time the department has issued a notice approving the proposed change in control. The application shall contain the name and address of the corporation, individual, or individuals, who propose to acquire control.

(b) The period for approval under subsection (a) may be extended:

(1) in the discretion of the director for an additional thirty (30) days; and

(2) not to exceed two (2) additional times for not more than forty-five (45) days each time if:

(A) the department determines that the corporation, individual,

or individuals, who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (c);

(B) the department determines that any material information submitted is substantially inaccurate; or

(C) the department has been unable to complete the investigation of the corporation, individual, or individuals, who propose to acquire control because of any delay caused by or the inadequate cooperation of the corporation, individual, or individuals.

(c) The department shall issue a notice approving the application only after it has become satisfied that both of the following apply:

(1) The corporation, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the bank, trust company, stock savings bank, bank holding company, corporate fiduciary, or industrial loan and investment company in a legal and proper manner.

(2) The interests of the stockholders, depositors, and creditors of the bank, trust company, stock savings bank, bank holding company, corporate fiduciary, or industrial loan and investment company and the interests of the public generally will not be jeopardized by the proposed change in control.

(d) As used in this section, "~~bank~~ "holding company" means any company (as defined in IC 28-2-15-5 before July 1, 1992, and as defined in IC 28-2-16-5 beginning July 1, 1992) that **directly or indirectly** controls one (1) or more state chartered ~~banks~~: **financial institutions**.

(e) As used in this section, "control" means the power directly or indirectly to:

(1) direct the management or policies of a bank, a trust company, a ~~bank~~ holding company, a corporate fiduciary, or an industrial loan and investment company; or

(2) vote at least twenty-five percent (25%) of any class of voting securities of a bank, a trust company, a ~~bank~~ holding company, a corporate fiduciary, or an industrial loan and investment company.

(f) The president or other chief executive officer of a financial

institution **or holding company** shall report to the director of the department any transfer or sale of shares of stock of the financial institution **or holding company** that results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of at least ten percent (10%) of the outstanding stock of the financial institution **or holding company**. The report required by this section must be made not later than ten (10) days after the transfer of the shares of stock on the books of the financial institution **or holding company**.

SECTION 5. IC 28-1-11-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.5. Subject to any limitations imposed by the department through policy, a bank or trust company may do any of the following:**

- (1) Invest the money deposited in the bank or trust company in the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States.**
- (2) Become a member of the federal home loan bank of the district in which Indiana is located or an adjoining district.**
- (3) Borrow money from:**
 - (A) a federal home loan bank described in subdivision (2);**
 - (B) the Federal Deposit Insurance Corporation; or**
 - (C) any other corporation.**
- (4) Transfer, assign to, and pledge with a federal home loan bank described in subdivision (2), the Federal Deposit Insurance Corporation, or other corporation any of the bonds, notes, contracts, mortgages, securities, or any other property of the bank or trust company held or acquired as security for the payment of loans entered into under subdivision (3).**
- (5) Exercise all rights, powers, and privileges conferred upon, and do all things and perform all acts required of, members or shareholders of a federal home loan bank by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449).**

SECTION 6. IC 28-1-20-4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Except as provided in subsections (c), (d), (g), and (k), it is unlawful for any person, firm, limited liability company, or corporation (other than a

bank or trust company, **bank holding company**, or corporate fiduciary organized or reorganized under IC 28 or statutes in effect at the time of organization or reorganization or under the laws of the United States):

- (1) to use the word "bank", **banc, or banco** as a part of the name or title of the person, firm, or corporation; or
- (2) to advertise or represent the person, firm, limited liability company, or corporation to the public:
 - (A) as a bank or trust company or a corporate fiduciary; or
 - (B) as affording the services or performing the duties which by law only a bank or trust company or a corporate fiduciary is entitled to afford and perform.

(b) A financial institution organized under the laws of any state or the United States that establishes a branch office under this title is authorized to do business at that branch using a name other than the name of its home office.

(c) Notwithstanding the prohibitions of this section, an out-of-state financial institution with the word "bank" in its legal name may use the word "bank" if the financial institution is insured by the Federal Deposit Insurance Corporation or its successor.

(d) Notwithstanding subsection (a), a building and loan association organized under IC 28-4 (before its repeal) may include in its name or title:

- (1) the words "savings bank"; or
- (2) the word "bank" if the name or title also includes either the words "savings bank" or letters "SB".

A building and loan association that includes "savings bank" in its title under this section does not by that action become a savings bank for purposes of IC 28-6.1.

(e) The name or title of a savings bank governed by IC 28-6.1 must include the words "savings bank" or the letters "SB".

(f) A savings association may include in its name the words "building and loan association".

(g) Notwithstanding subsection (a), a bank holding company (as defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a part of its name. However, this subsection does not permit a bank holding company to advertise or represent itself to the public as affording the services or performing the duties that by law a bank or trust company only is entitled to afford and perform.

(h) The department is authorized to investigate the business affairs of any person, firm, limited liability company, or corporation that uses "bank", **banc, or banco** in its title or holds itself out as a bank, corporate fiduciary, or trust company for the purpose of determining whether the person, firm, limited liability company, or corporation is violating any of the provisions of this article, and, for that purpose, the department and its agents shall have access to any and all of the books, records, papers, and effects of the person, firm, limited liability company, or corporation. In making its examination, the department may examine any person and the partners, officers, members, or agents of the firm, limited liability company, or corporation under oath, subpoena witnesses, and require the production of the books, records, papers, and effects considered necessary. On application of the department, the circuit or superior court of the county in which the person, firm, limited liability company, or corporation maintains a place of business shall, by proper proceedings, enforce the attendance and testimony of witnesses and the production and examination of books, papers, records, and effects.

(i) The department is authorized to exercise the powers under IC 28-11-4 against a person, firm, limited liability company, or corporation that improperly holds itself out as a financial institution.

(j) A person, firm, limited liability company, or corporation who violates this section is subject to a penalty of ~~two~~ **five** hundred dollars (~~\$200~~) (**\$500**) per day for each and every day during which the violation continues. The penalty imposed shall be recovered in the name of the state on relation of the department and, when recovered, shall be paid into the financial institutions fund established by IC 28-11-2-9.

(k) The word "bank", **banc, or banco** may not be included in the name of a corporate fiduciary.

(l) A person, firm, limited liability company, or corporation may not use the name of an existing bank or bank holding company or a name confusingly similar to that of an existing bank or bank holding company when marketing to or soliciting business from a customer or prospective customer if the reference to the existing bank or bank holding company is:

(1) without the consent of the existing bank or bank holding company; and

(2) in a manner that could cause a reasonable person to believe that the marketing material or solicitation:

(A) originated from;

(B) is endorsed by; or

(C) is in any other way the responsibility of;

the existing bank or bank holding company.

(m) An existing bank or bank holding company may, in addition to any other remedies available under the law, report an alleged violation of subsection (l) to the department. If the department finds that the marketing material or solicitation in question is in violation of subsection (l), the department may direct the person, firm, limited liability company, or corporation to cease and desist from using that marketing material or solicitation in Indiana. If that person, firm, limited liability company, or corporation persists in using the marketing material or solicitation, the department may impose a civil penalty of up to fifteen thousand dollars (\$15,000) for each violation. Each instance in which the marketing material or solicitation is sent to a customer or prospective customer constitutes a separate violation of subsection (l).

(n) Nothing in subsection (l) or (m) prohibits the use of or reference to the name of an existing bank or bank holding company in marketing materials or solicitations, if the use or reference does not deceive or confuse a reasonable person regarding whether the marketing material or solicitation:

(1) originated from;

(2) is endorsed by; or

(3) is in any other way the responsibility of;

the existing bank or bank holding company.

(o) The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 7. IC 28-2-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) A bank, trust company, corporate fiduciary, or savings bank **organized under the laws of Indiana** may establish a trust office to exercise its powers as a fiduciary **to conduct business** in any location that is approved by the department. Before the department approves a trust office **to exercise powers as a fiduciary** under this subsection, it must determine to its satisfaction that the bank, trust company, corporate fiduciary, or

savings bank will have adequate capital, sound management, and adequate future earnings prospects after the establishment of the trust office.

(b) A trust office established under this section by a bank, trust company, or savings bank shall not:

- (1) receive deposits;
- (2) pay checks; or
- (3) lend money;

at the trust office.

SECTION 8. IC 28-6.1-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **Subject to any limitations imposed by the department through policy, a** ~~A~~ savings bank may do any of the following:

- (1) Invest the money deposited in the savings bank in the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States.
- (2) Become a member of the federal home loan bank of this or an adjoining district.
- (3) Borrow money from:
 - (A) a bank described in subdivision (2);
 - (B) the Federal Deposit Insurance Corporation; or
 - (C) any other corporation.
- (4) Transfer, assign to, and pledge with a bank described in subdivision (2), the Federal Deposit Insurance Corporation, or other corporation, any of the bonds, notes, contracts, mortgages, securities, or other property of the savings bank held or acquired, as security for the payment of loans entered into under subdivision (3).
- (5) Exercise all rights, powers, and privileges conferred upon, and to do all things and perform all acts required of, members or shareholders of a federal home loan bank by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449).

SECTION 9. IC 28-6.1-20 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 20. Applicability of the Federal Reserve Act

Sec. 1. For purposes of this article, a savings bank that is not a member of the Federal Reserve System is subject to Sections 23A

and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1) to the same extent and in the same manner as if the savings bank were a member of the Federal Reserve System.

Sec. 2. A violation of Section 23A or 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1) by a savings bank or a subsidiary constitutes a violation of this chapter.

SECTION 10. IC 28-7-1-9, AS AMENDED BY P.L.134-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. A credit union has the following powers:

(1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.

(2) To make loans to members or other credit unions. A loan to another credit union may not exceed twenty percent (20%) of the paid-in capital and surplus of the credit union making the loan.

(3) To make loans to officers, directors, or committee members, but only if:

(A) the loan complies with all requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;

(B) upon the making of the loan, the aggregate amount of loans outstanding under this subdivision will not exceed twenty percent (20%) of the unimpaired capital and surplus of the credit union;

(C) the loan is approved by the credit committee or loan officer; and

(D) the borrower takes no part in the consideration of or vote on the application.

(4) To invest in any of the following:

(A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.

(B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).

(C) Interest-bearing obligations of the FSLIC Resolution Fund

and obligations of national mortgage associations issued under the authority of the National Housing Act.

(D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(F) In savings and loan associations, other credit unions that are insured under IC 28-7-1-31.5 and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Mutual funds created and controlled by credit unions, credit union associations, or their subsidiaries. Mutual funds referred to in this clause may invest only in instruments that are approved for credit union purchase under this chapter.

(J) Shares, stocks, or obligations of any credit union service organization (as defined in Section 712 of the Rules and Regulations of the National Credit Union Administration) with the approval of the department. Not more than five percent (5%) of the total paid in and unimpaired capital of the credit union may be invested under this clause.

(5) To deposit its funds into:

(A) depository institutions that are federally insured; or

(B) state chartered credit unions that are privately insured by an insurer approved by the department.

(6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.

(7) To own, hold, or convey real estate as may be purchased by

the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.

(8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.

(9) To charge the member's share account for the actual cost of necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.

(10) To transfer to an accounts payable, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of two (2) years. The credit union shall not consider the payment of dividends on the transferred account.

(11) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department.

(12) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.

(13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.

(14) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:

(A) the coverage is placed with an insurance company licensed to do business in Indiana; and

(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.

(15) To sell and cash negotiable checks, travelers checks, and

money orders for members.

(16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of its unimpaired capital and surplus unless special written authorization has been granted by the department.

(17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit sharing plan which qualifies or qualified for specific tax treatment under Section 408(a) or Section 401(d) of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

(19) To issue shares of its capital stock or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.

(20) A credit union may exercise any rights and privileges that are:

(A) granted to federal credit unions; but

(B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

if the credit union complies with section 9.2 of this chapter.

(21) To sell, pledge, or discount any of its assets. ~~to purchase all or part of the assets of another credit union, and to assume the liabilities of the selling credit union.~~ However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

(22) To purchase assets of another credit union and to assume the liabilities of the selling credit union.

(23) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed ten percent (10%) of the total assets of that credit union, excluding those public funds.

~~(23)~~ **(24)** To join the National Credit Union Administration Central Liquidity Facility.

~~(24)~~ **(25)** To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent (0.001) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

~~(25)~~ **(26)** To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the automated teller machine is to be located.

~~(26)~~ **(27)** To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by agreement of the parties;

(B) all advances necessarily paid out and expended in the

discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

~~(27)~~ **(28)** Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

SECTION 11. IC 28-7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In this chapter, unless the context otherwise requires:

"Pawnbroker" means any person, partnership, association, or corporation lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness.

"Pledge" means personal property deposited with a pawnbroker as security for a loan.

"Pledger" means the person who delivers personal property into the possession of a pawnbroker as security for a loan unless such person discloses that the person is or was acting for another; and in such event "pledger" means the disclosed principal.

"Department" means the department of financial institutions.

"Person" means an individual, a firm, an association, a limited liability company, a partnership, a joint stock association, a trust, or a corporation.

"Month" means a period extending from a given date in one (1) calendar month to the like date in the succeeding calendar month or, if there is no such like date, then to the last day of the succeeding calendar month. For purposes of this chapter, each month is considered to have thirty (30) days.

SECTION 12. IC 28-7-5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The maximum rate of interest charged by pawnbrokers shall be the same as the maximum loan finance charge for supervised lenders under IC 24-4.5-3-508(2). **For purposes of this subsection:**

(1) the term of a loan commences on the date on which the loan is made;

- (2) differences in lengths of months are disregarded; and**
(3) each day is counted as one-thirtieth (1/30) of a month.

The minimum term of a loan made by a pawnbroker is one (1) month. However, on loans paid in full within the first month, the pawnbroker may charge one (1) month's interest.

(b) Interest shall not be deducted in advance, neither shall the pawnbroker induce or permit any borrower to split up or divide any loan or loans for the purpose of evading any provisions of this chapter.

(c) If a pawnbroker charges or receives interest in excess of that provided in this section, or makes any charges not authorized by this chapter, the pawnbroker shall forfeit principal and interest and return the pledge upon demand of the pledger and surrender of the pawn ticket without the principal or interest. If such excessive or unauthorized charges have been paid by the pledger, the pledger may recover the same, including the principal if paid, in a civil action against the pawnbroker.

SECTION 13. IC 28-7-5-28.5, AS AMENDED BY P.L.163-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28.5. (a) Except as provided in subsection (b), in addition to the loan finance charge authorized by section 28 of this chapter, a pawnbroker may charge, contract for, and receive a fee not to exceed one-fifth (1/5) of the principal amount of the loan per month or any fractional part of a month for servicing the pledge that may include investigating the title, storing, providing security, appraisal, handling, making daily reports to local law enforcement officers, and for other expenses and costs associated with servicing the pledge. The fee for each month after the second month of the loan transaction is limited to one-thirtieth (1/30) of the monthly fee for each day the loan is outstanding. Such a charge when made and collected is not interest and is not a rate under IC 35-45-7-1.

(b) If a loan is renewed or extended, the monthly fee authorized by subsection (a) accrues at a rate of one-thirtieth (1/30) of the monthly fee each day:

- (1) beginning ~~sixty (60)~~ days upon the expiration of two (2) months** after the original date of the loan; and
(2) continuing through and including the day a pledger redeems the pledge.

SECTION 14. IC 28-7-5-30, AS AMENDED BY P.L.163-2001,

SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. **After Upon** the expiration of ~~sixty (60) days~~ **two (2) months** from the maturity of the loan, a pawned article becomes the property of the pawnbroker and **is** subject to sale.

SECTION 15. IC 28-7-5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. If more than one (1) person shall claim the right to redeem a pledge, the pawnbroker shall incur no liability for refusing to deliver the pledge until the respective rights of the claimants shall have been adjudicated. If no action be brought against the pawnbroker by either party within the period for which the pawnbroker is required under section 30 of this chapter to hold the pledge, or within ~~thirty (30) days~~ **one (1) month** after notice of an adverse claim, the pawnbroker may proceed to sell the pledge subject to adjudication of the parties' rights.

SECTION 16. IC 28-8-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This chapter does not apply to the following:

- (1) The United States or an instrumentality of the United States.
- (2) The state, a political subdivision of the state, or an instrumentality of the state or of a political subdivision of the state.
- (3) A bank, a bank holding company, an industrial loan and investment company, a credit union, a savings association, a savings bank, a mutual bank, or a mutual savings bank organized under the laws of any state or the United States.

(b) Unless otherwise provided in this chapter, this chapter does not apply to an authorized delegate of a person:

- (1) licensed under this chapter **or excluded under subsection (a)**; and
- (2) acting within the scope of authority conferred by a written contract conforming to the requirements of section 49 of this chapter.

SECTION 17. IC 28-8-4-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 47. (a) Notwithstanding any other provision of law, all information or reports obtained by the director from an applicant, a licensee, or an authorized delegate, whether obtained through reports, applications, examination, audits, investigation, or otherwise, including but not limited to:

- (1) all information contained in or related to:
 - (A) examination;
 - (B) investigation;
 - (C) operation; or
 - (D) condition reports prepared by, on behalf of, or for the use of the director; or
- (2) financial statements, balance sheets, or authorized delegate information;

are confidential and may not be disclosed or distributed outside the department by the director or any officer or employee of the department, except as provided in subsection (b).

(b) The director may provide for the release of information to representatives of state or federal:

- (1) financial institution supervisory agencies; who state in writing under oath**
- (2) law enforcement agencies; or**
- (3) prosecutorial agencies or offices;**

that they shall maintain the confidentiality of the information as described in IC 28-1-2-30. ~~if~~

- ~~(1) the licensee provides consent before the release; or~~
- ~~(2) the director finds that the release is reasonably necessary for the protection of the public and in the interests of justice; and the licensee has been given prior notice by the director to release the information.~~

(c) Nothing in this section shall prohibit the director from releasing to the public a list of persons licensed under this chapter or from releasing aggregated financial data on such licensees.

SECTION 18. IC 28-10-1-1, AS AMENDED BY P.L.82-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect January 1, ~~2002~~: **2003**.

SECTION 19. IC 28-11-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the director determines that ~~(1)~~ a director, ~~or~~ an officer, **or an employee** of a financial institution has:

- ~~(A)~~ **(1)** committed a violation of a statute, a rule, ~~or~~ a final cease and desist order, **any condition imposed in writing by the**

director in connection with the grant of any application or other request by the financial institution, or any written agreement between the financial institution and the director;

~~(B)~~ **(2)** engaged or participated in an unsafe or unsound practice in connection with the financial institution;

~~(C)~~ **(3)** committed or engaged in an act, an omission, or a practice that constitutes a breach of fiduciary duty as director, ~~or~~ officer, **or employee;** or

~~(D)~~ **(4)** been charged in a complaint, an indictment, or an information with the commission of or participation in a crime involving dishonesty or breach of trust that is punishable by imprisonment for a term exceeding one (1) year under federal law or the law of a state; ~~and~~

~~(2)~~ **either:**

the director, subject to subsection (b), may issue and serve upon the officer, director, or employee a notice of the director's intent to issue an order removing the person from the person's office or employment, an order prohibiting any participation by the person in the conduct of the affairs of any financial institution, or an order both removing the person and prohibiting the person's participation.

(b) A violation, practice, or breach specified in subdivision (a) is subject to the authority of the director under subsection (a) if the director finds both of the following:

(1) By reason of the violation, practice, or breach:

(A) the financial institution has suffered or will probably suffer substantial financial loss or other damage; or

(B) the interests of the financial institution's depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty.

~~the director may issue and serve upon the director or the officer a notice of charges of the practice, violation, or act.~~

~~(b)~~

(2) The violation, practice, or breach:

(A) involves personal dishonesty on the part of the officer, director, or employee; or

(B) demonstrates a willful or continuing disregard by the officer, director, or employee for the safety and soundness

of the financial institution.**(c)** A person convicted of a:

- (1) felony; or
- (2) crime involving dishonesty or breach of trust;

may not serve as a director, an officer, or an employee of a financial institution, or serve in any similar capacity, unless the person obtains the written consent of the department.

~~(e)~~ **(d)** A financial institution that willfully permits a person to serve the financial institution in violation of subsection (b) **or (c)** is subject to a civil penalty of five hundred dollars (\$500) for each day the violation continues. A civil penalty paid under this subsection must be deposited into the financial institutions fund established by IC 28-11-2-9.

SECTION 20. IC 28-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A notice issued under this chapter must: ~~do the following:~~

- (1) contain a statement of the facts constituting the alleged practice, violation, or ~~act~~;
- ~~(2) Fix a time and place at which a hearing will be held by the department to determine whether a final order under section 7 of this chapter should be issued.~~

(b) The hearing shall be fixed for a date:

- ~~(1) not earlier than thirty (30) days; and~~
- ~~(2) not later than one hundred twenty (120) days;~~

~~after service of the notice. However, at the request of the party to whom the notice is issued, the department may fix the hearing for a date specified in the request: breach;~~

- (2) state the facts alleged in support of the violation, practice, or breach;**
- (3) state the director's intention to enter an order under section 3(a) of this chapter;**
- (4) be delivered to the board of directors of the financial institution;**
- (5) be delivered to the officer, director, or employee concerned; and**
- (6) specify the procedures that must be followed to initiate a hearing to contest the facts alleged.**

(b) If a hearing is requested within ten (10) days after service of

the written notice, the director or designee of the director shall hold a hearing concerning the alleged practice, violation, or breach. The hearing shall be held not later than forty-five (45) days after receipt of the request. The director or designee of the director, based on the evidence presented at the hearing, shall enter:

- (1) a final order under section 7 of this chapter for the immediate removal of the officer, director, or employee affected;
- (2) a final order under section 7 of this chapter prohibiting further participation by the officer, director, or employee, in any manner, in the conduct of affairs of any financial institution;
- (3) a final order consisting of both an order described in subdivision (1) and an order described in subdivision (2);
- (4) a reprimand of the individuals, entities, or other persons concerned; or
- (5) a dismissal of the entire matter.

(c) If no hearing is requested within the time specified in subsection (b), the director may proceed to issue a final order described in subsection (b)(1), (b)(2), or (b)(3) on the basis of the facts set forth in the written notice.

(d) An officer, director, or employee who is removed from a position under a removal order that has become final may not participate in the conduct of the affairs of any financial institution without the approval of the director.

(e) The director may, for the protection of the financial institution or the interests of its depositors, suspend from office or prohibit from participation in the affairs of the financial institution an officer, a director, or an employee of a financial institution who is the subject of a written notice served by the director under subsection (a). A suspension or prohibition under this subsection becomes effective upon service of the notice. Unless stayed by a court in a proceeding authorized by subsection (f), the notice shall remain in effect pending completion of the proceeding under the written notice served under subsection (a) and until the effective date of an order entered by the director under subsection (b) or (c). Copies of the notice shall also be served upon the financial institution or subsidiary of which the person is an officer, a

director, or an employee.

(f) Not more than ten (10) days after an officer, a director, or an employee has been suspended from office or prohibited from participation in the conduct of the affairs of the financial institution or subsidiary under subsection (e), the officer, director, or employee may apply to a court having jurisdiction for a stay of the suspension or prohibition pending completion of the proceedings under subsection (b), and the court may stay the suspension of prohibition.

(e) (g) The department shall maintain an official record of a proceeding under this chapter.

SECTION 21. IC 28-11-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If the department enters into a consent to a final order under section 7 of this chapter with a financial institution, director, ~~or~~ officer, **or employee**, the director is not required to issue and serve a notice of charges upon the financial institution, director, or officer under section 2 or 3 of this chapter. A consent agreement may be negotiated and entered into before or after the issuance of a notice of charges.

SECTION 22. IC 28-11-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) If the department determines that an alleged practice, a violation, or an act specified in a notice served under this chapter is likely to:

- (1) cause insolvency of the financial institution;
- (2) cause substantial dissipation of assets or earnings of the financial institution; or
- (3) otherwise seriously prejudice the interests of the depositors of the financial institution;

the department may issue a temporary order without a hearing.

(b) A temporary order may

(1) require the financial institution to cease and desist from the practice or violation. ~~or~~

(2) temporarily remove a director or an officer of the financial institution.

(c) A temporary order is effective upon service and remains effective and enforceable until the earliest of the following:

- (1) The issuance of an injunction by a court under subsection (d).
- (2) The dismissal of the charges by the department.

(3) The effective date of a final order under section 7 of this chapter.

(d) A financial institution ~~a director, or an officer~~ served with a temporary order under this section may apply to a court having jurisdiction for an injunction to stay, modify, or vacate the order.

SECTION 23. IC 28-11-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) ~~If upon the record made at a hearing under this chapter~~ the department finds that the conditions specified in section 2 or 3 of this chapter have been established, the department may issue a final order.

(b) A final order must include separately stated findings of fact **and conclusions of law** for all aspects of the order. ~~including any remedy under subsection (c). Findings of ultimate fact must be accompanied by a concise statement of the underlying basic facts of record to support the findings.~~

(c) A final order may do any of the following:

(1) Require the financial institution and its directors, officers, employees, and agents to do any of the following:

(A) Cease and desist from the practice or violation.

(B) Take affirmative action to correct the conditions resulting from the practice or violation.

(2) **Permanently remove Suspend or prohibit** a director, ~~or an officer, or an employee from participating in the affairs of a financial institution or subsidiary.~~

(3) Impose a civil penalty not to exceed the amount specified in section 9 of this chapter.

(d) A final order shall be issued in writing within ninety (90) days after conclusion of the hearing, unless this period is waived or extended with the written consent of all parties or for good cause shown. **A final order issued under this chapter may be made public by the department.**

(e) If the financial institution, director, or officer does not appear individually or by a duly authorized representative at the hearing, the financial institution, director, or officer is considered to have consented to the issuance of a final order.

SECTION 24. IC 28-12-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section applies only to a corporation that is any of the following:

- (1) A bank and trust company.
- (2) A bank.
- (3) A stock savings bank.

(b) The department shall determine the minimum amount of the capital ~~stock~~ of a corporation organized or reorganized under this title after giving consideration to the potential deposit liability to be anticipated in the case of a proposed new corporation, or the existing deposit liability of a corporation to be reorganized.

SECTION 25. IC 28-13-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A ~~bank, trust company, or corporate fiduciary~~ **corporation** may not, during the time it continues in business as such, withdraw or authorize or permit to be withdrawn any portion of the capital stock in the form of dividends or otherwise.

SECTION 26. IC 28-13-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A ~~bank, trust company, or corporate fiduciary~~ **corporation** may not declare or pay any dividends to its shareholders in any form if, by the payment of the dividends, its capital stock will be thereby impaired.

(b) A ~~bank, trust company, or corporate fiduciary~~ **corporation** may never pay a dividend in an amount greater than the remainder of undivided profits then on hand after deducting losses, bad debts, or depreciation that the department may have determined, and all other expenses.

(c) A corporation must obtain department approval before reducing the corporation's capital stock, capital surplus, or preferred stock.

SECTION 27. IC 28-13-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. All debts due to a ~~bank, trust company, or corporate fiduciary~~ **corporation** on which interest is past due for a period of six (6) months are bad debts unless, in the opinion of the department, the debts are well secured.

SECTION 28. IC 28-13-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The department may, if the department considers it necessary for the protection of the depositors, require any bank or trust **company, savings bank, or savings association** to increase the sound capital or to reduce the amount of the deposits of the bank or trust **company, savings bank, or**

savings association. The department shall, in arriving at a decision whether to order a bank or trust **company, savings bank, or savings association** to increase the sound capital or reduce the amount of the deposits for the protection of **the depositors of** the bank or trust ~~company's depositors,~~ **company, savings bank, or savings association,** take into consideration the following:

- (1) Quality of management.
- (2) Liquidity of assets.
- (3) History of earnings and the retention of earnings.
- (4) Quality and character of ownership.
- (5) Burden of occupancy expenses.
- (6) Potential volatility of deposit structure.
- (7) Quality of operating procedures.
- (8) Capacity to meet present and future needs of the area served, considering its competition.

(b) If the department determines that an increase in the sound capital or decrease in the deposits is necessary, the department shall enter an order fixing the amount of the increase or decrease. The order shall be complied with within the time period fixed by the order.

(c) The department may require a corporate fiduciary to increase its capital. In deciding whether to order a corporate fiduciary to increase its capital, the department shall take into consideration the following:

- (1) Quality of management.
- (2) Liquidity of assets.
- (3) History of earnings and the retention of earnings.
- (4) Quality and character of ownership.
- (5) Burden of occupancy expenses.
- (6) Quality of operating procedures.
- (7) Ability to administer fiduciary accounts in a prudent manner consistent with applicable laws or regulations.

(d) If the department determines that an increase in capital is necessary, the department shall enter an order fixing the amount of the increase. The order must be complied with within the period fixed by the order.

SECTION 29. IC 28-13-16-4, AS ADDED BY P.L.215-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A financial institution **or any of its subsidiaries** may acquire or establish a qualifying subsidiary by

providing the department with written notice before acquiring or establishing the subsidiary. The department shall notify the requesting financial institution of the department's receipt of the notice.

(b) A subsidiary may exercise a power or engage in an activity permitted to be performed by a financial institution under the same conditions and restrictions as if the power or activity is performed by the financial institution itself, or the activity has been authorized by 12 CFR 5.34(e)(2)(ii).

(c) The qualified subsidiary may exercise or engage in the activity thirty (30) days after the date on which the department receives the notification unless otherwise notified by the department.

SECTION 30. IC 28-15-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Savings associations may do the following:

- (1) Accept deposit accounts.
- (2) Issue evidence of deposit account ownership.
- (3) Declare and distribute earnings to members.
- (4) Pay, in part or in full, withdrawal requests of deposit accounts.
- (5) Subject to the provisions and restrictions of 12 U.S.C. 84 and 12 CFR 32:
 - (A) Make loans to members on the security of deposit accounts.
 - (B) Make property improvement loans.
 - (C) Make other loans as provided under IC 28-15-8.
 - (D) Make mortgage loans.
 - (E) Accept additional collateral on mortgage loans.
 - (F) Purchase and sell loans.
 - (G) Negotiate loan servicing agreements.
 - (H) Purchase and sell participating interests in loans.
 - (I) Issue letters of credit with specific expiration dates.
 - (J) Make secured or unsecured loans, which are partially insured or guaranteed in any manner by any state of the United States, the United States government, or any of its agencies or government sponsored enterprises.
 - (K) Purchase commercial paper that is denominated in United States currency and rated by at least one (1) nationally recognized investment rating service in one (1) of the two (2) highest grades.

- (L) Make, purchase, or participate in alternative mortgage loans as provided in IC 28-15-11.
- (6) Acquire and sell real estate in satisfaction of debts previously contracted.
- (7) Acquire real estate for the convenient transaction of its business. A savings association has the same powers under this subdivision as a bank or trust company has under IC 28-1-11-5.
- (8) Notwithstanding any other law, establish, maintain, or relocate one (1) or more branch offices by following the provisions of IC 28-2-13, IC 28-2-17, or IC 28-2-18 as if the savings association were a bank.
- (9) Become a member in any agency or instrumentality of the federal government. For the purposes of this subdivision, membership in an agency or instrumentality of the federal government may include:
 - (A) purchasing stock;
 - (B) purchasing notes and debentures; or
 - (C) borrowing money.
- (10) Subject to any limitations imposed by the department through policy:**
 - (A) invest the money deposited in the savings association in the shares of the capital stock, bonds, debentures, notes, or other obligations of a federal home loan bank of the United States;**
 - (B) become a member of the federal home loan bank of the district in which Indiana is located or an adjoining district;**
 - (C) borrow money from:**
 - (i) a federal home loan bank described in clause (B);**
 - (ii) the Federal Deposit Insurance Corporation; or**
 - (iii) any other corporation;**
 - (D) transfer, assign to, and pledge with a federal home loan bank described in clause (B), the Federal Deposit Insurance Corporation, or any other corporation any of the bonds, notes, contracts, mortgages, securities, or other property of the savings association held or acquired as security for the payment of loans entered into under clause (C); and**
 - (E) exercise all rights, powers, and privileges conferred**

upon, and do all things and perform all acts required of, members or shareholders of a federal home loan bank by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449).

(11) Subject to the provisions and restrictions of 12 U.S.C. 24 and 12 CFR 1, invest in the following types of securities:

(A) Bonds, notes, certificates, and other valid obligations of the United States government or any agency of the United States government.

(B) Accounts offered by federally insured banks, savings banks, and savings associations.

(C) Bonds, notes, or other evidences of indebtedness that are general obligations supported by the full faith and credit of any state in the United States or any city, town, or other political subdivision in any state in the United States if the obligations have been assigned one (1) of the four (4) highest grades by a nationally recognized investment rating service.

(D) Shares of stock of a subsidiary that does not exercise a power or engage in any activity that is not authorized for the savings association. The investment power granted by this subdivision is separate from the investment power granted by IC 28-15-9.

(E) Corporate debt securities that are denominated in United States currency and rated by at least one (1) nationally recognized investment rating service in one (1) of the four (4) highest grades. Corporate debt securities in which a savings association invests under this clause must be convertible into stock at the sole option of the holder, and a savings association is prohibited from exercising the conversion option.

(F) Shares of open end investment companies that are eligible for purchase by national banks.

(G) Bankers' acceptances that are eligible for purchase by national banks.

(H) (12) For the purpose of:

(A) check and deposit sorting and posting;

(B) computation and posting of interest and other credits and charges;

(C) preparation and mailing of checks, statements, notices, and

similar items; or

(D) other clerical, bookkeeping, accounting, statistical, or similar functions performed by a savings association;

invest in a corporation organized in any state to perform those functions for two (2) or more savings associations, each of which owns a portion of the capital stock of the corporation. The total investment of a savings association under this subdivision may not exceed ten percent (10%) of the capital and surplus of the savings association. A savings association may not invest in this type of corporation unless the corporation furnishes assurances to the department that it will subject itself to examination by the department to the same extent as if the services were performed by the savings association.

~~(12)~~ **(13)** Lend money to other savings associations:

(A) the deposits of which are insured by the Federal Deposit Insurance Corporation; and

(B) that are incorporated and operating under the laws of any state or of the United States.

~~(13)~~ **(14)** Borrow money and mortgage or pledge its property to secure payment.

~~(14)~~ **(15)** Issue subordinated notes or debentures.

~~(15)~~ **(16)** Assess and collect interest, fees, and other charges.

~~(16)~~ **(17)** Insure its deposit accounts with the Federal Deposit Insurance Corporation or its successor.

~~(17)~~ **(18)** Act as an agent for the United States or its instrumentalities.

~~(18)~~ **(19)** Accept property for safe keeping or escrow.

~~(19)~~ **(20)** Rent or lease safe deposit boxes.

~~(20)~~ **(21)** Issue and sell checks, drafts, money orders, and other instruments for the transmission or payment of money.

~~(21)~~ **(22)** Exercise all the powers that:

(A) are incidental and proper; or

(B) may be necessary and usual;

in carrying on the business of the savings association.

~~(22)~~ **(23)** Purchase or construct buildings, hold legal title to the buildings, and lease the buildings for public purposes to municipal corporations or other public authorities that have resources sufficient to make payment of all rentals as they become

due. Each lease agreement entered into under this subdivision must provide that, upon expiration, the lessee will become the owner of the building.

~~(23)~~ **(24)** Open or establish automated teller machines at any location. An automated teller machine opened or established under this subdivision may be owned and operated individually or jointly on a cost sharing or fee basis.

~~(24)~~ **(25)** Act:

(A) in any fiduciary capacity in which a bank or trust company is permitted to act under this title; and

(B) as an agent for the sale of real estate, without bond or other security.

~~(25)~~ **(26)** Accept and maintain demand deposit accounts if the savings association is insured by the Federal Deposit Insurance Corporation or its successor.

~~(26)~~ **(27)** Without the approval of the department, to the extent authorized by the board of directors of the savings association, establish or maintain agencies that:

(A) only service and originate, but do not approve, loans and contracts; or

(B) manage or sell real estate owned by the savings association.

An agency established or maintained under this subdivision may offer any services not referred to in this subdivision with the approval of the department, except for accepting payment on savings accounts. An agency shall maintain records of all business it transacts and transmit copies to a branch or home office of the savings association.

SECTION 31. IC 28-15-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 16. Applicability of the Federal Reserve Act

Sec. 1. For purposes of this article, a savings association that is not a member of the Federal Reserve System is subject to Sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c or 371c-1) to the same extent and in the same manner as if the savings association were a member of the Federal Reserve System.

Sec. 2. A violation of Section 23A or 23B of the Federal Reserve

Act (12 U.S.C. 371c or 371c-1) by a savings association or a subsidiary constitutes a violation of this chapter.

SECTION 32. [EFFECTIVE UPON PASSAGE] This act does not affect:

- (1) rights or liabilities accrued;**
- (2) penalties incurred;**
- (3) crimes committed; or**
- (4) proceedings begun;**

before the effective date of this act. Those rights, liabilities, penalties, crimes, and proceedings continue and shall be imposed under prior law as if this act had not been enacted.

SECTION 33. An emergency is declared for this act.

P.L.259-2003

[H.1837. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-11-1.1-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 10. (a) The office may assess providers of supported living services and supports to individuals with a developmental disability (described in 460 IAC 6) in an amount not to exceed two and five tenths percent (2.5%) of all service revenue included on the annual plan of care excluding resident living allowances.**

(b) The assessments shall be paid to the office not later than the tenth day of the month for each month that the individual is in service. The office or the office's designee may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) The community services quality assurance fund is created. The fund shall be administered by the office.

(d) Revenue from the assessments under this section shall be deposited into the fund. Money in the fund may be used only for the funding of licensing, certification, and quality assurance services. The aggregate amount of the fee may not exceed the state's estimated cost of operating the programs.

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

(f) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.



P.L.260-2003

[H.1933. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

SECTION 1. IC 10-5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a) This section is subject to IC 10-2-4-3 and IC 10-2-4-3.5.**

(b) Any person who is a duly qualified member of the reserve components of the armed forces, who is a member of the Ready Reserve, who is a member of an organized unit, and who, in order to receive military training with the armed forces of the United States not to exceed fifteen (15) days in any one (1) calendar year, leaves a position other than a temporary position in the employ of any employer, and who shall give evidence defining date of departure and date of return for purposes of military training ninety (90) days prior to the date of departure and who shall further give evidence of the satisfactory completion of such training immediately thereafter, and, who is still

qualified to perform the duties of such position, shall be entitled to be restored to **his the person's** previous or a similar position with the same status and pay. ~~Provided, That~~ Seniority shall continue to accrue during such period of absence, and such period of absence for military training shall be construed as an absence with leave, and within the discretion of the employer said leave may be with or without pay.

SECTION 2. IC 10-5-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a) This section is subject to IC 10-2-4-3 and IC 10-2-4-3.5.**

(b) Any person who, as a reserve member of the armed forces of the United States, is called upon to receive temporary military training, shall be entitled to a temporary leave of absence from **his the person's** employer, not to exceed fifteen (15) days in any one (1) calendar year. ~~Provided, That~~ Such person is required to provide **his the person's** employer with evidence of the dates of **his the person's** departure and return as soon as practicable ~~prior to his~~ **before the person's** departure, and shall be required to furnish **his the person's** employer upon **his the person's** return evidence of **his the person's** satisfactory completion of such training. Upon **his the person's** return, such person shall be restored to **his the person's** previous, or similar position, with the same status as ~~he the person~~ **held before leaving for his the person's** training period. Such leaves may be granted with or without pay within the discretion of the employer.

(c) Any temporary leave of absence so granted shall not affect the rights of the person to vacation leave, sick leave, or other normal benefits of **his the person's** employment.

SECTION 3. IC 10-17-4-1, AS ADDED BY SEA 257-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a) This section is subject to IC 10-16-7-5 and IC 10-16-7-6.**

(b) A person who:

- (1) is a qualified member of the reserve components of the armed forces;
- (2) is a member of the Ready Reserve;
- (3) is a member of an organized unit;
- (4) in order to receive military training with the armed forces of the United States not to exceed fifteen (15) days in one (1) calendar year:

(A) leaves a position other than a temporary position in the employ of an employer; and

(B) provides evidence:

(i) defining date of departure and date of return for purposes of military training ninety (90) days before the date of departure; and

(ii) of the satisfactory completion of the training immediately after the training is completed; and

(5) is qualified to perform the duties of the position described in clause (A);

is entitled to be restored to the person's previous or a similar position with the same status and pay.

~~(b)~~ (c) Seniority continues to accrue during a period of absence described in subsection (a), and the period of absence for military training must be construed as an absence with leave. At the discretion of the employer, the leave may be with or without pay.

SECTION 4. IC 10-17-4-4, AS ADDED BY SEA 257-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) **This section is subject to IC 10-16-7-5 and IC 10-16-7-6.**

(b) A person who, as a reserve member of the armed forces of the United States, is called upon to receive temporary military training is entitled to a temporary leave of absence from the person's employer not to exceed fifteen (15) days per calendar year. A person described in this section shall:

(1) provide the employer with evidence of the dates of the person's departure and return as soon as practicable before the person's departure; and

(2) furnish the employer, upon the person's return, evidence of the person's satisfactory completion of the training.

Upon the person's return, the person shall be restored to the person's previous or similar position, with the same status that the person held before leaving for the person's training period.

~~(b)~~ (c) A leave granted under this section may be granted, with or without pay, within the discretion of the employer.

~~(c)~~ (d) A temporary leave of absence granted under this section does not affect the rights of the person to vacation leave, sick leave, or other normal benefits of the person's employment.

P.L.261-2003

[H.1935. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning state offices and administration.

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

SECTION 1. IC 3-7-28-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Notwithstanding ~~IC 5-14-3-4(c)~~, **IC 5-14-3-3(f)**, additional copies of the registration lists prepared for the inspectors of each precinct shall be kept open to the public for inspection and copying in the same manner as other public records under IC 5-14-3 at the office of the circuit court clerk or board of registration as soon as the registration lists are completed.

SECTION 2. IC 4-1-8-1, AS AMENDED BY P.L.215-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

- (1) Department of state revenue.
- (2) Department of workforce development.
- (3) The programs administered by:
 - (A) the division of family and children;
 - (B) the division of mental health and addiction;
 - (C) the division of disability, aging, and rehabilitative services;and
 - (D) the office of Medicaid policy and planning;of the office of the secretary of family and social services.
- (4) Auditor of state.
- (5) State personnel department.
- (6) Secretary of state, with respect to the registration of

broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Health professions bureau.

(11) Indiana professional licensing agency.

(12) Indiana department of insurance, with respect to licensing of insurance agents.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the professional standards board established by IC 20-1-1.4-2 may require an individual who applies to the board for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the board only for conducting a background investigation, if the board is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 3. IC 4-1-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 9. Background Check of Employees of Bodies Corporate and Politic

Sec. 1. This chapter applies only to a body corporate and politic.

Sec. 2. This chapter does not apply to a political subdivision.

Sec. 3. A body corporate and politic shall establish a policy for conducting background checks of persons for purposes of employment with the body corporate and politic.

Sec. 4. A policy adopted under this chapter may not be less stringent than a background check policy implemented by the state personnel department for employment with a state agency that is subject to the jurisdiction of the state personnel department.

SECTION 4. IC 4-33-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. The state police department shall assist the commission in conducting background investigations of applicants. **The commission may forward all fingerprints required to be submitted by license applicants under IC 4-33 to the Federal Bureau of Investigation or any other agency for the purpose of screening applicants.** The commission shall reimburse the state police department for the costs incurred by the state police department as a result of the assistance. The commission shall make the payment from fees collected from applicants.

SECTION 5. IC 5-14-3-2, AS AMENDED BY P.L.90-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

- (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or
- (2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

- (1) Manually transcribe and make notes, abstracts, or memoranda.
- (2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.
- (3) In the case of public records available:
 - (A) by enhanced access under section 3.5 of this chapter; or
 - (B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

- (4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data

onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in IC 16-18-2-272(d).

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in IC 16-18-2-295(a) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

"Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees

of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, ~~used~~, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 6. IC 5-14-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

- (1) identify with reasonable particularity the record being requested; and
- (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute.

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). The public agency shall either:

- (1) provide the requested copies to the person making the request; or
- (2) allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on **his the person's** own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

- (1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.
- (2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map. (~~as defined by IC 5-14-3-2~~):

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person (as defined in ~~IC 5-14-3-2~~) for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.**
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.**
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:**
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or**
 - (B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.**

A policy adopted under subdivision (3) must be uniform and may

not discriminate among similarly situated commercial entities.

(g) A public agency may not enter into or renew a contract or an obligation:

- (1) for the storage or copying of public records; or
- (2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

~~(g)~~ (h) If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

SECTION 7. IC 5-14-3-4, AS AMENDED BY P.L.1-2002, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider,

unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

~~(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):~~

~~(A) Telephone number.~~

~~(B) Social Security number.~~

~~(C) Address.~~

~~(12) (11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.~~

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of ~~his~~ **the person's** scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of

commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or ~~his~~ **the employee's** representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would

jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of ~~his~~ **the donor's** identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations

that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) domestic preparedness strategies;

(G) the location of community drinking water wells and surface water intakes;

(H) the emergency contact information of emergency responders and volunteers;

(I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection without the prior approval of the public agency. The submitting public agency:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject

to public disclosure under IC 5-14-3-4(19)(I) without approval of (insert name of submitting public agency)". This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities

to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

~~(d)~~ (c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

~~(e)~~ (d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

~~(f)~~ (e) Notwithstanding subsection ~~(e)~~ (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 8. IC 5-14-3-9, AS AMENDED BY P.L.191-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

- (1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or
- (2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(b) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(c) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by

facsimile, a public agency may deny the request if:

- (1) the denial is in writing or by facsimile; and
- (2) the denial includes:
 - (A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and
 - (B) the name and the title or position of the person responsible for the denial.

(d) This subsection applies to a board, a commission, a department, a division, a bureau, a committee, an agency, an office, an instrumentality, or an authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state. If an agency receives a request to inspect or copy a record that the agency considers to be excepted from disclosure under section 4(b)(19) of this chapter, the agency may consult with the counterterrorism and security council established under IC 4-3-20. If an agency denies the disclosure of a record or a part of a record under section 4(b)(19) of this chapter, the agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening the public safety.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

- (1) that a request for release of the public record has been denied; and
- (2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

~~(e)~~ **(f)** The court shall determine the matter de novo, with the burden

of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(†) (g) If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(‡) (h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter.

(†) (i) In any action filed under this section, a court shall award reasonable ~~attorney~~ **attorney's** fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) A court shall expedite the hearing of an action filed under this section.

SECTION 9. IC 9-14-3-5, AS AMENDED BY HEA 1968-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), (c), or (d), the bureau shall prepare and deliver information on titles, registrations, and licenses and permits upon the request of any person. All requests must be submitted in writing to the bureau and, unless exempted under IC 9-29, must be accompanied by the payment of the fee prescribed in IC 9-29-2-2.

(b) The bureau ~~may~~ **shall** not disclose:

- (1) the Social Security number;
- (2) the federal identification number;
- (3) the driver's license number;
- (4) the digital image of the driver's license applicant; ~~or~~
- (5) a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3; **or**

(6) medical or disability information;

of any person except to a law enforcement officer or an agent or a designee of the department of state revenue **or for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9).**

(c) As provided under 42 U.S.C. 1973gg-3(b), the commission may not disclose any information concerning the failure of an applicant for a motor vehicle driver's license to sign a voter registration application, except as authorized under IC 3-7-14.

(d) The commission may not disclose any information concerning the failure of an applicant for a title, registration, license, or permit (other than a motor vehicle license described under subsection (c)) to sign a voter registration application, except as authorized under IC 3-7-14.

SECTION 10. IC 9-14-3.5-10, AS AMENDED BY P.L.39-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **Except as provided in section 10.5 of this chapter,** the bureau may disclose personal information to a person if the person requesting the information provides proof of identity and represents that the use of the personal information will be strictly limited to at least one (1) of the following:

- (1) For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a person acting on behalf of a government agency in carrying out its functions.
- (2) For use in connection with matters concerning:
 - (A) motor vehicle or driver safety and theft;
 - (B) motor vehicle emissions;
 - (C) motor vehicle product alterations, recalls, or advisories;
 - (D) performance monitoring of motor vehicles, motor vehicle parts, and dealers;
 - (E) motor vehicle market research activities, including survey research; and
 - (F) the removal of nonowner records from the original owner records of motor vehicle manufacturers.
- (3) For use in the normal course of business by a business or its agents, employees, or contractors, but only:
 - (A) to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors; and
 - (B) if information submitted to a business is not correct or is no longer correct, to obtain the correct information only for purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
- (4) For use in connection with a civil, a criminal, an administrative, or an arbitration proceeding in a court or government agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or under an order of a court.
- (5) For use in research activities, and for use in producing statistical reports, as long as the personal information is not published, re-disclosed, or used to contact the individuals who are the subject of the personal information.
- (6) For use by an insurer, an insurance support organization, or a self-insured entity, or the agents, employees, or contractors of an insurer, an insurance support organization, or a self-insured entity in connection with claims investigation activities, anti-fraud

activities, rating, or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by a licensed private investigative agency or licensed security service for a purpose allowed under this section.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2710 et seq.).

(10) For use in connection with the operation of private toll transportation facilities.

(11) For any use in response to requests for individual motor vehicle records when the bureau has obtained the written consent of the person to whom the personal information pertains.

(12) For bulk distribution for surveys, marketing, or solicitations when the bureau has obtained the written consent of the person to whom the personal information pertains.

(13) For use by any person, when the person demonstrates, in a form and manner prescribed by the bureau, that written consent has been obtained from the individual who is the subject of the information.

(14) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

However, this section does not affect the use of anatomical gift information on a person's driver's license or identification document issued by the bureau, nor does it affect the administration of anatomical gift initiatives in the state.

SECTION 11. IC 9-14-3.5-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) Except as provided in subsections (b) and (c), the bureau may not disclose the following personal information from a person's motor vehicle record:**

(1) Driver's license photograph or computerized image.

(2) Social Security number.

(3) Medical or disability information.

(b) The bureau may disclose the personal information described in subsection (a) if the bureau has the express written consent of the person to whom the personal information pertains to release

the information described in subsection (a).

(c) The bureau may disclose the personal information described in subsection (a) without the express written consent of the person to whom the personal information pertains if the person requesting the information:

- (1) provides proof of identity; and**
- (2) represents that the use of the personal information will be strictly limited to at least one (1) of the uses set forth in section 10(1), 10(4), 10(6), and 10(9) of this chapter.**

SECTION 12. IC 10-13-3-36, AS ADDED BY SEA 257-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

- (1) that has been in existence for at least ten (10) years; and
- (2) that:
 - (A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;
 - (B) is a home health agency licensed under IC 16-27-1;
 - (C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39);
 - or
 - (D) is a supervised group living facility licensed under IC 12-28-5.

(b) Except as provided in subsection (d), the department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

- (1) by a state agency; and**
- (2) through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana.**

SECTION 13. IC 10-13-3-38.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

- (1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:**
 - (A) that has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age;**
 - (B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);**
 - (C) at a state institution managed by the office of the secretary of family and social services or state department of health;**
 - (D) at the Indiana School for the Deaf established by IC 20-16-2-1;**
 - (E) at the Indiana School for the Blind established by IC 20-15-2-1;**

- (F) at a juvenile detention facility;
- (G) with the gaming commission under IC 4-33-3-16;
- (H) with the department of financial institutions under IC 28-11-2-3; or
- (I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Identification in a request related to an application for a teacher's license submitted to the professional standards board established under IC 20-1-1.4.

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment or license application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

SECTION 14. IC 16-19-10-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The state department may conduct surveys:

- (1) concerning the health status of Indiana residents; and
- (2) evaluating the effectiveness of the state department's programs.

(b) Information contained in a survey described in subsection (a) that identifies or could be used to determine the identity of a person responding to the survey is confidential. All other information contained in the survey is not confidential and is

available for inspection and copying under IC 5-14-3.

(c) For purposes of this section, "survey" does not include data or information that is generated, collected, or transferred under IC 16-21-6-7 or IC 16-39-5-3.

SECTION 15. IC 16-19-10-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section does not apply to medical or epidemiological information protected from disclosure under IC 16-41-8-1 or data or information that is confidential under IC 16-21-6-7 or IC 16-39-5-3.

(b) Except as provided in subsection (c), medical or epidemiological information:

- (1) collected from or volunteered by a person; and
- (2) that results in or from:
 - (A) a public health surveillance;
 - (B) a public health investigation; or
 - (C) an epidemiological investigation or study;

may be released only in a form that protects the identity of a person whose medical or epidemiological information was obtained.

(c) Medical or epidemiological information described in subsection (b) may be released in a form that does not protect the identity of a person whose medical or epidemiological information was obtained if:

- (1) the person consents in writing to the release of the person's medical or epidemiological information; or
- (2) the investigation or study results in an administrative or a judicial proceeding and release of the medical or epidemiological information is ordered by the administrative law judge or the court.

SECTION 16. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 9-14-3-5(b), the bureau of motor vehicles shall not disclose:

- (1) the Social Security number;
- (2) the federal identification number;
- (3) the driver's license number;
- (4) the digital image of the driver's license applicant;
- (5) a reproduction of the signature secured under IC 9-24-9-1 or IC 9-24-16-3; or

(6) medical or disability information; of any person except to a law enforcement officer or an agent or a designee of the department of state revenue or for uses permitted under IC 9-14-3.5-10(1), IC 9-14-3.5-10(4), IC 9-14-3.5-10(6), and IC 9-14-3.5-10(9).

(b) This SECTION expires June 30, 2003.

SECTION 17. [EFFECTIVE UPON PASSAGE] (a) The state police department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:

(1) that has been in existence for at least ten (10) years; and

(2) that:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39); or

(D) is a supervised group living facility licensed under IC 12-28-5.

(b) Notwithstanding IC 5-2-5-13, except as provided in subsection (d), the state police department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The state police department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state

government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). Notwithstanding IC 5-2-5-13, the state police department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made:

(1) by a state agency; and

(2) through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana.

(e) This SECTION expires June 30, 2003.

SECTION 18. An emergency is declared for this act.

P.L.262-2003

[H.1972. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-200.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 200.5. "Wasted resources", for purposes of IC 12-20, means:

(1) the amount of money or resources expended by an applicant or an adult member of an applicant's household seeking poor relief during the thirty (30) days before the date of application for poor relief for items or services that are not basic necessities; ~~or~~
(2) income, resources, or tax supported services lost or reduced as a result of a voluntary act during the sixty (60) days before the date of application for poor relief by an adult member of an applicant's household unless the adult member can establish a good reason for the act; **or**

(3) lump sum amounts of money or resources from tax refunds, lawsuits, inheritances, or pension payments of at least four hundred dollars (\$400) that are expended by:

(A) an applicant seeking poor relief; or

(B) an adult member of the applicant's household; during the one hundred eighty (180) days immediately preceding the date of application for poor relief for items or services that are not basic necessities, if at the time of the expenditure there were amounts due and owing for items or services constituting basic necessities.

SECTION 2. IC 12-20-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The board of county commissioners may:

(1) conduct a hearing on the appeal; or

(2) appoint a hearing officer:

(A) from among the board;

(B) from among the employees of the board; or

(C) from qualified residents of the county;

who will ~~serve without compensation to~~ conduct a hearing for the board.

(b) The board of county commissioners shall develop uniform written procedures, including provisions for:

(1) before the hearing, an opportunity for the appellant or the appellant's legal representative to review the appellant's poor relief file and any documents or evidence used by the township trustee to make the determination under appeal;

(2) the order of the proceeding and the procedure for subpoena:

(A) of a witness; or

(B) for production of evidence;

if reasonably requested by the appellant or the township trustee; and

(3) the issuance of a hearing decision within the period prescribed by section 6(b)(2) of this chapter.

SECTION 3. IC 12-20-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) In hearing an appeal, **the board of commissioners and a hearing officer shall:**

(1) review and consider any report or investigative documents the trustee prepared before making the appealed decision;

and

(2) The board of commissioners and a hearing officer shall be governed by the township's poor relief standards for determining eligibility to the extent that the standards comply with existing law for the granting of poor relief. If no legally sufficient standards have been established, the board of commissioners and the hearing officer shall be guided by the circumstances in each case.

(b) The board of commissioners shall remand a case to a trustee for further proceedings if:

- (1) new evidence was presented by the applicant to the board of commissioners; and**
- (2) the board of commissioners determines that the new evidence presented would have made the individual eligible for assistance.**

(c) If a case is remanded to a trustee, the trustee shall issue a new determination of eligibility not later than seventy-two (72) hours after receiving the written decision remanding the case, excluding weekends and legal holidays listed in IC 1-1-9.

SECTION 4. IC 12-20-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as provided in subsections (b) and (c), the township trustee shall, in cases of necessity, do the following:

- (1) Promptly provide medical assistance for poor individuals in the township who are not provided for in public institutions.
- (2) See that medicines, medical supplies, special diets, or tests prescribed by a physician or surgeon in attendance upon poor individuals in the township are properly furnished.

(b) A township trustee may not provide to an individual medical assistance under the poor relief program if the individual could qualify for medical assistance for the same service under:

- (1) IC 12-16;
- (2) Medicaid; **or**
- (3) other governmental medical programs; **or**
- (4) private health insurance that would cover the individual at the time the assistance was provided. However, if the individual's insurance does not pay for the medical assistance due to a policy deductible or other policy limitation, the**

township trustee shall pay for medical assistance that the trustee would provide if the individual did not have insurance.

However, a township trustee may provide interim medical services during the period that the individual has an application pending for medical assistance under Medicaid (IC 12-15) or another governmental medical program if the individual is reasonably complying with all requirements of the application process.

(c) The township trustee shall pay only for the following medical services for the poor of the township:

(1) Prescription drugs, **not to exceed a thirty (30) day supply at a time**, as prescribed by an attending practitioner (as defined in IC 16-42-19-5) other than a veterinarian. **However, if the prescription drugs are available only in a container that contains more than a thirty (30) day supply, the township trustee may pay for the available size.**

(2) Office calls to a physician licensed under IC 25-22.5 or another medical provider.

(3) Dental care needed to relieve pain or infection or to repair cavities.

(4) Repair or replacement of dentures.

(5) Emergency room treatment that is of an emergency nature.

(6) Preoperation testing prescribed by an attending physician licensed under IC 25-22.5.

(7) Over-the-counter drugs prescribed by a practitioner (as defined in IC 16-42-19-5) other than a veterinarian.

(8) X-rays and laboratory testing as prescribed by an attending physician licensed under IC 25-22.5.

(9) Visits to a medical specialist when referred by an attending physician licensed under IC 25-22.5.

(10) Physical therapy prescribed by an attending physician licensed under IC 25-22.5.

(11) Eyeglasses.

(12) Repair or replacement of a prosthesis not provided for by other tax supported state or federal programs.

(13) Insulin and items needed to administer ~~insulin~~ **the biological, not to exceed a thirty (30) day supply at a time**, in accordance with section 14 of this chapter. **However, if the biologicals are available only in a container that contains**

more than a thirty (30) day supply, the township trustee may pay for the available size.

(d) The township trustee may establish a list of approved medical providers to provide medical services to the poor of the township. Any medical provider who:

- (1) can provide the particular medical services within the scope of the provider's license issued under IC 25; and
- (2) is willing to provide the medical services for the charges established by the township trustee;

is entitled to be included on the list.

(e) Unless prohibited by federal law, a township trustee who:

- (1) provides to an individual medical assistance that is eligible for payment under any medical program described in subsection (b) for which payments are administered by an agency of the state during the pendency of the individual's successful application for the program; and
- (2) submits a timely and proper claim to the agency;

is eligible for reimbursement by the agency to the same extent as any medical provider.

(f) If a township trustee provides medical assistance for medical services provided to an individual who is subsequently determined to be eligible for Medicaid:

- (1) the township trustee shall notify the medical provider that provided the medical services of the individual's eligibility; and**
- (2) not later than thirty (30) days after the medical provider receives the notice under subdivision (1), the medical provider shall file a claim for reimbursement with the office.**

(g) A medical provider that is reimbursed under subsection (f) shall, not later than thirty (30) days after receiving the reimbursement, pay to the township trustee the lesser of:

- (1) the amount of medical assistance received from the trustee to an individual; or**
- (2) the amount reimbursed by Medicaid to the medical provider.**

SECTION 5. IC 12-20-16-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The township trustee is authorized to provide insulin to individuals who are in need

of insulin treatment and who are financially unable to purchase the insulin, upon application of a physician licensed under IC 25-22.5 or **an advanced practice nurse who is licensed under IC 25-23 and who meets the requirements of IC 25-23-1-11 and IC 25-23-1-19.5. However, an application submitted by a physician or an advanced practice nurse under this section must meet the requirements of IC 16-41-19-4.**

SECTION 6. IC 12-20-21-4, AS AMENDED BY P.L.90-2002, SECTION 347, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. If the board of commissioners determines from ~~the quarterly reports filed by the township trustee under IC 12-20-21-5 with the county auditor~~ and the levies made by the respective townships for poor relief purposes that there will be insufficient money in the township poor relief fund to provide free and available money during the following year for poor relief purposes on the basis of the total costs of poor relief granted by the township trustees, as administrators of poor relief, for the previous twelve (12) months:

- (1) the board of commissioners may include estimates for the advancements in the county general fund budget;
- (2) the county fiscal body may appropriate for the advancement in the budget and levy as adopted by the county fiscal body; and
- (3) the department shall include that amount in the final county general fund levy.

SECTION 7. IC 12-20-28-3, AS AMENDED BY P.L.90-2002, SECTION 364, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The definitions in this section apply to a report that is required to be filed under this section.

(b) As used in this section, "total number of households containing poor relief recipients" means the sum to be determined by counting the total number of individuals who file an application for which relief is granted. A household may be counted only once during a calendar year regardless of the number of times assistance is provided if the same individual makes the application for assistance.

(c) As used in this section, "total number of recipients" means the number of individuals who are members of a household that receives assistance on at least one (1) occasion during the calendar year. An individual may be counted only one (1) time during a calendar year

regardless of the:

- (1) number of times assistance is provided; or
- (2) number of households in which the individual resides during a particular year.

(d) As used in this section, "total number of requests for assistance" means the number of times an individual or a household separately requests any type of township assistance.

(e) The township trustee shall file an annual statistical report on township housing, medical care, utility, and food assistance with the state board of accounts. **The township trustee shall provide a copy of the annual statistical report to the county auditor. The county auditor shall keep the copy of the report in the county auditor's office.** Except as provided in subsection (i), the report must be made on a form provided by the state board of accounts. The report must contain the following information:

- (1) The total number of requests for assistance.
- (2) The total number of poor relief recipients and total number of households containing poor relief recipients.
- (3) The total value of benefits provided poor relief recipients.
- (4) The total number of poor relief recipients and households receiving utility assistance.
- (5) The total value of benefits provided for the payment of utilities.
- (6) The total number of poor relief recipients and households receiving housing assistance.
- (7) The total value of benefits provided for housing assistance.
- (8) The total number of poor relief recipients and households receiving food assistance.
- (9) The total value of food assistance provided.
- (10) The total number of poor relief recipients and households provided health care.
- (11) The total value of health care provided.
- (12) The total number of burials and cremations.
- (13) The total value of burials and cremations.
- (14) The total number of nights of emergency shelter provided to the homeless.
- (15) The total number of referrals of poor relief applicants to other programs.

(16) The total number of training programs or job placements found for poor relief recipients with the assistance of the township trustee.

(17) The number of hours spent by poor relief recipients at workfare.

(18) The total amount of reimbursement for assistance received from:

(A) recipients;

(B) members of recipients' households; or

(C) recipients' estates;

under IC 12-20-6-10, IC 12-20-27-1, or IC 12-20-27-1.5.

(19) The total amount of reimbursement for assistance received from medical programs under IC 12-20-16-2(e).

If the total number or value of any item required to be reported under this subsection is zero (0), the township trustee shall include the notation "0" in the report where the total number or value is required to be reported.

(f) The state board of accounts shall forward a copy of each annual report forwarded to the board under subsection (e) to the department and the division of family and children.

(g) The division of family and children shall include in the division's periodic reports made to the United States Department of Health and Human Services concerning the Aid to Families with Dependent Children (AFDC) and Supplemental Security Income (SSI) programs information forwarded to the division under subsection (f) concerning the total number of poor relief recipients and the total dollar amount of benefits provided.

(h) The department may not approve the budget of a township trustee who fails to file an annual report under subsection (e) in the preceding calendar year. Before July 1 of each year, the department shall file a report with the legislative council that compiles and summarizes the information sent to the state board of accounts by township trustees under subsection (e).

(i) This section does not prevent the electronic transfer of data required to be reported under IC 12-2-1-40 (before its repeal) or this section if the following conditions are met:

(1) The method of reporting is acceptable to both the township trustee reporting the information and the governmental entity to

which the information is reported.

(2) A written copy of information reported by electronic transfer is on file with the township trustee reporting information by electronic means.

(j) The information required to be reported by the township trustee under this section shall be maintained by the township trustee in accordance with IC 5-15-6.

SECTION 8. IC 16-41-19-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The ~~physicians~~ **physician or advanced practice nurse** applying for free biologicals as provided in this chapter and IC 12-20-16-14 shall sign in ink the following affirmation printed on the application form:

I solemnly affirm that the free biologicals applied for will be administered to the person named above, and it is my belief after inquiry that the person is financially unable to pay for the biologicals.

SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 12-20-6-6; IC 12-20-21-5.

SECTION 10. [EFFECTIVE JULY 1, 2003] **(a) Beginning July 1, 2003, any reference in the Indiana Code to poor relief (as administered by a township under IC 12-20) shall be treated as a reference to township assistance.**

(b) The legislative services agency shall prepare legislation for introduction in the 2004 session of the general assembly to organize and correct statutes by changing any reference to the township poor relief program in the Indiana Code from "poor relief" to "township assistance".

(c) If during the preparation of legislation under subsection (b) the legislative services agency cannot determine whether a particular instance of the term "poor relief" refers to the township program administered under IC 12-20, the legislative services agency may omit changing that reference in the legislation.

(d) This SECTION expires June 30, 2007.

P.L.263-2003

[H.1980. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-5-4-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. (a) This section applies after December 31, 2003, whenever the individual who holds the office of circuit court clerk is a candidate on the ballot for any office.**

(b) As used in this section, "ballot" refers to an absentee ballot, a ballot card, or any other form of ballot.

(c) Notwithstanding any law requiring the name or signature of the circuit court clerk to appear on a ballot for authentication or any other purpose, the name or signature of the individual who is circuit court clerk may not appear on the ballot except to indicate that the individual is a candidate for an office.

(d) The circuit court clerk shall substitute a uniform device or symbol prescribed by the commission for the circuit court clerk's printed name or signature to authenticate a ballot.

SECTION 2. IC 3-11-4-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19. (a) Subject to IC 3-5-4-9**, a ballot that is mailed must bear the circuit court clerk's official seal and signature or facsimile signature on the back of the ballot. Before the ballot is mailed:

(1) the two (2) members of the absentee voter board in the office of the circuit court clerk; or

(2) the two (2) appointed members of the county election board or their designated representatives;

shall place their initials in ink on the back of the ballot. The initials must be in the persons' ordinary handwriting or printing and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

(b) An absentee ballot that is voted before an absentee voter board

under IC 3-11-10-25 or IC 3-11-10-26 must bear the seal, signature, and initials prescribed by IC 3-11-10-27.

SECTION 3. IC 3-11-10-27, AS AMENDED BY P.L.126-2002, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) This section does not apply to a ballot mailed to a voter under this chapter.

(b) **Subject to IC 3-5-4-9**, before a ballot is voted under section 25 or 26 of this chapter before an absentee voter board, it must bear the circuit court clerk's official seal and signature or facsimile signature and be initialed by:

- (1) the absentee voter board visiting the voter under section 25(b) of this chapter (except in a county subject to subsection (c)); or
- (2) the county election board or the board's designated representatives under IC 3-11-4-19 if the ballot is cast at the office of the circuit court clerk under section 26 of this chapter.

(c) A county election board may adopt a resolution providing that the absentee ballots to be voted before an absentee voter board visiting the voter under section 25(b) of this chapter must be initialed by the county election board or the board's representatives under IC 3-11-4-19 and not by the absentee voter board visiting the voter. A resolution adopted under this subsection remains in effect until rescinded by the county election board. The election board may not rescind the resolution during the final sixty (60) days before an election.

(d) The initials must be in ink on the back of the ballot, in the person's ordinary handwriting or printing, and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

SECTION 4. IC 3-12-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter insofar as it can be ascertained.

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

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

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

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

- (1) until the repair and retesting of the malfunctioning machine; and
- (2) whether or not the machine was tested under IC 3-11-13-26.

SECTION 5. An emergency is declared for this act.

P.L.264-2003

[H.2005. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-10-16, AS AMENDED BY P.L.198-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

(b) A building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes.

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

(1) a building ~~which~~ **that** is exempt under subsection (a) or (b) is situated on it; ~~and~~

~~(2) the tract does not exceed:~~

~~(A) one hundred fifty (150) acres in the case of:~~

~~(i) an educational institution;~~

~~(ii) a tract that was exempt under this subsection on March 1, 1987; or~~

~~(B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or~~

~~(C) fifteen (15) acres in all other cases.~~

(2) a parking lot or structure that serves a building referred to in subdivision (1) is situated on it; or

(3) the tract:

(A) is owned by a nonprofit entity established for the purpose of retaining and preserving land and water for their natural characteristics;

(B) does not exceed five hundred (500) acres; and

(C) is not used by the nonprofit entity to make a profit.

(d) A tract of land is exempt from property taxation if:

(1) it is purchased for the purpose of erecting a building ~~which~~ **that** is to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b); **and**

~~(2) the tract does not exceed:~~

~~(A) one hundred fifty (150) acres in the case of:~~

~~(i) an educational institution; or~~

~~(ii) a tract that was exempt under this subsection on March 1, 1987;~~

~~(B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or~~

~~(C) fifteen (15) acres in all other cases; and~~

~~(3)~~ **(2)** not more than three (3) years after the property is purchased, and for each year after the three (3) year period, the owner demonstrates substantial progress **and active pursuit** towards the erection of the intended building and use of the tract for the exempt purpose. To establish ~~that~~ substantial progress **is being made, and active pursuit under this subdivision**, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within three (3) years.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the building is an active plan and that the building is capable of being completed within six (6) years considering the circumstances of the owner.

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

(f) A hospital's property ~~which~~ **that** is exempt from property taxation under subsection (a), (b), or (e) shall remain exempt from property taxation even if the property is used in part to furnish goods or services to another hospital whose property qualifies for exemption

under this section.

(g) Property owned by a shared hospital services organization ~~which~~ **that** is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt from property taxation under subsection (a), (b), or (e).

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

- (1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
- (2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

(i) A tract of land or a tract of land plus all or part of a structure on the land is exempt from property taxation if:

- (1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold:
 - (A) in a charitable manner;
 - (B) by a nonprofit organization; and
 - (C) to low income individuals who will:
 - (i) use the land as a family residence; and
 - (ii) not have an exemption for the land under this section;
- (2) the tract does not exceed three (3) acres;
- (3) the tract of land or the tract of land plus all or part of a structure on the land is not used for profit while exempt under this section; and
- (4) not more than three (3) years after the property is acquired for

the purpose described in subdivision (1), and for each year after the three (3) year period, the owner demonstrates substantial progress **and active pursuit** towards the erection, renovation, or improvement of the intended structure. To establish ~~that~~ substantial progress ~~is being made~~, **and active pursuit under this subdivision**, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within six (6) years of the initial exemption received under this subsection.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the structure is an active plan and that the structure is capable of being:

(i) completed; and

(ii) transferred to a low income individual who does not receive an exemption under this section;

within six (6) years considering the circumstances of the owner.

(j) An exemption under subsection (i) terminates when the property is conveyed by the nonprofit organization to another owner. When the property is conveyed to another owner, the nonprofit organization receiving the exemption must file a certified statement with the auditor of the county, notifying the auditor of the change not later than sixty (60) days after the date of the conveyance. The county auditor shall immediately forward a copy of the certified statement to the county assessor. A nonprofit organization that fails to file the statement required by this subsection is liable for the amount of property taxes due on the property conveyed if it were not for the exemption allowed under this chapter.

(k) If property is granted an exemption in any year under subsection (i) and the owner:

- (1) ceases to be eligible for the exemption under subsection (i)(4);
- (2) fails to transfer the tangible property within six (6) years after the assessment date for which the exemption is initially granted;
- or
- (3) transfers the tangible property to a person who:
 - (A) is not a low income individual; or
 - (B) does not use the transferred property as a residence for at least one (1) year after the property is transferred;

the person receiving the exemption shall notify the county recorder and the county auditor of the county in which the property is located not later than sixty (60) days after the event described in subdivision (1), (2), or (3) occurs. The county auditor shall immediately inform the county assessor of a notification received under this subsection.

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following:

- (1) The total property taxes that, if it were not for the exemption under subsection (i), would have been levied on the property in each year in which an exemption was allowed.
- (2) Interest on the property taxes at the rate of ten percent (10%) per year.

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (i). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

(n) Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 2. IC 6-1.1-10-21, AS AMENDED BY P.L.198-2001, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) The following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

- (1) A building ~~which~~ **that** is used for religious worship.
- ~~(2) Buildings that are used as parsonages.~~
- ~~(2)~~ **(2)** The pews and furniture contained within a building ~~which~~ **that** is used for religious worship.
- ~~(4)~~ **(3)** The tract of land ~~not exceeding fifteen (15) acres;~~ upon

which a building ~~described in this section that is used for religious worship~~ is situated.

(b) The following tangible property is exempt from property taxation if it is owned by, or held in trust for the use of, a church or religious society:

(1) A building that is used as a parsonage.

(2) The tract of land, not exceeding fifteen (15) acres, upon which a building that is used as a parsonage is situated.

(c) To obtain an exemption for parsonages, a church or religious society must provide the county ~~auditor~~ **assessor** with an affidavit at the time the church or religious society applies for the exemptions. The affidavit must state that:

(1) all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and

(2) none of the parsonages are being used to make a profit.

The affidavit shall be signed under oath by the church's or religious society's head rabbi, priest, preacher, minister, or pastor. ~~The county auditor shall immediately forward a copy of the affidavit to the county assessor.~~

~~(c)~~ **(d)** Property referred to in this section shall be assessed to the extent required under IC 6-1.1-11-9.

SECTION 3. IC 6-1.1-10-36.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36.3. (a) For purposes of this section, property is predominantly used or occupied for one (1) or more stated purposes if it is used or occupied for one (1) or more of those purposes during more than fifty percent (50%) of the time that it is used or occupied in the year that ends on the assessment date of the property.

(b) The determination under subsection (c) of:

(1) the use or occupation of the property; and

(2) the application of an exemption;

applies separately to each part of the property identified under IC 6-1.1-11-3(c)(5).

(c) If a section of this chapter states one (1) or more purposes for which property must be used or occupied in order to qualify for an exemption, then the exemption applies as follows:

(1) Property that is exclusively used or occupied for one (1) or

more of the stated purposes is totally exempt under that section.

(2) Property that is predominantly used or occupied for one (1) or more of the stated purposes by a church, religious society, or not-for-profit school is totally exempt under that section.

(3) Property that is predominantly used or occupied for one (1) or more of the stated purposes by a person other than a church, religious society, or not-for-profit school is exempt under that section from property tax on the part of the assessment of the property that bears the same proportion to the total assessment of the property as the amount of time that the property was used or occupied for one (1) or more of the stated purposes during the year that ends on the assessment date of the property bears to the amount of time that the property was used or occupied for any purpose during that year.

(4) Property that is predominantly used or occupied for a purpose other than one (1) of the stated purposes is not exempt from any part of the property tax.

~~(e)~~ (d) Property is not used or occupied for one (1) or more of the stated purposes during the time that a predominant part of the property is used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of one (1) or more of the stated purposes.

SECTION 4. IC 6-1.1-11-3, AS AMENDED BY P.L.178-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) **Subject to subsections (e) and (f)**, an owner of tangible property who wishes to obtain an exemption from property taxation shall file a certified application in duplicate with the county assessor of the county in which the property that is the subject of the exemption is located. The application must be filed annually on or before May 15 on forms prescribed by the department of local government finance. Except as provided in sections 1, 3.5, and 4 of this chapter, the application applies only for the taxes imposed for the year for which the application is filed.

(b) The authority for signing an exemption application may not be delegated by the owner of the property to any other person except by an executed power of attorney.

(c) An exemption application which is required under this chapter shall contain the following information:

- (1) A description of the property claimed to be exempt in sufficient detail to afford identification.
- (2) A statement showing the ownership, possession, and use of the property.
- (3) The grounds for claiming the exemption.
- (4) The full name and address of the applicant.
- (5) **For the year that ends on the assessment date of the property, identification of:**

(A) each part of the property used or occupied; and

(B) each part of the property not used or occupied;

for one (1) or more exempt purposes under IC 6-1.1-10 during the time the property is used or occupied.

- (6) Any additional information which the department of local government finance may require.

(d) A person who signs an exemption application shall attest in writing and under penalties of perjury that, to the best of the person's knowledge and belief, a predominant part of the property claimed to be exempt is not being used or occupied in connection with a trade or business that is not substantially related to the exercise or performance of the organization's exempt purpose.

(e) An owner must file with an application for exemption of real property under subsection (a) or section 5 of this chapter a copy of the township assessor's record kept under IC 6-1.1-4-25(a) that shows the calculation of the assessed value of the real property for the assessment date for which the exemption is claimed. Upon receipt of the exemption application, the county assessor shall examine that record and determine if the real property for which the exemption is claimed is properly assessed. If the county assessor determines that the real property is not properly assessed, the county assessor shall direct the township assessor of the township in which the real property is located to:

(1) properly assess the real property; and

(2) notify the county assessor and county auditor of the proper assessment.

(f) If the county assessor determines that the applicant has not filed with an application for exemption a copy of the record referred to in subsection (e), the county assessor shall notify the applicant in writing of that requirement. The applicant then has

thirty (30) days after the date of the notice to comply with that requirement. The county property tax assessment board of appeals shall deny an application described in this subsection if the applicant does not comply with that requirement within the time permitted under this subsection.

SECTION 5. IC 6-1.1-11-3.5, AS AMENDED BY P.L.198-2001, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) A not-for-profit corporation that seeks an exemption provided by IC 6-1.1-10 for 2000 or for a year that follows 2000 by a multiple of two (2) years must file an application for the exemption in that year. However, if a not-for-profit corporation seeks an exemption provided by IC 6-1.1-10 for a year not specified in this subsection and the corporation did not receive the exemption for the preceding year, the corporation must file an application for the exemption in the year for which the exemption is sought. The not-for-profit corporation must file each exemption application in the manner (other than the requirement for filing annually) prescribed in section 3 of this chapter.

(b) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year that remains eligible for the exemption for the following year is only required to file a statement to apply for the exemption in the years specified in subsection (a), if the use of the not-for-profit corporation's property remains unchanged.

(c) A not-for-profit corporation that receives an exemption provided under IC 6-1.1-10 for a particular year which becomes ineligible for the exemption for the following year shall notify the **auditor assessor** of the county in which the tangible property for which it claims the exemption is located of its ineligibility on or before May 15 of the year for which it becomes ineligible. If a not-for-profit corporation that is receiving an exemption provided under IC 6-1.1-10 changes the use of its tangible property so that part or all of that property no longer qualifies for the exemption, the not-for-profit corporation shall notify the **auditor assessor** of the county in which the tangible property for which it claims the exemption is located of its ineligibility on or before May 15 of the year for which it first becomes ineligible. The county **auditor assessor** shall immediately notify the county **assessor auditor** of the not-for-profit corporation's ineligibility or disqualification for the exemption. A not-for-profit corporation that fails to provide the

notification required by this subsection is subject to the penalties set forth in IC 6-1.1-37-9.

(d) For each year that is not a year specified in subsection (a), the auditor of each county shall apply an exemption provided under IC 6-1.1-10 to the tangible property owned by a not-for-profit corporation that received the exemption in the preceding year unless the county property tax assessment board of appeals determines that the not-for-profit corporation is no longer eligible for the exemption.

(e) The department of local government finance may at any time review an exemption provided under this section and determine whether or not the not-for-profit corporation is eligible for the exemption.

SECTION 6. IC 6-1.1-11-3.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.8. (a) This section applies to real property that after December 31, 2003, is:

(1) exempt from property taxes:

(A) under an application filed under this chapter; or

(B) under:

(i) IC 6-1.1-10-2; or

(ii) IC 6-1.1-10-4; and

(2) leased to an entity other than:

(A) a nonprofit entity;

(B) a governmental entity; or

(C) an individual who leases a dwelling unit in:

(i) a public housing project;

(ii) a nursing facility referred to in IC 12-15-14;

(iii) an assisted living facility; or

(iv) an affordable housing development.

(b) After December 31, 2003, each lessor of real property shall notify the county assessor of the county in which the real property is located in writing of:

(1) the existence of the lease referred to in subsection (a)(2);

(2) the term of that lease; and

(3) the name and address of the lessee.

(c) Each county assessor shall annually notify the department of local government finance in writing of the information received by the county assessor under subsection (b).

(d) The department of local government finance shall adopt rules to:

(1) establish when the notices under subsections (b) and (c) must be given; and

(2) otherwise implement this section.

SECTION 7. IC 6-1.1-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **Before May 16 of each even-numbered year, the county auditor shall provide to the county assessor a list by taxing district of property for which a tax exemption was in effect for the immediately preceding year. Before July 1 of each even-numbered year, the county assessor shall return the list to the county auditor with a notation of any action of the county property tax assessment board of appeals on that year's exemption of each listed property.**

(b) The auditor assessor of the county in which property is located shall, in a ~~particular~~ **each even-numbered** year, mail a notice to the owner of the property if:

(1) the owner has not applied for a tax exemption for that year;

(2) a tax exemption for the property was in effect for the immediately preceding year; and

(3) the owner is required to file an application for the exemption for that year under section ~~3~~ **or 3.5** of this chapter.

~~(b)~~ **(c) The notice required by this section subsection (b) must:**

(1) identify the property by key number, if any, and a street address, if any, or other common description of the property other than a legal description; and

(2) state that the property will be placed on the county tax duplicate unless the owner applies for an exemption within fifteen (15) days after the date the notice is mailed.

The county ~~auditor assessor~~ shall mail any notice required by ~~this section~~ **or subsection (b)** before June ~~15~~ **16** of the year in which the exemption application should have been filed.

~~(c)~~ **(d) A county auditor's assessor's** failure to give the notice required by ~~this section~~ **subsection (b)** does not continue an exemption unless an exemption application is filed by the owner and approved by the county property tax assessment board of appeals on or before the first Monday in November of the year following the year in which the application should have been filed.

SECTION 8. IC 6-1.1-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. Before the convening of the county property tax assessment board of appeals, the county **auditor assessor** shall submit the exemption applications to the county property tax assessment board of appeals for examination.

SECTION 9. IC 6-1.1-11-7, AS AMENDED BY P.L.90-2002, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The county property tax assessment board of appeals, after careful examination, shall approve or disapprove each exemption application and shall note its action on the application.

(b) If the county property tax assessment board of appeals approves the exemption, in whole or part:

(1) the county assessor shall notify the county auditor of the approval; and

(2) the county auditor shall note the board's action on the tax duplicate.

The county auditor's notation is notice to the county treasurer that the exempt property shall not be taxed for the current year unless otherwise ordered by the department of local government finance.

(c) If the exemption application is disapproved by the county property tax assessment board of appeals, the county **auditor assessor** shall notify the applicant by mail. Within thirty (30) days after the notice is mailed, the owner may, in the manner prescribed in IC 6-1.1-15-3, petition the Indiana board to review the county property tax assessment board of appeals' determination.

SECTION 10. IC 6-1.1-11-8, AS AMENDED BY P.L.90-2002, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** On or before August 1 of each year, the county auditor of each county shall forward to the department of local government finance the duplicate copies of all approved exemption applications.

(b) The department of local government finance shall review the approved applications **forwarded under subsection (a)**. The department of local government finance may deny an exemption if the department determines that the property is not tax exempt under the laws of this state. However, before denying an exemption, the department of local government finance must give notice to the

applicant, and the department must hold a hearing on the exemption application.

(c) With respect to the approved applications forwarded under subsection (a), the department shall annually report to the executive director of the legislative services agency:

- (1) the number forwarded;**
- (2) the number subjected to field investigation by the department; and**
- (3) the number denied by the department;**

during the year ending on July 1 of the year. The department must submit the report under this subsection not later than August 1 of the year.

(d) The department shall adopt rules under IC 4-22-2 with respect to exempt real property to:

- (1) provide just valuations; and**
- (2) ensure that assessments are:**
 - (A) made; and**
 - (B) recorded;**

in accordance with law.

SECTION 11. IC 6-1.1-11-10, AS AMENDED BY P.L.178-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. No fee may be charged by a county auditor **or county assessor**, or the county auditor's **or county assessor's** employees, for filing or preparing an exemption application.

SECTION 12. IC 6-1.1-21-4, AS AMENDED BY P.L.192-2002(ss), SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

- (1) each county's total eligible property tax replacement amount for that year; plus
- (2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus
- (3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain

all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (i), the department shall not distribute under subsection (b) and section 10 of this chapter the money attributable to the county's property reassessment fund if, by the date the distribution is scheduled to be made:

(1) the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1; or

(2) the county assessor has not forwarded the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a);

to the department of local government finance.

(f) Except as provided in subsection (i), if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by August 1 as described in this section bears to the total number of townships in the county.

(g) Money not distributed ~~under subsection (e)~~ **for the reasons stated in subsection (e)(1) and (e)(2)** shall be distributed to the county

when:

(1) the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1; **and**

(2) the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);

with respect to which the failure to send **or forward** resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; **or**

(B) a county assessor to forward copies of all approved exemption applications;

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances.

SECTION 13. IC 14-33-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section applies to the following tangible property owned by or held in trust for the use of a church or religious society:

(1) A building that is used for religious worship.

(2) A building that is used as a parsonage.

(3) The pews and furniture contained within a building that is used for religious worship.

(4) The land upon which a building that is used for religious worship is situated.

(5) The land, not exceeding fifteen (15) acres, upon which a

building ~~described in this section~~ **that is used as a parsonage** is situated.

(b) Property is exempt from the special benefits tax that may be imposed under:

- (1) IC 14-33-6-13 and section 1 of this chapter; or
- (2) IC 14-33-21-5;

to the extent that the special benefits tax revenue will be used for the construction or improvement of a water impoundment project, including a lake, pond, or dam.

(c) To obtain an exemption for a parsonage, a church or religious society must provide the county auditor with an affidavit at the time the church or religious society applies for the exemption. The affidavit must:

- (1) state:
 - (A) that all parsonages are being used to house one (1) of the church's or religious society's rabbis, priests, preachers, ministers, or pastors; and
 - (B) that none of the parsonages are being used to make a profit; and
- (2) be signed under oath or affirmation by the church's or religious society's head rabbi, priest, preacher, minister, pastor, or designee of the official church body.

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) A church or religious institution may file a claim with the county auditor for a refund for the payment of property taxes first due and payable in 2001 if:

- (1) the church or religious institution challenged in an administrative action before the state board of tax commissioners (before it was abolished) the denial of exemption of land for that year by the county property tax assessment board of appeals; and**
- (2) the church or religious institution paid property taxes for that year on land not exceeding forty-five (45) acres for which exemption was denied as described in subdivision (1).**

The claim must be filed as set forth in IC 6-1.1-26-1, except that the claim must be based upon a determination of the exemption of the property of the church or religious institution as if IC 6-1.1-10-16, as amended by this act, had been in effect for property taxes first

due and payable in 2001.

(b) Upon receiving a claim filed under this SECTION, the county auditor shall determine whether the claim is correct. If the county auditor determines that the claim is correct, the auditor shall, without an appropriation being required, issue a warrant to the claimant payable from the county general fund for the amount due the claimant under this SECTION.

(c) The amount of the refund shall equal the amount of the claim so allowed. No interest is payable on the refund.

(d) This SECTION expires January 1, 2004.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) IC 6-1.1-10-16 (subject to SECTION 13 of this act), IC 6-1.1-10-21, and IC 14-33-7-4, all as amended by this act, apply only to property taxes first due and payable after December 31, 2002.

(b) This SECTION expires January 1, 2004.

SECTION 16. An emergency is declared for this act.



P.L.265-2003

[S.6. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-79.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 79.7. "Inflatable restraint system", for purposes of IC 9-19-10.5, has the meaning set forth in IC 9-19-10.5-1.

SECTION 2. IC 9-13-2-105, AS AMENDED BY P.L.143-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of husbandry, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

- (1) a vehicle except a motorized bicycle that is self-propelled; or
- (2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of **IC 9-19-10.5** and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

SECTION 3. IC 9-19-10.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 10.5. Inflatable Restraint Systems

Sec. 1. As used in this chapter, "inflatable restraint system" means an air bag that is activated in a crash.

Sec. 2. A person may not knowingly or intentionally install in a motor vehicle, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle.

Sec. 3. A person may not knowingly or intentionally:

- (1) sell;
- (2) lease;
- (3) trade; or
- (4) transfer;

a motor vehicle in which is installed, as part of the motor vehicle's inflatable restraint system, an object that does not comply with Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) for the make, model, and year of the motor vehicle to an Indiana resident.

Sec. 4. A person who violates section 2 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if a person in a motor vehicle is injured as a result of the air bag tampering.

Sec. 5. A person who violates section 3 of this chapter commits a Class D felony.

SECTION 4. [EFFECTIVE JULY 1, 2003] **IC 9-19-10.5-4 and IC 9-19-10.5-5, both as added by this act, apply only to acts committed after June 30, 2003.**

P.L.266-2003
[S.144. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-42-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:

- (1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Class A felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Class D felony. However, the offense is:

- (1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Class B felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in

IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. **However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).**

(d) It is a defense that the child is or has ever been married. **However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).**

SECTION 2. IC 35-50-1-2, AS AMENDED BY P.L.228-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this section, "crime of violence" means:

- (1) murder (IC 35-42-1-1);
- (2) attempted murder (IC 35-41-5-1);
- (3) voluntary manslaughter (IC 35-42-1-3);
- (4) involuntary manslaughter (IC 35-42-1-4);
- (5) reckless homicide (IC 35-42-1-5);
- (6) aggravated battery (IC 35-42-2-1.5);
- (7) kidnapping (IC 35-42-3-2);
- (8) rape (IC 35-42-4-1);
- (9) criminal deviate conduct (IC 35-42-4-2);
- (10) child molesting (IC 35-42-4-3);
- (11) sexual misconduct with a minor as a Class A felony (~~IC 35-42-4-9~~); **under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2);**
- (12) robbery as a Class A felony or a Class B felony (IC 35-42-5-1);
- (13) burglary as a Class A felony or a Class B felony (IC 35-43-2-1); or
- (14) causing death when operating a motor vehicle (IC 9-30-5-5).

(b) As used in this section, "episode of criminal conduct" means offenses or a connected series of offenses that are closely related in time, place, and circumstance.

(c) Except as provided in subsection (d) or (e), the court shall determine whether terms of imprisonment shall be served concurrently or consecutively. The court may consider the aggravating and

mitigating circumstances in IC 35-38-1-7.1(b) and IC 35-38-1-7.1(c) in making a determination under this subsection. The court may order terms of imprisonment to be served consecutively even if the sentences are not imposed at the same time. However, except for crimes of violence, the total of the consecutive terms of imprisonment, exclusive of terms of imprisonment under IC 35-50-2-8 and IC 35-50-2-10, to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct shall not exceed the presumptive sentence for a felony which is one (1) class of felony higher than the most serious of the felonies for which the person has been convicted.

(d) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(e) If a court determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 3. [EFFECTIVE JULY 1, 2003] This act applies only to crimes committed after June 30, 2003.

P.L.267-2003

[S.166. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-18.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 5. (a) As used in this section, "base year" for a civil taxing unit means the most recent calendar year:

- (1) in which the civil taxing unit is located in an adopting county, as determined under section 4 of this chapter; and
- (2) that is immediately preceded by a calendar year in which the civil taxing unit either:
 - (A) was not located in an adopting county, as determined under section 4 of this chapter; or
 - (B) did not impose an ad valorem property tax levy.

If the civil taxing unit was located in an adopting county in calendar year 1979, as determined under section 4 of this chapter, the civil taxing unit's base year is calendar year 1979 or the year determined above, whichever is later.

(b) As used in this section, "initial certified distribution" means the amount of certified shares received by a civil taxing unit in the year determined under subsection (e).

(c) If the county adjusted gross income tax was not in effect on January 1 of the calendar year immediately preceding the ensuing calendar year in the county in which a particular civil taxing unit is located, then the civil taxing unit's base year certified share is the amount of certified shares to be received by the civil taxing unit during its base year.

~~(c)~~ **(d)** If the county adjusted gross income tax was in effect on January 1 of the calendar year immediately preceding the ensuing calendar year in the county in which a particular civil taxing unit is located, then the civil taxing unit's base year certified share is the amount of certified shares received by the civil taxing unit in its base

year unit's initial certified distribution multiplied by a fraction:

- (1) The numerator of the fraction equals the remainder of the county adjusted gross income tax rate of the county in which the civil taxing unit is located and that is imposed on January 1 of the ensuing calendar year minus one quarter of one percent (1/4%).
- (2) The denominator of the fraction equals the remainder of the county adjusted gross income tax rate of the county in which the civil taxing unit is located and that is imposed on January 1 of the civil taxing unit's base year minus one quarter of one percent (1/4%).

(e) This subsection applies to a civil taxing unit that is located in a county that:

- (1) adopts the county adjusted gross income tax after December 31, 2002; and**
- (2) had a county adjusted gross income tax in effect on January 1 of the calendar year immediately preceding the ensuing calendar year.**

Until the department of state revenue, after reviewing the recommendation of the budget agency, notifies the department of local government finance that a full transition to certification of distributions as provided in IC 6-3.5-1.1-9(a)(1) through IC 6-3.5-1.1-9(a)(2) has occurred for the calendar year, the initial certified distribution to be used under subsection (e) for the civil taxing unit shall be the amount of the certified shares certified for the civil taxing unit in the most current calendar year preceding the ensuing calendar year. For the calendar year for which a full transition to certification of distributions as provided in IC 6-3.5-1.1-9(a)(1) through IC 6-3.5-1.1-9(a)(2) has occurred and each subsequent calendar year, the initial certified distribution to be used under subsection (e) for the civil taxing unit is the amount of certified shares certified for the civil taxing unit in the calendar year in which a full transition to certification of distributions as provided in IC 6-3.5-1.1-9(a)(1) through IC 6-3.5-1.1-9(a)(2) initially occurred for the civil taxing unit. The department of state revenue, after reviewing the recommendation of the budget agency, shall provide the notice to the department of local government finance as required under this subsection.

SECTION 2. IC 6-1.1-21.8-4, AS ADDED BY P.L.157-2002,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The board shall determine the terms of a loan made under this chapter. However, the interest charged on the loan may not exceed the percent of increase in the United States Department of Labor Consumer Price Index for Urban Wage Earners and Clerical Workers during the most recent twelve (12) month period for which data is available as of the date that the unit applies for a loan under this chapter. **In the case of a qualified taxing unit that is not a school corporation or a public library (as defined in IC 20-14-1-2), a loan must be repaid not later than ten (10) years after the date on which the loan was made. In the case of a qualified taxing unit that is a school corporation or a public library (as defined in IC 20-14-1-2), a loan must be repaid not later than eleven (11) years after the date on which the loan was made. A school corporation or a public library (as defined in IC 20-14-1-2) is not required to begin making payments to repay a loan until after June 30, 2004.** The total amount of all the loans made under this chapter may not exceed twenty-eight million dollars (\$28,000,000). The board may disburse the proceeds of a loan in installments. However, not more than one-third (1/3) of the total amount to be loaned under this chapter may be disbursed at any particular time without the review of the budget committee and the approval of the budget agency.

(b) A loan made under this chapter shall be repaid only from:

- (1) property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or IC 6-1.1-19; or
- (2) any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment of principal constitutes a first charge against the property tax revenues described in subdivision (1) that are collected by the qualified taxing unit during the calendar year the installment is due and payable.

(c) The obligation to repay a loan made under this chapter is not a basis for the qualified taxing unit to obtain an excessive tax levy under IC 6-1.1-18.5 or IC 6-1.1-19.

(d) Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

(e) This section does not prohibit a qualified taxing unit from repaying a loan made under this chapter before the date specified in subsection (a) if a taxpayer described in section 3 of this chapter resumes paying property taxes to the qualified taxing unit.

(f) Interest accrues on a loan made under this chapter until the date the board receives notice from the county auditor that the county has adopted at least one (1) of the following:

- (1) The county adjusted gross income tax under IC 6-3.5-1.1.
- (2) The county option income tax under IC 6-3.5-6.
- (3) The county economic development income tax under IC 6-3.5-7.

Notwithstanding subsection (a), interest may not be charged on a loan made under this chapter if a tax described in this subsection is adopted before a qualified taxing unit applies for the loan.

SECTION 3. IC 6-3.5-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 9. (a) Revenue derived from the imposition of the county adjusted gross income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of county adjusted gross income tax revenue that the department, after reviewing the recommendation of the state budget agency, ~~estimates will be received from that county during the twelve (12) month period beginning July 1 of the immediately preceding calendar year and ending June 30 of the ensuing calendar year.~~ **determines has been:**

- (1) received from that county for a taxable year ending before the calendar year in which the determination is made; and**
- (2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;**

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county adjusted gross income tax made in the state fiscal year.

(b) Before ~~July~~ **August 2** of each calendar year, the department, after reviewing the recommendation of the ~~state~~ budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the amount of ~~county adjusted gross income tax revenue that will be~~

collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year: **determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year.** The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified ~~may~~ **shall** be adjusted under ~~subsection~~ **subsections (c), or (d), (e), (f), and (g).** **The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.**

~~(c)~~ **(c)** the department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 8 of this chapter:

~~(d)~~ **(c)** The department ~~may~~ **shall** certify an amount less than the estimated twelve (12) month revenue collection **amount determined under subsection (b)** if the department, after reviewing the recommendation of the state budget agency, determines that ~~a part of those collections need to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year:~~ **the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.**

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that initially imposes a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(g) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

SECTION 4. IC 6-3.5-1.1-11, AS AMENDED BY HEA 1155, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 11. (a) Except for:

- (1) revenue that must be used to pay the costs of operating a jail and juvenile detention center under section 2.5(d) of this chapter;
- (2) revenue that must be used to pay the costs of:
 - (A) financing, constructing, acquiring, improving, renovating, or equipping facilities and buildings;
 - (B) debt service on bonds; or
 - (C) lease rentals;

under section 2.8 of this chapter;

- (3) revenue that must be used to pay the costs of construction, improvement, renovation, or remodeling of a jail and related buildings and parking structures under section 2.7, 2.9, or 3.3 of this chapter;

- (4) revenue that must be used to pay the costs of operating and maintaining a jail and justice center under section 3.5(d) of this chapter; or

(5) revenue that must be used to pay the costs of constructing, acquiring, improving, renovating, or equipping a county courthouse under section 3.6 of this chapter;

the certified distribution received by a county treasurer shall, in the manner prescribed in this section, be allocated, distributed, and used by the civil taxing units and school corporations of the county as certified shares and property tax replacement credits.

(b) Before ~~August 2~~ **August 10** of each calendar year, each county auditor shall determine the part of the certified distribution for the next succeeding calendar year that will be allocated as property tax replacement credits and the part that will be allocated as certified shares. The percentage of a certified distribution that will be allocated as property tax replacement credits or as certified shares depends upon the county adjusted gross income tax rate for resident county taxpayers in effect on August 1 of the calendar year that precedes the year in which the certified distribution will be received **by two (2) years**. The percentages are set forth in the following table:

COUNTY ADJUSTED GROSS INCOME TAX RATE	PROPERTY TAX REPLACEMENT CREDITS	CERTIFIED SHARES
0.5%	50%	50%
0.75%	33 1/3%	66 2/3%
1%	25%	75%

(c) The part of a certified distribution that constitutes property tax replacement credits shall be distributed as provided under sections 12, 13, and 14 of this chapter.

(d) The part of a certified distribution that constitutes certified shares shall be distributed as provided by section 15 of this chapter.

SECTION 5. IC 6-3.5-1.1-21, AS AMENDED BY P.L.178-2002, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21. Before ~~July~~ **October 2** of each year, the department shall submit a report to each county auditor indicating the following:

(1) ~~The balance in the county's adjusted gross income tax account as of the end of the preceding year: cutoff date specified by the budget agency.~~

(2) ~~The required six (6) month balance; or three (3) month~~

~~balance if the county has adopted an ordinance under section 9.5 of this chapter before the end of the preceding year.~~

SECTION 6. IC 6-3.5-1.1-21.1, AS ADDED BY P.L.178-2002, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 21.1. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance ~~existed at the end of the preceding year~~ **exists in a county account in excess of the required six (6) or three (3) month balance, amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year,** the department ~~may~~ **shall** make a supplemental distribution to a county from the county's adjusted gross income tax account.

(b) A supplemental distribution described in subsection (a) must be:

- (1) made in January of the ensuing calendar year; and
- (2) allocated and, **subject to subsection (d)**, used in the same manner as certified distributions.

(c) A determination under this section must be made before ~~July~~ **October 2**.

(d) This subsection applies to that part of a distribution made under this section that is allocated and available for use in the same manner as certified shares. The civil taxing unit receiving the money shall deposit the money in the civil taxing unit's rainy day fund established under IC 36-1-8-5.1.

SECTION 7. IC 6-3.5-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 2. (a) A county income tax council is established for each county in Indiana. The membership of each county's county income tax council consists of the fiscal body of the county and the fiscal body of each city or town that lies either partially or entirely within that county.

(b) Using procedures described in this chapter, a county income tax council may adopt ordinances to:

- (1) impose the county option income tax in its county;
- (2) subject to section 12 of this chapter, rescind the county option income tax in its county;
- (3) increase the county option income tax rate for the county;
- (4) freeze the county option income tax rate for its county;
- (5) increase the homestead credit in its county; **or**

(6) subject to section 12.5 of this chapter, decrease the county option income tax rate for the county. ~~or~~

~~(7) subject to section 17.5 of this chapter, elect to reduce the required balance in the county special account.~~

(c) An ordinance adopted in a particular year under this chapter to impose or rescind the county option income tax or to increase its tax rate is effective July 1 of that year.

SECTION 8. IC 6-3.5-6-17, AS AMENDED BY P.L.178-2002, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17. (a) ~~Except as provided in section 2.5 of this chapter,~~ Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the department, after reviewing the recommendation of the state budget agency, ~~estimates will be determines has been:~~

~~(1) received from that county during the twelve (12) month period beginning July 1 of the immediately preceding for a taxable year ending in a calendar year and ending June 30 of the ensuing calendar year. preceding the calendar year in which the determination is made; and~~

~~(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;~~

~~as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.~~

(b) Before ~~June 16~~ **August 2** of each calendar year, the department, after reviewing the recommendation of the state budget agency, shall estimate and certify to the county auditor of each adopting county the amount of county option income tax revenue that will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the immediately succeeding calendar year. ~~determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year.~~ The amount

certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified ~~may~~ **shall** be adjusted, **as necessary**, under ~~subsection~~ **subsections (c), or (d), and (e)**. **The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.**

~~(c)~~ the department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the state budget agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 16 of this chapter.

~~(d)~~ **(c)** The department ~~may~~ **shall** certify an amount less than the estimated twelve (12) month revenue collection **amount determined under subsection (b)** if the department, after reviewing the recommendation of the state budget agency, determines that a part of those collections needs to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year. ~~the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.~~

(d) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that initially imposed a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide

for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c).

(f) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(f) (g) ~~Except as provided in section 2.5 of this chapter,~~ Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(g) (h) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 9. IC 6-3.5-6-17.2, AS ADDED BY P.L.178-2002, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17.2. Before ~~July 2~~ **October 2** of each year, the department shall submit a report to each county auditor indicating the following:

(1) ~~The balance in the county's special account as of the end of the preceding year:~~

(2) ~~The required six (6) month balance or three (3) month balance, if the county has adopted an ordinance under:~~

(A) ~~section 17.4 of this chapter;~~

(B) ~~section 17.5 of this chapter; or~~

(C) ~~section 17.6 of this chapter;~~

~~before the end of the preceding year: cutoff date set by the budget agency.~~

SECTION 10. IC 6-3.5-6-17.3, AS ADDED BY P.L.178-2002, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance ~~existed at the end of the preceding year exists in a county account~~ in excess of the ~~required six (6) or three (3) month balance,~~ **amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to**

make certified distributions to the county in the ensuing year, the department ~~may~~ **shall** make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

- (1) made in January of the ensuing calendar year; and
- (2) allocated ~~and used~~ in the same manner as certified distributions **for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.**

(c) A determination under this section must be made before ~~July 2:~~ **October 2.**

SECTION 11. IC 6-3.5-6-19, AS AMENDED BY P.L.90-2002, SECTION 297, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 19. (a) Except as provided in sections ~~17.6(d)~~, 18(e) and 18.5(b)(3) of this chapter, in determining the fractional share of distributive shares the civil taxing units of a county are entitled to receive under section 18 of this chapter during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(b) In determining the amount of distributive shares a civil taxing unit is entitled to receive under section 18(g) of this chapter, the department of local government finance shall consider only the percentage of the civil taxing unit's budget that equals the ratio that the total assessed valuation that lies within the civil taxing unit and the county that has adopted the county option tax bears to the total assessed valuation that lies within the civil taxing unit.

(c) The distributive shares to be allocated and distributed under this chapter shall be treated by each civil taxing unit as additional revenue for the purpose of fixing its budget for the budget year during which the distributive shares is to be distributed to the civil taxing unit.

(d) In the case of a civil taxing unit that includes a consolidated city its fiscal body may distribute any revenue it receives under this chapter to any governmental entity located in its county except an excluded city, a township, or a school corporation.

SECTION 12. IC 6-3.5-7-10.5, AS ADDED BY P.L.178-2002, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 10.5. Before ~~July~~ **October 2** of each year, the department shall submit a report to each county auditor indicating the

following:

(1) ~~The balance in the county's special account as of the end of the preceding year.~~

(2) ~~The required six (6) month balance as of the end of the preceding year.~~ **cutoff date set by the budget agency.**

SECTION 13. IC 6-3.5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before ~~July~~ **August 2** of each calendar year, the department, after reviewing the recommendation of the budget agency, shall ~~estimate and~~ certify to the county auditor of each adopting county the **sum of the** amount of county economic development income tax revenue that ~~will be collected from that county during the twelve (12) month period beginning July 1 of that calendar year and ending June 30 of the following calendar year.~~ **the department determines has been:**

(1) **received from that county for a taxable year ending before the calendar year in which the determination is made; and**

(2) **reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;**

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates specified in section 16 of this chapter for the following calendar year. The amount certified ~~may~~ **shall** be adjusted under ~~subsection~~ **subsections (c), or (d), (e), (f), and (g).** **The department shall provide with the certification an informative summary of the calculations used to determine the certified distribution.**

(c) ~~the department may certify to an adopting county an amount that is greater than the estimated twelve (12) month revenue collection if the department, after reviewing the recommendation of the budget~~

agency, determines that there will be a greater amount of revenue available for distribution from the county's account established under section 10 of this chapter:

~~(d)~~ **(c)** The department ~~may~~ **shall** certify an amount less than the estimated ~~twelve (12) month revenue collection amount determined under subsection (b)~~ if the department, after reviewing the recommendation of the budget agency, determines that a ~~part of those collections need to be distributed during the current calendar year so that the county will receive its full certified distribution for the current calendar year.~~ **the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.**

(d) After reviewing the recommendation of the budget agency, the department shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The department, after reviewing the recommendation of the budget agency, may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

(f) The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

(g) This subsection applies to a county that initially imposed a tax under this chapter in the same calendar year in which the department makes a certification under this section. The department, after reviewing the recommendation of the budget agency, shall adjust the certified distribution of a county to provide

for a distribution in the immediately following calendar year and in each calendar year thereafter. The department shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection (c).

SECTION 14. IC 6-3.5-7-17.3, AS ADDED BY P.L.178-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2003]: Sec. 17.3. (a) If, after receiving a recommendation from the budget agency, the department determines that a sufficient balance existed at the end of the preceding year that exceeded the required six (6) month balance as of the end of the preceding exists in a county account in excess of the amount necessary, when added to other money that will be deposited in the account after the date of the recommendation, to make certified distributions to the county in the ensuing year, the department ~~may~~ **shall** make a supplemental distribution to a county from the county's special account.

(b) A supplemental distribution described in subsection (a) must be:

- (1) made in January of the ensuing calendar year; and
- (2) allocated ~~and used~~ in the same manner as certified distributions **for deposit in a civil unit's rainy day fund established under IC 36-1-8-5.1.**

(c) A determination under this section must be made before ~~July~~ **October 2.**

SECTION 15. IC 36-1-8-5.1, AS AMENDED BY P.L.90-2002, SECTION 461, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5.1. (a) A political subdivision may establish a rainy day fund to receive transfers of unused and unencumbered funds under:

- (1) section 5 of this chapter;
- (2) **IC 6-3.5-1.1-21.1;**
- (3) **IC 6-3.5-6-17.3; and**
- (4) **IC 6-3.5-7-17.3.**

(b) The rainy day fund is subject to the same appropriation process as other funds that receive tax money. Before making an appropriation from the rainy day fund, the fiscal body shall make a finding that the proposed use of the rainy day fund is consistent with the intent of the fund.

(c) In any fiscal year, a political subdivision may transfer **under**

section 5 of this chapter not more than ten percent (10%) of the political subdivision's total budget for that fiscal year to the rainy day fund.

(d) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE JUNE 1, 2003]: IC 6-3.5-1.1-9.5; IC 6-3.5-6-17.4; IC 6-3.5-6-17.5; IC 6-3.5-6-17.6; IC 6-3.5-7-19.

SECTION 17. **An emergency is declared for this act.**

P.L.268-2003

[S.405. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 5.5. "Assembled vehicle", for purposes of IC 9-17-4, has the meaning set forth in IC 9-17-4-0.3.**

SECTION 2. IC 9-13-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. "Broker", means a person who, for a fee, commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new motor vehicle and who is not:

- (1) a dealer or an employee of a dealer;
- (2) a distributor or an employee of a distributor; or
- (3) at any point in the transaction, the bona fide owner of the vehicle involved in the transaction: **for purposes of IC 9-23-3, has the meaning set forth in IC 9-23-3-0.3.**

SECTION 3. IC 9-13-2-75 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 75. (a) "Identification number", for purposes of IC 9-18-8-15, has the meaning set forth in

IC 9-18-8-15(b).

(b) "Identification number", for purposes of IC 9-17-4, has the meaning set forth in IC 9-17-4-0.5.

SECTION 4. IC 9-13-2-151.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 151.7. "Rental company" has the meaning set forth in IC 24-4-9-7.**

SECTION 5. IC 9-13-2-177.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 177.5. "Third party", for purposes of IC 9-17-3, has the meaning set forth in IC 9-17-3-0.5.**

SECTION 6. IC 9-13-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 185. "Transfer dealer" means a person other than a dealer, manufacturer, **or** wholesale dealer **or broker** who has the necessity of transferring a minimum of twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.

SECTION 7. IC 9-17-3-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "third party" means a person having possession of a certificate of title for a:**

- (1) motor vehicle;**
- (2) semitrailer; or**
- (3) recreational vehicle;**

because the person has a lien or an encumbrance indicated on the certificate of title.

SECTION 8. IC 9-17-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or ~~has~~ **if** the ownership **of the vehicle is otherwise** transferred, the person who holds the certificate of title must do the following:

- (1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.
- (2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the

purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale **or transfer**.

(4) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale **or transfer** to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale **or transfer**.

(C) The vehicle dealer reasonably believes that it will be able to deliver the **certificate of** title, without a lien or an encumbrance on the **certificate of** title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(3) or (a)(4) at the time of the sale.

(c) **For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver with a postmark dated or hand delivered to the purchaser or transferee not more than ten (10) business days after there is no obligation secured by the vehicle.** A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars (\$100) for the first violation.

(2) Two hundred fifty dollars (\$250) for the second violation.

(3) Five hundred dollars (\$500) for all subsequent violations.

Payment shall be made to the bureau and deposited in the state general

fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid ~~title~~ **certificate of title** and the dealer's failure to deliver a valid ~~title~~ **certificate of title** within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party **one hundred dollars (\$100). If:**

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(d) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(e) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.

(f) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 9. IC 9-17-3-3.1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. The affidavit required by IC 9-17-3-3(a)(4) shall be printed in the following form:

STATE OF

INDIANA)

) ss:

COUNTY OF _____)

I affirm under the penalties for perjury that all of the following are true:

- (1) That I am a dealer licensed under IC 9-23-1.
 - (2) That I cannot deliver a valid certificate of title to the retail purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is _____. **Payoff of lien was made on (date)_____.** I expect to deliver a valid and transferable certificate of title ~~on or about~~ **(day)_____ not later than (date)_____** from the (State of)_____ to the purchaser.
 - (3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is _____.
- Signed _____, Dealer

By _____

Dated _____, _____

CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.

Customer Signature

NOTICE TO THE CUSTOMER

If you do not receive a valid certificate of title within the time specified by this affidavit, you have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and

any other amount that you paid to the vehicle dealer.

If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to deliver a valid certificate of title to you within the above-described ten (10) day period results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer, the dealer may be entitled to claim against the third party the damages allowed by law.

SECTION 10. IC 9-17-4-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.3. As used in this chapter, "assembled vehicle" means:**

(1) a motor vehicle, excluding a motorcycle, that has had the:

(A) frame;

(B) chassis;

(C) cab; or

(D) body;

replaced; or

(2) a motorcycle that has had the:

(A) frame; or

(B) engine;

replaced.

The term includes but is not limited to glider kits, fiberglass body kits, and vehicle reproductions or replicas and includes motor vehicles that have visible and original vehicle identification numbers.

SECTION 11. IC 9-17-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 0.5. As used in this chapter, "identification number" means a distinguishing number assigned by the bureau to a privately assembled motor vehicle, semitrailer, or recreational vehicle.**

SECTION 12. IC 9-17-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. If a motor vehicle, semitrailer, or recreational vehicle has been built, constructed, or**

assembled by the person who owns the motor vehicle, semitrailer, or recreational vehicle, the person shall: ~~attach to the person's application for a certificate of title an affidavit stating that the motor vehicle, semitrailer, or recreational vehicle was built, constructed, or assembled by the person:~~

- (1) indicate on a form provided by the bureau the major component parts that have been used to assemble the motor vehicle, semitrailer, or recreational vehicle;**
- (2) make application through the bureau for an identification number for the motor vehicle, semitrailer, or recreational vehicle;**
- (3) after receipt of the identification number described in subdivision (2), stamp or attach the identification number received from the bureau in the manner provided in section 2(2) of this chapter; and**
- (4) apply for a certificate of title for the motor vehicle, semitrailer, or recreational vehicle from the bureau.**

SECTION 13. IC 9-17-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. A certificate of title may not be issued for a privately assembled motor vehicle, semitrailer, or recreational vehicle that does not have a distinctive identification number stamped on the motor vehicle, semitrailer, or recreational vehicle or permanently attached to the motor vehicle, semitrailer, or recreational vehicle until the person who owns the motor vehicle, semitrailer, or recreational vehicle has:

- (1) obtained from the bureau an identification number designated by the bureau; and
- (2) stamped **or permanently attached** the identification number in a conspicuous place on the frame of the motor vehicle, semitrailer, or recreational vehicle.

SECTION 14. IC 9-17-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A certificate of title issued under this chapter must contain the following:

- (1) A description and other evidence of identification of the motor vehicle, semitrailer, or recreational vehicle as required by the bureau.
- (2) A statement of any liens or encumbrances that the application shows to be on the certificate of title.

(3) The appropriate notation prominently recorded on the front of the title as follows:

(A) For a vehicle assembled using all new vehicle parts, excluding the vehicle frame, "ASSEMBLED VEHICLE".

(B) For a vehicle assembled using used parts, "REBUILT VEHICLE".

(C) For a vehicle assembled using a salvage vehicle or parts, "REBUILT SALVAGE".

SECTION 15. IC 9-17-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) Except as provided under subsection (b), a person who violates this chapter commits a Class C infraction.

(b) A person who knowingly damages, removes, covers, or alters a ~~special engine~~ **an identification** number commits a Class C felony.

SECTION 16. IC 9-17-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A person having possession of a certificate of title for a motor vehicle, semitrailer, or recreational vehicle because the person has a lien or an encumbrance on the motor vehicle, semitrailer, or recreational vehicle must deliver the certificate of title to the person who owns the motor vehicle, semitrailer, or recreational vehicle upon **not more than ten (10) business days after receipt of the payment** the satisfaction or discharge of the lien or encumbrance indicated upon the certificate of title **to the person who:**

(1) is listed on the certificate of title as owner of the motor vehicle, semitrailer, or recreational vehicle; or

(2) is acting as an agent of the owner and who holds power of attorney for the owner of the motor vehicle, semitrailer, or recreational vehicle.

SECTION 17. IC 9-17-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A manufacturer, converter manufacturer, or dealer must have:

(1) a certificate of title;

(2) an assigned certificate of title; ~~or~~

(3) a manufacturer's certificate of origin; ~~or~~

(4) an assigned manufacturer's certificate of origin;

for a motor vehicle, semitrailer, or recreational vehicle in the manufacturer's, converter manufacturer's, or dealer's possession.

SECTION 18. IC 9-17-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Before obtaining a manufacturer's, converter manufacturer's, or dealer's license from the bureau, a person must agree to allow a police officer or an authorized representative of the bureau to inspect:

- (1) certificates of origin, certificates of title, ~~or~~ assignments of certificates of origin and certificates of title, **or other proof of ownership as determined by the bureau;** and
- (2) motor vehicles, semitrailers, or recreational vehicles that are held for resale by the manufacturer, converter manufacturer, or dealer;

in the manufacturer's, converter manufacturer's, or dealer's place of business during reasonable business hours.

(b) A certificate of title, ~~and~~ a certificate of origin, **and any other proof of ownership** described under subsection (a):

- (1) must be readily available for inspection by or delivery to the proper persons; and
- (2) may not be removed from Indiana.

SECTION 19. IC 9-18-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "motor vehicle part" means: ~~the~~

~~(1) engine;~~

(1) for a motorcycle:

- (A) a frame; or
- (B) an engine;

~~(2) frame;~~

(2) for a passenger motor vehicle, a:

- (A) frame;
- (B) chassis; or
- (C) body;

~~(3) chassis;~~

(3) for a truck or a tractor, a:

- (A) frame;
- (B) chassis;
- (C) cab; or
- (D) body; or

(4) for a trailer, semitrailer, or recreational vehicle, a:

- (A) chassis; or

(B) body;
of a ~~the~~ motor vehicle.

SECTION 20. IC 9-18-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Upon receipt of an application, together with the fee specified under IC 9-29 for a special identification number, the bureau shall issue to the person who submitted the application written permission to make or stamp a special identification number in a place on the motor vehicle to be designated by the bureau.

(b) If the original identification number is on the vehicle or visible, the new special identification number must be affixed so as not to cover the original identification number.

SECTION 21. IC 9-18-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The bureau may not register a motor vehicle without an identification number or issue a ~~license plate~~ **certificate of title** for the operation of a motor vehicle except as specified under this chapter.

(b) This section does not prevent a manufacturer or a manufacturer's agent, other than a dealer, from doing the manufacturer's own numbering on motor vehicles ~~of or~~ parts removed or changed and replacing the numbered parts.

SECTION 22. IC 9-18-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Before issuing a ~~license plate~~; **certificate of title**, the bureau shall require the person applying for the ~~license plate~~ **certificate of title** to sign a statement that the special identification number assigned to be placed on the motor vehicle has been put on in a workmanlike manner.

(b) The statement described under subsection (a) shall be certified by:

- (1) a chief of police;
- (2) a sheriff; or
- (3) another convenient peace officer;

that the chief of police, sheriff, or peace officer has inspected the motor vehicle and found the identification number to be attached to the motor vehicle as required by this chapter.

(c) This section does not prevent a manufacturer or a manufacturer's agent, other than a dealer, from doing the manufacturer's own numbering on motor vehicles ~~of or~~ parts removed or changed and

replacing the numbered parts.

SECTION 23. IC 9-18-8-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) A person who operates a motor vehicle on which the **engine identification** number has been removed, defaced, destroyed, obliterated, or concealed, when application has not been made to the bureau for permission to put on a new number, commits a Class C infraction.

(b) If a person who violates subsection (a) cannot, to the satisfaction of the court, establish the person's ownership of the motor vehicle, the motor vehicle shall be confiscated by the court and sold. The proceeds from the sale shall be used to pay the fine and costs of prosecution, and the balance, if any, shall be deposited in the motor vehicle highway account fund.

(c) If the fine and costs are not paid within thirty (30) days after judgment is rendered under this section, the court shall proceed to advertise and sell the motor vehicle in the manner provided by law for the sale of personal property under execution.

(d) If at any time the motor vehicle remains in the custody of the court or the court's officers under this section the owner appears and establishes the owner's title to the motor vehicle to the satisfaction of the court, the motor vehicle shall be returned to the owner. The owner shall then make application for and may obtain a **special engine an identification number and a title** as provided in ~~IC 9-17-4-5.~~ **IC 9-17-4.** The owner may then use the motor vehicle upon proper registration.

SECTION 24. IC 9-22-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) This section applies to the following persons:

(1) An insurance company **or other person** that **has acquired declares** a wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter and the ownership of which is not evidenced by a certificate of salvage title.

(2) An insurance company that has made and paid an agreed settlement for the loss of a stolen motor vehicle, motorcycle, semitrailer, or recreational vehicle.

(b) A person who owns or holds a lien upon a vehicle described in subsection (a) shall assign the certificate of title to the **person**

insurance company described in subsection (a). The insurance company ~~or other person~~ shall apply to the bureau within thirty-one (31) days after receipt of the certificate of title for a certificate of salvage title for each salvage or stolen vehicle subject to this chapter. The insurance company ~~or other person~~ shall surrender the certificate of title to the department and pay the fee prescribed under IC 9-29-7 for a certificate of salvage title.

~~(c) A person who was the owner of a motor vehicle, motorcycle, semitrailer, or recreational vehicle at the time that the vehicle became wrecked or damaged may not be considered to have acquired that vehicle within the meaning of this section.~~

(c) When a self-insured entity is the owner of a salvage motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter, the self-insured entity shall apply to the bureau within thirty-one (31) days after the date of loss for a certificate of salvage title in the name of the self-insured entity's name.

(d) Any other person acquiring a wrecked or damaged motor vehicle, motorcycle, semitrailer, or recreational vehicle that meets at least one (1) of the criteria set forth in section 3 of this chapter, which acquisition is not evidenced by a certificate of salvage title, shall apply to the bureau within thirty-one (31) days after receipt of the certificate of title for a certificate of salvage title.

SECTION 25. IC 9-23-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles:

- (1) An automobile auctioneer.
- ~~(2) A broker.~~
- ~~(3) (2) A converter manufacturer.~~
- ~~(4) (3) A dealer.~~
- ~~(5) (4) A distributor.~~
- ~~(6) (5) A distributor branch.~~
- ~~(7) (6) A distributor representative.~~
- ~~(8) (7) A factory branch.~~
- ~~(9) (8) A factory representative.~~
- ~~(10) (9) A manufacturer.~~
- ~~(11) (10) A transfer dealer.~~

~~(12)~~ **(11)** A wholesale dealer.

SECTION 26. IC 9-23-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The license issued to a factory representative or distributor representative must state the name of the employer. Within ten (10) days after a change of employer, the holder shall mail the license to the bureau and indicate the name and address of the holder's new employer. The bureau shall endorse the change on the license and return the license to the licensee in care of the licensee's new employer. A factory representative, distributor representative, ~~or wholesale dealer or broker~~ must have a license when engaged in business and shall display the license upon request. A temporary license for a factory representative ~~or distributor representative or broker~~ may be issued for a period up to one hundred twenty (120) days pending investigation by the bureau of the applicant's qualification for a license.

SECTION 27. IC 9-23-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, the bureau shall issue an offsite sales license to a dealer licensed under this chapter not later than forty-five (45) days after receipt of the application for the license. License applications under this section shall be made public upon the request of any person. The term of the offsite sales license is not to exceed ten (10) days.

(b) The bureau may not issue an offsite sales license to a dealer who does not have an established place of business within Indiana.

(c) The bureau may not issue an offsite sales license to a licensed dealer proposing to conduct the sale outside a radius of twenty (20) miles from its established place of business. This subsection does not apply to:

- (1) new manufactured housing dealers;**
- (2) recreational vehicle dealers; or**
- (3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates.**

(d) The requirements of section 2(c) of this chapter do not apply to the application or issuance of an offsite sales license under this section.

SECTION 28. IC 9-23-3-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2003]: **Sec. 0.3. As used in this chapter, "broker" means a person who, for a fee, a commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new or used motor vehicle and who is not:**

- (1) a dealer or an employee of a dealer;**
- (2) a distributor or an employee of a distributor; or**
- (3) at any point in the transaction, the bona fide owner of the vehicle involved in the transaction.**

SECTION 29. IC 9-23-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. It is an unfair practice for an automobile auctioneer, a wholesale dealer, ~~or a transfer dealer, or a broker,~~ in connection with the auctioneer's ~~or dealer's or broker's~~ business, to use false, deceptive, or misleading advertising or to engage in deceptive acts or practices.

SECTION 30. IC 9-23-3-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 25. It is an unfair practice for a person to:**

- (1) act as;**
- (2) offer to act as; or**
- (3) profess to be;**

a broker in the advertising, buying, or selling of at least twelve (12) new or used vehicles per year.

SECTION 31. IC 9-25-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If the bureau:

- (1) does not receive a certificate of compliance from a person identified under IC 9-25-5-2 within forty (40) days after the date on which the bureau mailed the request for evidence of financial responsibility to the person; or
- (2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle operated by the person on the date of the accident referred to in IC 9-25-5-2;

the bureau shall take action under subsection (c).

(b) If the bureau:

- (1) does not receive a certificate of compliance from a person presented with a request for evidence of financial responsibility under IC 9-25-9-1 within forty (40) days after the date on which

the person was presented with the request; or

(2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle that the person was operating when the person committed the violation described in the judgment or abstract received by the bureau under IC 9-25-9-1;

the bureau shall take action under subsection (c).

(c) Under the conditions set forth in subsection (a) or (b), the bureau shall do the following:

(1) Immediately suspend the person's current driving license or vehicle registration, or both.

(2) Demand that the person immediately surrender the person's current driving license or vehicle registration, or both, to the bureau.

(d) Except as provided in subsection (e), if subsection (a) or (b) applies to a person, the bureau shall suspend the current driving license of the person irrespective of the following:

(1) The sale or other disposition of the motor vehicle by the owner.

(2) The cancellation or expiration of the registration of the motor vehicle.

(3) An assertion by the person that the person did not own the motor vehicle and therefore had no control over whether financial responsibility was in effect with respect to the motor vehicle.

(e) The bureau shall not suspend the current driving license of a person to which subsection (a) or subsection (b) applies if the person, through a certificate of compliance or another communication with the bureau, establishes to the satisfaction of the bureau that the motor vehicle that the person was operating when the accident referred to in subsection (a) took place or when the violation referred to in subsection (b) was committed was:

(1) rented from a rental company; ~~(as defined in IC 24-4-9-7);~~ or

(2) owned by the person's employer and operated by the person in the normal course of the person's employment.

SECTION 32. IC 9-29-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The fee for a factory representative, distributor representative, wholesale dealer, transfer dealer, **or** converter manufacturer **or broker** under IC 9-23-2 is twenty

dollars (\$20).

SECTION 33. IC 9-17-4-5 IS REPEALED [EFFECTIVE JULY 1, 2003].



P.L.269-2003

[S.422. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.3-1-12, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 12. "Taxpayer" means any:

- (1) assignee;
- (2) receiver;
- (3) commissioner;
- (4) fiduciary;
- (5) trustee;
- (6) institution;
- (7) consignee;
- (8) firm;
- (9) partnership;
- (10) limited liability partnership;
- (11) joint venture;
- (12) pool;
- (13) syndicate;
- (14) bureau;
- (15) association;
- (16) cooperative association;
- (17) corporation;
- (18) political subdivision (as defined in ~~IC 36-2-1-13~~ **IC 36-1-2-13**) or the state of Indiana, to the extent engaged in private or proprietary activities or business;

- (19) trust;
- (20) limited liability company; or
- (21) other group or combination acting as a unit;

regardless of whether the entity is exempt for state adjusted gross income tax purposes under IC 6-3 or for federal income tax purposes under the Internal Revenue Code.

SECTION 2. IC 6-2.3-6-1, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 1. (a) Except as provided in subsections (c) through (e), a taxpayer shall file utility receipts tax returns with, and pay the taxpayer's utility receipts tax liability to, the department by the due date of the estimated return. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated utility receipts tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year which does not end on December 31, the due dates for filing estimated utility receipts tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year.

(b) With each return filed, with each payment by cashier's check, certified check, or money order delivered in person or by overnight courier, and with each electronic funds transfer made, a taxpayer shall pay to the department twenty-five percent (25%) of the estimated or the exact amount of utility receipts tax that is due.

(c) If a taxpayer's estimated annual utility receipts tax liability does not exceed one thousand dollars (\$1,000), the taxpayer is not required to file an estimated utility receipts tax return.

(d) If the department determines that a taxpayer's:

- (1) estimated quarterly utility receipts tax liability for the current year; or
- (2) average estimated quarterly utility receipts tax liability for the preceding year;

exceeds ten thousand dollars (\$10,000), the taxpayer shall pay the estimated utility receipts taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or by overnight courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(e) If a taxpayer's utility receipts tax payment is made by electronic funds transfer, the taxpayer is not required to file an estimated utility receipts tax return.

(f) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on taxpayers failing to make payments as required in subsection (b) or (d). However, a penalty may not be assessed as to any estimated payments of utility receipts tax that equal or exceed:

- (1) twenty percent (20%) of the final tax liability for the taxable year; or**
- (2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.**

In addition, the penalty as to any underpayment of tax on an estimated return shall be assessed only on the difference between the actual amount paid by the taxpayer on the estimated return and twenty-five percent (25%) of the taxpayers's final utility receipts tax liability for the taxable year.

SECTION 3. IC 6-2.5-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Sec. 13. A person is entitled to a refund from the department if:

- (1) a retail merchant erroneously or illegally collects state gross retail or use taxes under this article from the person;
 - (2) the retail merchant remits the taxes to the department;
 - (3) the retail merchant does not refund the taxes to the person;
- and
- (4) the person properly applies for the refund under the refund provisions of the gross income tax law contained in ~~IC 6-2.1-1~~ **IC 6-8.1-9.**

SECTION 4. IC 6-3-2-8, AS AMENDED BY P.L.289-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who is employed by a taxpayer, **a pass through entity**, an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), IC 6-3-2-2.8(4), or IC 6-3-2-2.8(5), a nonprofit entity, the state, a political subdivision of the state, or the United States government and who:

- (1) has the employee's principal place of residence in the enterprise zone in which the employee is employed;

(2) performs services for the taxpayer, the employer, the nonprofit entity, the state, the political subdivision, or the United States government, ninety percent (90%) of which are directly related to:

(A) the conduct of the taxpayer's or employer's trade or business; or

(B) the activities of the nonprofit entity, the state, the political subdivision, or the United States government;

that is located in an enterprise zone; and

(3) performs at least fifty percent (50%) of the employee's service for the taxpayer or employer during the taxable year in the enterprise zone.

(b) For purposes of this section, "pass through entity" means a:

(1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

(c) Except as provided in subsection ~~(c)~~, (d), a qualified employee is entitled to a deduction from his adjusted gross income in each taxable year in the amount of the lesser of:

(1) one-half (1/2) of his adjusted gross income for the taxable year that he earns as a qualified employee; or

(2) seven thousand five hundred dollars (\$7,500).

~~(c)~~ (d) No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which he resides.

SECTION 5. IC 6-3-2-14.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: **Sec. 14.1. Notwithstanding section 14.5 of this chapter and IC 6-3-4-8.2, a payment made after June 30, 2002, on prize money received from a winning lottery ticket purchased under IC 4-30 for a lottery held before July 1, 2002, is exempt from the adjusted gross income tax and supplemental net income tax (repealed) imposed by this article.**

SECTION 6. IC 6-3-3-5, AS AMENDED BY P.L.1-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 2, 2003]: Sec. 5. (a) At the election of the taxpayer, there shall

be allowed, as a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during such year to institutions of higher education located within Indiana, to any corporation or foundation organized and operated solely for the benefit of any such institution of higher education, or to the associated colleges of Indiana.

(b) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed one hundred dollars (\$100) in the case of a single return or two hundred dollars (\$200) in the case of a joint return.

(c) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed:

- (1) ten percent (10%) of such corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for such year (as determined without regard to any credits against that tax); or
- (2) one thousand dollars (\$1,000);

whichever is less.

(d) For purposes of this section, the term "institution of higher education" means any educational institution located within Indiana:

- (1) which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on;
- (2) which regularly offers education at a level above the twelfth grade;
- (3) which regularly awards either associate, bachelors, masters, or doctoral degrees, or any combination thereof; and
- (4) which is duly accredited by the North Central Association of Colleges and Schools, the Indiana state board of education, or the American Association of Theological Schools.

(e) The credit allowed by this section shall not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

(f) ~~Any taxpayer subject to an income tax under the provisions of IC 6-2-1 (repealed) as well as under the provisions of IC 6-3-1 through~~

~~IC 6-3-7 may elect to claim the credit allowed by this section against the income tax imposed by IC 6-2.1 (repealed); but in no event shall a credit be claimed against both such taxes.~~

SECTION 7. IC 6-3-3-5.1, AS AMENDED BY P.L.1-2003, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 2, 2003]: Sec. 5.1. (a) At the election of the taxpayer, a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, is permitted in an amount (subject to the applicable limitations provided by this section) equal to fifty percent (50%) of the aggregate amount of contributions made by the taxpayer during the taxable year to the twenty-first century scholars program support fund established under IC 20-12-70.1-5.

(b) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year may not exceed:

- (1) one hundred dollars (\$100) in the case of a single return; or
- (2) two hundred dollars (\$200) in the case of a joint return.

(c) In the case of a taxpayer that is a corporation, the amount allowable as a credit under this section for any taxable year may not exceed the lesser of the following amounts:

- (1) Ten percent (10%) of the corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for the taxable year (as determined without regard to any credits against that tax).
- (2) One thousand dollars (\$1,000).

(d) The credit permitted under this section may not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this section) allowed by IC 6-3-1 through IC 6-3-7.

~~(e) Any taxpayer subject to an income tax under IC 6-2.1 (repealed) as well as under IC 6-3-1 through IC 6-3-7 may elect to claim the credit allowed by this section against the income tax imposed by IC 6-2.1, but may not claim a credit against both of these taxes.~~

SECTION 8. IC 6-3-3-10, AS AMENDED BY P.L.1-2003, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 2, 2003]: Sec. 10. (a) As used in this section:

"Base period wages" means the following:

- (1) In the case of a taxpayer other than a pass through entity,

wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(2) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

- (1) has his principal place of residence in the enterprise zone in which he is employed;

- (2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;
- (3) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone; and
- (4) in the case of an individual who is employed by a taxpayer that is a pass through entity, was first employed by the taxpayer after December 31, 1998.

"Qualified increased employment expenditures" means the following:

- (1) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.
- (2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

- ~~(1) IC 6-2-1 (gross income tax) (repealed) with respect to enterprise zone gross income;~~
- ~~(2) (1) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;~~
- ~~(3) (2) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and~~
- ~~(4) (3) IC 6-5.5 (the financial institutions tax);~~

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

- (b) A taxpayer is entitled to a credit against the taxpayer's qualified

state tax liability for a taxable year in the amount of the lesser of:

- (1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or
- (2) one thousand five hundred dollars (\$1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

- (1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 9. IC 6-3-4-4.1, AS AMENDED BY P.L.1-2003, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 2, 2003]: Sec. 4.1.(a) This section applies to taxable years beginning after December 31, 1993.

(b) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, in applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(c) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of section 8 of this chapter shall make a declaration

of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(d) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(e) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (d) or (g). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax ~~plus utility receipts tax~~ which equal or exceed:

- (1) twenty percent (20%) of the final tax liability for such taxable year; or
- (2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(f) The provisions of subsection (d) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2 (repealed), shall exceed one thousand dollars (\$1,000) for its taxable year.

(g) If the department determines that a corporation's:

- (1) estimated quarterly adjusted gross income tax liability for the current year; or
- (2) average estimated quarterly adjusted gross income tax liability for the preceding year;

exceeds, before January 1, 1998, twenty thousand dollars (\$20,000), and, after December 31, 1997, ten thousand dollars (\$10,000), after the credit allowed by IC 6-3-3-2 (repealed), the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall be made on or before the date the tax is due.

(h) If a corporation's adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return.

SECTION 10. IC 6-3.1-18-8, AS AMENDED BY P.L.1-2003, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 2, 2003]: Sec. 8. The credit provided under section 7 of this chapter is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under ~~IC 6-2.1 (repealed)~~, IC 6-3, this article, or IC 6-5.5. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same qualified expenditure.

SECTION 11. IC 6-5.5-2-7, AS AMENDED BY P.L.1-2003, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 2, 2003]: Sec. 7. Notwithstanding any other provision of this article, there is no tax imposed on the adjusted gross income or apportioned income of the following:

- (1) Insurance companies subject to the tax under IC 27-1-18-2 or ~~IC 6-2.1 (repealed)~~: **IC 6-3.**
- (2) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System).
- (3) Any corporation that is exempt from income tax under Section 1363 of the Internal Revenue Code.
- (4) Any corporation exempt from federal income taxation under the Internal Revenue Code, except for the corporation's unrelated

business income. However, this exemption does not apply to a corporation exempt from federal income taxation under Section 501(c)(14) of the Internal Revenue Code.

SECTION 12. P.L.192-2002(ss), SECTION 196, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: SECTION 196. (a) The definitions in IC 6-2.3-1, as added by this act, apply throughout this SECTION.

(b) The department of state revenue shall adopt the initial rules and prescribe the initial forms to implement IC 6-2.3 (utility receipts tax), as added by this act, before December 1, 2002. The department of state revenue may adopt the initial rules required under this SECTION in the same manner that emergency rules are adopted under IC 4-22-2-37.1. A rule adopted under this SECTION expires on the earlier of the following:

(1) The date that the rule is superseded, amended, or repealed by a permanent rule adopted under IC 4-22-2 or another rule adopted under this SECTION.

(2) July 1, 2004.

(c) IC 6-2.3, as added by this act, applies to taxable years beginning after December 31, 2002, and to short taxable years described in subsection (d).

(d) This subsection applies to a taxpayer that was doing business in Indiana during a taxable year determined under the Internal Revenue Code for federal income tax purposes that:

(1) begins before January 1, 2003; and

(2) ends after December 31, 2002.

The initial taxable year for a taxpayer under IC 6-2.3, as added by this act, is a short taxable year. Notwithstanding IC 6-2.3-1-11, as added by this act, the initial taxable year of a taxpayer under IC 6-2.3, as added by this act, begins January 1, 2003. The initial taxable year of the taxpayer ends on the day immediately preceding the day that the taxpayer's next taxable year under the Internal Revenue Code begins.

(e) **The one thousand dollar (\$1,000) basic deduction (IC 6-2.3-5-1) and the resource recovery system depreciation deduction (IC 6-2.3-5-3) for the tax imposed under IC 6-2.3, as added by this act, for the initial taxable year of the taxpayer is equal to the tax deduction computed under ~~IC 6-2.3-2, as added by this act, IC 6-2.3~~ for the taxpayer's full taxable year under the Internal Revenue Code**

multiplied by a fraction. The numerator of the fraction is the number of days remaining in the taxpayer's taxable year after December 31, 2002, and the denominator is the total number of days in the taxable year under the Internal Revenue Code for the purposes of federal income taxation.

SECTION 13. P.L.192-2002(ss), SECTION 197, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: SECTION 197. (a) This SECTION applies to a taxpayer that:

- (1) was subject to the supplemental net income tax under IC 6-3-8 before January 1, 2003; and
- (2) has a taxable year that begins before January 1, 2003, and ends after December 31, 2002.

(b) ~~A taxpayer shall file~~ **Notwithstanding the repeal of IC 6-3-8-5 by P.L.192-2002(ss), the provisions of IC 6-3-8-5 (repealed) apply to the imposition, collection, payment, and administration of the supplemental net income tax imposed under this SECTION, including the requirement related to filing the taxpayer's estimated supplemental net income tax return and pay paying the taxpayer's estimated supplemental net income tax liability to the department of state revenue. as provided by law for due dates that occur before January 1, 2003. The taxpayer shall file a final supplemental net income tax return, in the manner prescribed by the department of state revenue, before the fifteenth day of the fourth month following the close of the taxpayer's regular taxable year, determined as if IC 6-3-8 had not been repealed by P.L.192-2002(ss).**

(c) ~~Not later than April 15, 2003, a taxpayer shall file a final supplemental net income tax return with the department of state revenue on a form and in the manner prescribed by the department of state revenue. At the time of filing the final supplemental net income tax return, a taxpayer shall pay to the department of state revenue an amount equal to the remainder of: (1) the total supplemental net income tax liability incurred by the taxpayer for the part of the taxpayer's taxable year that occurred in calendar year 2002; minus (2) the sum of: (A) the total amount of supplemental net income taxes that was previously paid by the taxpayer to the department of state revenue for any quarter of that same part of the taxpayer's taxable year; plus (B)~~

any supplemental net income taxes that were withheld from the taxpayer for that same part of the taxpayer's taxable year.

(c) The supplemental net income tax imposed under IC 6-3-8 (repealed) for that taxable year is equal to the result determined under STEP TWO of the following formula:

STEP ONE: Determine the product of the taxpayer's net income for the taxpayer's regular taxable year multiplied by a tax rate equal to four and five-tenths percent (4.5%).

STEP TWO: Multiply the STEP ONE result by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred before January 1, 2003, and the denominator of which is the total number of days in the taxable year.

(d) The department of state revenue may prescribe forms and procedures for reconciling the returns and tax due under P.L.192-2002(ss), SECTION 197 before the enactment of this amendment and the returns and tax due under P.L.192-2002(ss), SECTION 197, as amended by this SECTION. The procedures may include procedures for granting an automatic extension for the filing of some or all returns due before April 16, 2003, under P.L.192-2002(ss), SECTION 197 before the enactment of this amendment.

SECTION 14. P.L.192-2002(ss), SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: SECTION 199. (a) This SECTION applies to a taxpayer that:

- (1) was subject to the gross income tax under IC 6-2.1 before January 1, 2003; and
- (2) has a taxable year that begins before January 1, 2003, and ends after December 31, 2002.

(b) A taxpayer shall file the taxpayer's estimated gross income tax return and pay the taxpayer's estimated gross income tax liability to the department of state revenue as provided in IC 6-2.1-5-1.1 ~~for due dates that occur before January 1, 2003.~~ **(before its repeal).**

(c) Not later than ~~April 15, 2003,~~ a taxpayer shall file a **Except as otherwise provided in 45 IAC 1.1-5-3, the final gross income tax return with the department of state revenue of a taxpayer is due on the fifteenth day of the fourth month following the end of the**

taxpayer's regular taxable year determined as if IC 6-2.1 had not been repealed by P.L.192-2002(ss). The taxpayer shall file the final gross income tax return on a form and in the manner prescribed by the department of state revenue. At the time of filing the final gross income tax return, a taxpayer shall pay to the department of state revenue an amount equal to the remainder of:

- (1) the total gross income tax liability incurred by the taxpayer for the part of the taxpayer's taxable year that occurred in calendar year 2002; minus
- (2) the sum of:
 - (A) the total amount of gross income taxes that was previously paid by the taxpayer to the department of state revenue for any quarter of that same part of the taxpayer's taxable year; plus
 - (B) any gross income taxes that were withheld from the taxpayer for that same part of the taxpayer's taxable year under IC 6-2.1-6.

(d) The department of state revenue may prescribe forms and procedures for reconciling the returns and tax due under P.L.192-2002(ss), SECTION 199 before the enactment of this amendment and the returns and tax due under P.L.192-2002(ss), SECTION 199, as amended by this SECTION. The procedures may include procedures for granting an automatic extension for the filing of some or all returns due before April 16, 2003, under P.L.192-2002(ss), SECTION 199 before the enactment of this amendment.

SECTION 15. P.L.192-2002(ss), SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: SECTION 199. (a) This SECTION applies to a taxpayer that:

- (1) was subject to the gross income tax under IC 6-2.1 before January 1, 2003; ~~and~~
- (2) has a taxable year that begins before January 1, 2003, and ends after December 31, 2002; ~~and~~
- (3) is not subject to the adjusted gross income tax under IC 6-3 in the taxpayer's taxable year.**

(b) A taxpayer shall file the taxpayer's estimated gross income tax return and pay the taxpayer's estimated gross income tax liability to the department of state revenue as provided in IC 6-2.1-5-1.1 for due dates

that occur before January 1, 2003.

(c) Not later than April 15, 2003, a taxpayer shall file a final gross income tax return with the department of state revenue on a form and in the manner prescribed by the department of state revenue. At the time of filing the final gross income tax return, a taxpayer shall pay to the department of state revenue an amount equal to the remainder of:

- (1) the total gross income tax liability incurred by the taxpayer for the part of the taxpayer's taxable year that occurred in calendar year 2002; minus
- (2) the sum of:
 - (A) the total amount of gross income taxes that was previously paid by the taxpayer to the department of state revenue for any quarter of that same part of the taxpayer's taxable year; plus
 - (B) any gross income taxes that were withheld from the taxpayer for that same part of the taxpayer's taxable year under IC 6-2.1-6.

SECTION 16. P.L.192-2002(ss), SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002 (RETROACTIVE)]: SECTION 200. (a) This SECTION applies to a corporate taxpayer that:

- (1) pays adjusted gross income tax under IC 6-3-1 through IC 6-3-7; and
- (2) has a taxable year that begins before January 1, 2003, and ends after December 31, 2002.

(b) This subsection applies to a corporate taxpayer that was not subject to the gross income tax under IC 6-2.1 (repealed) before January 1, 2003. The rate of the adjusted gross income tax imposed under IC 6-3-2-1 for that taxable year is a rate equal to the sum of:

- (1) three and four-tenths percent (3.4%) multiplied by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred before January 1, 2003, and the denominator of which is the total number of days in the taxable year; and
- (2) eight and five-tenths percent (8.5%) multiplied by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred after December 31, 2002, and the denominator of which is the total number of days in the taxable year.

(c) However, the rate determined under this SECTION shall be rounded to the nearest one-hundredth of one percent (0.01%).

(d) This subsection applies to a taxpayer that was also subject to the gross income tax under IC 6-2.1 (repealed) before January 1, 2003. The total tax liability of the taxpayer under IC 6-2.1 (repealed) and IC 6-3-1 through IC 6-3-7 for the taxable year is the amount determined in STEP SEVEN of the following formula:

STEP ONE: Determine, under IC 6-3, an amount equal to the product of the adjusted gross income derived from sources within Indiana of the corporation multiplied by an adjusted gross income tax rate of three and four-tenths percent (3.4%).

STEP TWO: Multiply the STEP ONE amount by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred before January 1, 2003, and the denominator of which is the total number of days in the taxable year.

STEP THREE: Determine the amount of gross income tax that would be payable under IC 6-2.1-2-2 in the taxable year if 6-2.1-2-2 had not been repealed by P.L.192-2002(ss) for gross receipts received before January 1, 2003.

STEP FOUR: Determine the greater of the STEP TWO amount or the STEP THREE amount.

STEP FIVE: Determine, under IC 6-3, an amount equal to the product of the adjusted gross income derived from sources within Indiana of the corporation multiplied by an adjusted gross income tax rate of eight and five-tenths percent (8.5%).

STEP SIX: Multiply the STEP FIVE amount by a fraction, the numerator of which is the number of days in the taxpayer's taxable year that occurred after December 31, 2002, and the denominator of which is the total number of days in the taxable year.

STEP SEVEN: Determine the sum of the STEP FOUR amount and the STEP SIX amount.

(e) The one thousand dollar (\$1,000) basic deduction (IC 6-2.1-4-1 (repealed)) and the resource recovery system depreciation deduction (IC 6-2.1-4-3 (repealed)) for the tax imposed under IC 6-2.1 (before its repeal) for the final taxable year of the taxpayer is equal to the deduction computed under IC 6-2.1 (repealed) for the taxpayer's full taxable year under the Internal

Revenue Code multiplied by a fraction. The numerator of the fraction is the number of days in the taxpayer's taxable year that the taxpayer was subject to gross income tax before January 1, 2003, and the denominator is the total number of days in the taxable year under the Internal Revenue Code for purposes of federal income taxation.

(f) The department of state revenue may prescribe forms and procedures for reconciling the returns and tax due under P.L.192-2002(ss), SECTION 200 before the enactment of this amendment and the returns and tax due under P.L.192-2002(ss), SECTION 200, as amended by this SECTION. The procedures may include procedures for granting an automatic extension for filing some or all returns due before April 16, 2003, under P.L.192-2002(ss), SECTION 200 before the enactment of this amendment.

SECTION 17. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a) Notwithstanding IC 6-3-3-5, this SECTION applies instead of IC 6-3-3-5.

(b) At the election of the taxpayer, there shall be allowed, as a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, an amount (subject to the applicable limitations provided by this SECTION) equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during such year to institutions of higher education located within Indiana, to any corporation or foundation organized and operated solely for the benefit of any such institution of higher education, or to the associated colleges of Indiana.

(c) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this SECTION for any taxable year shall not exceed one hundred dollars (\$100) in the case of a single return or two hundred dollars (\$200) in the case of a joint return.

(d) In the case of a corporation, the amount allowable as a credit under this SECTION for any taxable year shall not exceed:

(1) ten percent (10%) of such corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for such year (as determined without regard to any credits against that tax); or

(2) one thousand dollars (\$1,000);
whichever is less.

(e) For purposes of this SECTION, the term "institution of higher education" means any educational institution located within Indiana:

(1) which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on;

(2) which regularly offers education at a level above the twelfth grade;

(3) which regularly awards either associate, bachelors, masters, or doctoral degrees, or any combination thereof; and

(4) which is duly accredited by the North Central Association of Colleges and Schools, the Indiana state board of education, or the American Association of Theological Schools.

(f) The credit allowed by this SECTION shall not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this SECTION) allowed by IC 6-3-1 through IC 6-3-7.

(g) This SECTION expires April 2, 2003.

SECTION 18. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a) Notwithstanding IC 6-3-3-5.1, this SECTION applies instead of IC 6-3-3-5.1.

(b) At the election of the taxpayer, a credit against the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year is permitted in an amount (subject to the applicable limitations provided by this SECTION) equal to fifty percent (50%) of the aggregate amount of contributions made by the taxpayer during the taxable year to the twenty-first century scholars program support fund established under IC 20-12-70.1-5.

(c) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this SECTION for any taxable year may not exceed:

(1) one hundred dollars (\$100) in the case of a single return;
or

(2) two hundred dollars (\$200) in the case of a joint return.

(d) In the case of a taxpayer that is a corporation, the amount

allowable as a credit under this SECTION for any taxable year may not exceed the lesser of the following amounts:

(1) Ten percent (10%) of the corporation's total adjusted gross income tax under IC 6-3-1 through IC 6-3-7 for the taxable year (as determined without regard to any credits against that tax).

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

(e) The credit permitted under this SECTION may not exceed the amount of the adjusted gross income tax imposed by IC 6-3-1 through IC 6-3-7 for the taxable year, reduced by the sum of all credits (as determined without regard to this SECTION) allowed by IC 6-3-1 through IC 6-3-7.

(f) This SECTION expires April 2, 2003.

SECTION 19. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a) Notwithstanding IC 6-3-3-10, this SECTION applies instead of IC 6-3-3-10.

(b) The following definitions apply throughout this SECTION:

(1) "Base period wages" means the following:

(A) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(B) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

(2) "Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

(3) "Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise zone. Sources of adjusted gross income shall be

determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

(4) "Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

(5) "Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

(6) "Monthly base period wages" means base period wages divided by twelve (12).

(7) "Pass through entity" means a:

(A) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);

(B) partnership;

(C) trust;

(D) limited liability company; or

(E) limited liability partnership.

(8) "Qualified employee" means an individual who is employed by a taxpayer and who:

(A) has his principal place of residence in the enterprise zone in which he is employed;

(B) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;

(C) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone; and

(D) in the case of an individual who is employed by a taxpayer that is a pass through entity, was first employed by the taxpayer after December 31, 1998.

(9) "Qualified increased employment expenditures" means the following:

(A) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.

(B) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

(10) "Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

(A) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;

(B) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and

(C) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this SECTION.

(11) "Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

(12) "Taxpayer" includes a pass through entity.

(c) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

(1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or

(2) one thousand five hundred dollars (\$1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(d) The amount of the credit provided by this SECTION that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this SECTION exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or

carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this SECTION may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this SECTION may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(e) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (d).

(f) Notwithstanding subsection (d), if a credit under this SECTION results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (d), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(g) A taxpayer is not entitled to a refund of any unused credit.

(h) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this SECTION.

(i) If a pass through entity is entitled to a credit under subsection (c) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or

member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

(j) This SECTION expires April 2, 2003.

SECTION 20. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] (a) Notwithstanding IC6-3-4-4.1, this SECTION applies instead of IC 6-3-4-4.1.

(b) This SECTION applies to taxable years beginning after December 31, 1993.

(c) Any individual required by the Internal Revenue Code to file estimated tax returns and to make payments on account of such estimated tax shall file estimated tax returns and make payments of the tax imposed by this article to the department at the time or times and in the installments as provided by Section 6654 of the Internal Revenue Code. However, in applying Section 6654 of the Internal Revenue Code for the purposes of this article, "estimated tax" means the amount which the individual estimates as the amount of the adjusted gross income tax imposed by this article for the taxable year, minus the amount which the individual estimates as the sum of any credits against the tax provided by IC 6-3-3.

(d) Every individual who has adjusted gross income subject to the tax imposed by this article and from which tax is not withheld under the requirements of IC 6-3-4-8 of this chapter shall make a declaration of estimated tax for the taxable year. However, no such declaration shall be required if the estimated tax can reasonably be expected to be less than four hundred dollars (\$400). In the case of an underpayment of the estimated tax as provided in Section 6654 of the Internal Revenue Code, there shall be added to the tax a penalty in an amount prescribed by IC 6-8.1-10-2.1(b).

(e) Every corporation subject to the adjusted gross income tax liability imposed by IC 6-3 shall be required to report and pay an estimated tax equal to twenty-five percent (25%) of such corporation's estimated adjusted gross income tax liability for the taxable year. A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross

income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(f) The penalty prescribed by IC 6-8.1-10-2.1(b) shall be assessed by the department on corporations failing to make payments as required in subsection (d) or (g). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax ~~plus utility receipts tax~~ which equal or exceed:

- (1) twenty percent (20%) of the final tax liability for such taxable year; or
- (2) twenty-five percent (25%) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25%) of the corporation's final adjusted gross income tax liability for such taxable year.

(g) The provisions of subsection (d) requiring the reporting and estimated payment of adjusted gross income tax shall be applicable only to corporations having an adjusted gross income tax liability which, after application of the credit allowed by IC 6-3-3-2, shall exceed one thousand dollars (\$1,000) for its taxable year.

(h) If the department determines that a corporation's:

- (1) estimated quarterly adjusted gross income tax liability for the current year; or
- (2) average estimated quarterly adjusted gross income tax liability for the preceding year;

exceeds, before January 1, 1998, twenty thousand dollars (\$20,000), and, after December 31, 1997, ten thousand dollars (\$10,000), after the credit allowed by IC 6-3-3-2, the corporation shall pay the estimated adjusted gross income taxes due by electronic funds transfer (as defined in IC 4-8.1-2-7) or by delivering in person or overnight by courier a payment by cashier's check, certified check, or money order to the department. The transfer or payment shall

be made on or before the date the tax is due.

(i) If a corporation's adjusted gross income tax payment is made by electronic funds transfer, the corporation is not required to file an estimated adjusted gross income tax return.

(j) This SECTION expires April 2, 2003.

SECTION 21. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] **(a) Notwithstanding IC 6-3.1-18-8, this SECTION applies instead of IC 6-3.1-18-8.**

(b) The credit provided under IC 6-3.1-18-7 is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under IC 6-3, this article, or IC 6-5.5. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same qualified expenditure.

(c) This SECTION expires April 2, 2003.

SECTION 22. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] **(a) Notwithstanding IC 6-5.5-2-7, this SECTION applies instead of IC 6-5.5-2-7.**

(b) Notwithstanding any other provision of IC 6-5.5, there is no tax imposed on the adjusted gross income or apportioned income of the following:

(1) Insurance companies subject to the tax under IC 27-1-18-2 or IC 6-3.

(2) International banking facilities (as defined in Regulation D of the Board of Governors of the Federal Reserve System).

(3) Any corporation that is exempt from income tax under Section 1363 of the Internal Revenue Code.

(4) Any corporation exempt from federal income taxation under the Internal Revenue Code, except for the corporation's unrelated business income. However, this exemption does not apply to a corporation exempt from federal income taxation under Section 501(c)(14) of the Internal Revenue Code.

(c) This SECTION expires April 2, 2003.

SECTION 23. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] **Notwithstanding the repeal of IC 6-3-3-2 by P.L.192-2002(ss), a taxpayer that has adjusted gross income tax liability under IC 6-3 for a taxable year that included any part of the year 2002 may apply the credit granted by IC 6-3-3-2 (repealed) for gross income taxes (IC 6-2.1 (repealed)) paid by the**

taxpayer during the taxable year.

SECTION 24. [EFFECTIVE JANUARY 1, 2004] IC 6-3-2-8, as amended by this act, applies to taxable years beginning after December 31, 2003.

SECTION 25. An emergency is declared for this act.

P.L.270-2003

[S.435. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning business and other associations.

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

SECTION 1. IC 23-2-1-15, AS AMENDED BY SEA 257-2003, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) This chapter shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this chapter under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this chapter. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

- (1) shall employ a chief deputy, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this chapter; and
- (2) shall fix their compensation with the approval of the budget agency.

The chief deputy, other deputies, the senior investigator, and the senior accountant, once employed under this chapter, may be dismissed only for cause by the secretary of state upon ten (10) days notice in writing stating the reasons for dismissal. Within fifteen (15) days after

dismissal, the chief deputy, other deputies, the senior investigator, and the senior accountant may appeal to the state personnel board. The state personnel board shall hold a hearing, and if it finds that the appealing party was dismissed for a political, social, religious, or racial reason, the appealing party shall be reinstated to the appealing party's position without loss of pay. In all other cases, if the decision is favorable to the appealing party, the secretary of state shall follow the findings and recommendations of the board, which may include reinstatement and payment of salary or wages lost. The hearing and any subsequent proceedings or appeals shall be governed by the provisions of IC 4-15-2 and IC 4-21.5.

(c) Fees and funds of whatever character accruing from the administration of this chapter shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of state in the general fund of the state. Expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, costs of investigations recovered under sections 16(d) and 17.1(c) of this chapter shall be deposited with the treasurer of state to be deposited by the treasurer of state in a separate account to be known as the securities division enforcement account. The funds in the account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter. The funds in the account do not revert to the general fund at the end of any fiscal year.

(d) In connection with the administration and enforcement of the provisions of this chapter, the attorney general shall render all necessary assistance to the securities commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the securities commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office.

(e) Neither the secretary of state, the securities commissioner, nor

an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.

(f) The commissioner, subject to the approval of the secretary of state, may adopt rules, orders, and forms necessary to carry out this chapter, including rules and forms concerning registration statements, applications, reports, and the definitions of any terms if the definitions are consistent with this chapter. The commissioner may by rule or order allow for exemptions from registration requirements under sections 3 and 8 of this chapter if the exemptions are consistent with the public interest and this chapter.

(g) The provisions of this chapter delegating and granting power to the secretary of state, the securities division, and the securities commissioner shall be liberally construed to the end that:

- (1) the practice or commission of fraud may be prohibited and prevented;
- (2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and
- (3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

It is the intent and purpose of this chapter to delegate and grant to and vest in the secretary of state, the securities division, and the securities commissioner full and complete power to carry into effect and accomplish the purpose of this chapter and to charge them with full and complete responsibility for its effective administration.

(h) It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the securities commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this chapter and in a civil proceeding or action arising under this chapter. ~~If evidence concerning violations of this chapter or a rule or order under this chapter is referred to a prosecuting attorney; the prosecuting attorney shall within ninety (90) days file with the securities commissioner a written statement concerning an action taken or; if no action has been taken, the reasons no action has been taken. If the commissioner determines that an action based on the securities~~

division's investigations is meritorious:

(1) the commissioner or a designee empowered by the commissioner shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed;

(2) the commissioner and the securities division shall assist the prosecuting attorney in prosecuting an action under this section;

(3) a prosecuting attorney to whom facts concerning fraud are certified under subdivision (1) may refer the matter to the attorney general; and

(4) if a matter has been referred to the attorney general under subdivision (3), the attorney general may:

(A) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(B) prosecute the alleged offense.

(i) The securities commissioner shall take, prescribe, and file the oath of office prescribed by law. The securities commissioner, senior investigator, and each deputy are police officers of the state and shall have all the powers and duties of police officers in making arrests for violations of this chapter, or in serving any process, notice, or order connected with the enforcement of this chapter by whatever officer or authority or court issued. The securities commissioner, the deputy commissioners for enforcement, and the investigators comprise the enforcement department of the division and are considered a criminal justice agency for purposes of IC 5-2-4 and IC 10-13-3.

(j) The securities commissioner and each employee of the securities division shall be reimbursed for necessary hotel and travel expenses when required to travel on official duty. Hotel and travel reimbursements shall be paid in accordance with the travel regulations prescribed by the budget agency.

(k) It is unlawful for the secretary of state, the securities commissioner, or the securities division's employees to use for personal benefit information that is filed with or obtained by the securities division and that is not made public. No provision of this chapter authorizes the secretary of state, the securities commissioner, or the employees of the securities division to disclose information except

among themselves, or when necessary or appropriate, in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from a privilege that exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the secretary of state, the securities commissioner, or the securities division or its employees.

(l) The commissioner may honor requests from interested persons for interpretative opinions and from interested persons for determinations that the commissioner will not institute enforcement proceedings against specified persons for specified activities. A determination not to institute enforcement proceedings must be consistent with this chapter. The commissioner shall charge a fee of one hundred dollars (\$100) for an interpretative opinion or determination.

SECTION 2. IC 23-2-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) With the filing of any application for registration pursuant to this chapter, there shall be filed the irrevocable written consent of the applicant that suits and actions growing out of the violation of any provision or provisions of this chapter may be commenced against the applicant in the proper courts of any county in this state in which a cause of action may arise, or in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state upon the secretary of state. The consent must stipulate and agree that service of process or pleadings on the secretary of state shall be taken and held in all courts to be as valid and binding as if due service has been made upon the applicant. The written consent shall be authenticated by:

- (1) the seal of the applicant if the applicant has a seal; and
- (2) the acknowledged signature of:
 - (A) the members of the partnership, or the depositors, managers, or committee;
 - (B) any officers of the corporation, or of the incorporated or unincorporated association if the applicant be an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees, or managers of the corporation or association, and accompanied by a duly certified copy of the resolution of the board of directors, trustees, or managers of the corporation or association authorizing the officers to

execute the same; or

(C) any members or managers of the limited liability company, duly authorized by the members and managers of the limited liability company and accompanied by a duly certified copy of the resolution of the members or managers of the limited liability company which authorizes the members or managers to execute the same.

(b) The engaging in this state by a nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, in any transaction, or the doing of any business in this state involving a sale of securities, or an offer to sell securities, shall be deemed equivalent to an appointment by the nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, of the secretary of state, or his successor in office, to be his true and lawful attorney upon whom may be served any lawful process, writ, notice, or order, in any action or proceeding against such nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, arising or growing out of any transaction, or of the doing of any business involving a sale of securities, or offer to sell securities in this state. The engaging in any such transaction, or the doing of any such business in this state, shall be signification of the agreement of such nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, that any process, writ, notice, or order against him which is so served shall be of the same legal force and effect as if served upon such nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller personally. Any action or proceeding against a nonresident broker-dealer, agent, issuer, offeror, or seller, may be instituted or commenced in the proper court of any county in this state in which the nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, shall have engaged in any transaction or shall have done any business in this state involving a sale of securities, or an offer to sell securities, or in the county in which the person bringing the action may reside.

(c) The service of any process, writ, notice, or order against an applicant not domiciled in this state, or against a nonresident broker-dealer, investment advisor, agent, issuer, offeror, or seller, shall be made by leaving duplicate copies thereof with a fee of two dollars (\$2) with the secretary of state, or in his office, and the service shall be deemed sufficient service, if the notice of service and a copy of the

process, writ, notice, or order are forthwith sent by registered mail with return receipt requested, addressed to the person so served at the address disclosed upon any such written consent that may have been filed in the office of the secretary of state, or as disclosed upon any written notification of address filed by the person to be served, or if no address is filed in the office of the secretary of state then at any other address, if any, known or disclosed to the secretary of state. Upon return of the return receipt showing delivery and the acceptance of the registered mail, or upon the return of the registered mail showing a refusal of the acceptance, the secretary of state shall attach either the return receipt or the refused mail to the copy of the process, writ, notice, or order retained by him, and mail the same to the clerk of the court in which the action or proceeding is pending in respect to which the process, writ, notice, or order was issued, or the secretary of state shall return the copy of the process, writ, notice, or order to the clerk with the advice, if such be the case, that no address to which the process, writ, notice, or order may be mailed is known to the secretary of state. The clerk of the court shall thereupon file the same, and the same shall be deemed a part of the record in the action or proceeding without a special bill of exceptions therefor. Refusal of any person to accept delivery of the registered mail provided in this section, or the refusal to sign the return receipt, or the ignorance of the secretary of state of any address to which process, writ, notice, or order may have been mailed, shall not in any manner affect the legality or effect of service, and the person shall be presumed to have had knowledge of the contents of any process, writ, notice, or order contained therein, or issued in connection with any proceeding resulting from the transaction in which the person may have participated in this state. No process, writ, notice, or order served in this section provided shall be returnable in less than twenty (20) days from the date the same shall have been issued.

(d) The securities division is authorized to make investigations and examinations:

- (1) in connection with any application for registration of any security, broker-dealer, investment advisor, or agent, or any registration thereof already granted; or
- (2) whenever it appears to the commissioner upon the basis of a complaint or information that reasonable grounds exist for the

belief that an investigation or examination is necessary or advisable for the more complete protection of the interests of the public.

On investigations and examinations made by the commissioner or an employee of the securities division, all reasonable expenses, including, but not limited to, a per diem prorated upon the salary of such commissioner or employee together with the actual traveling and hotel expenses, may be charged as costs of the investigation or examination to be paid by the party or parties under investigation or examination. Before a hearing on the matter under investigation, the commissioner may require the posting of a bond in the penal sum of five hundred dollars (\$500), or in such other additional amount as may be required to guarantee the payment of the costs of the investigation and hearing, to the state of Indiana with sufficient surety to be approved by the commissioner.

(e) The secretary of state or the commissioner shall have the power to sign all orders, official certifications, documents, or papers, under any of the provisions of this chapter. The commissioner shall have the power to:

- (1) hold and conduct hearings before the commissioner or authorize the same to be held before ~~any other representative of the securities division~~ **a hearing officer appointed by the commissioner** in any county in ~~the state~~ of Indiana;
- (2) hear evidence;
- (3) conduct inquiries with or without hearings;
- (4) receive reports of investigators or other officers or employees of the state of Indiana, or of any municipal corporation within the state or governmental subdivision;
- (5) administer oaths, or cause them to be administered;
- (6) subpoena witnesses, and compel them to attend and testify; and
- (7) to compel the production of books, records, and other documents.

(f) Upon:

- (1) disobedience on the part of any person to any lawful subpoena issued under authority of this chapter, or to any lawful order or demand requiring the production of any books, accounts, papers, records, documents, or other evidence or information as provided

in this chapter; or

(2) the refusal of any witness to appear when subpoenaed, or to testify to any matter regarding which he may be lawfully interrogated, or to take or subscribe to any oath required by this chapter;

it shall be the duty of the circuit or superior court of the county in which the hearing or inquiry or investigation in question is being or is to be held, where demand is made, or where said production is ordered to be made, upon written petition of the commissioner **or a hearing officer appointed by the commissioner**, to compel obedience to the lawful requirements of the subpoena, order, or demand, to compel the production of the necessary or required books, papers, records, documents, and other evidence and information, to compel any witness to attend in any county within this state and to testify to any matter regarding which he may lawfully be interrogated, and to take or subscribe to any oath required, and, upon the failure, refusal, or neglect of any person to comply with any order of any court or judge thereof, as provided in this section, such person shall be punished for contempt of court.

(g) If a witness, in any hearing, inquiry, or investigation conducted under this chapter, refuses to answer any question or produce any item, the commissioner **or a hearing officer appointed by the commissioner** may file a written petition with the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted requesting a hearing on the refusal. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item. If the court determines that the witness, based upon his privilege against self-incrimination, may properly refuse to answer or produce an item, the commissioner **or a hearing officer appointed by the commissioner** may make a written request that the court grant use immunity to the witness. Upon written request of the commissioner **or a hearing officer appointed by the commissioner**, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that:

(1) any evidence the witness gives, or evidence derived from that evidence, may not be used in any criminal proceedings against that witness, unless the evidence is volunteered by the witness or is not responsive to a question; and

(2) the witness must answer the questions asked and produce the items requested.

A grant of use immunity does not prohibit the use of evidence that the witness gives in a hearing, investigation, or inquiry from being used in a prosecution for perjury under IC 35-44-2-1. If a witness refuses to give the evidence after ~~he~~ **the witness** has been granted use immunity, the court may find ~~him~~ **the witness** in contempt.

(h) Upon order of the commissioner ~~or his representative or a hearing officer appointed by the commissioner~~ in any hearing, depositions may be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the commissioner ~~or a hearing officer appointed by the commissioner. or his representative.~~

(i) Each witness who shall appear before the commissioner ~~or his representative or a hearing officer appointed by the commissioner~~ by order shall receive for ~~his~~ **the witness's** attendance the fees and mileage provided for witnesses in civil cases, which shall be audited and paid by the state in the same manner as other expenses of the securities division are audited and paid upon the presentation of proper vouchers sworn to by the witnesses and approved by the commissioner. However, no witnesses subpoenaed at the instance of parties other than the commissioner ~~or his representative or a hearing officer appointed by the commissioner~~ shall be entitled to any fee or compensation from the state.

(j) It is not necessary to negative any of the exemptions or classifications in this chapter provided in any complaint, information, indictment, or any other writ or proceedings laid or brought under this chapter, and the burden of proof of any exemption or classification shall be upon the party claiming the benefits of the exemption or classification.

(k) In any prosecution, action, suit, or proceeding based upon or arising out of or under the provisions of this chapter, a certificate duly signed by the commissioner showing compliance or noncompliance with the provisions of this chapter respecting the security in question or respecting compliance or noncompliance with the provisions of this chapter, by any issuer, broker-dealer, investment advisor, or agent, shall constitute *prima facie* **facie** evidence of compliance or

noncompliance with the provisions of this chapter, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this chapter.

(l) Copies of any statement and documents filed in the office of the secretary of state and of any records of the secretary of state certified to by the commissioner or any deputy shall be admissible in any prosecution, action, suit, or proceeding based upon, or arising out of, or under the provisions of this chapter to the same effect as the original of such statement, document, or record would be if actually produced.

(m) Whenever, under the provisions of this chapter, any person is entitled to receive notice or required to be served with notice in any proceeding instituted by the commissioner pursuant to the provisions of this chapter, notice shall be deemed sufficient:

(1) if sent by registered mail with return receipt requested to that person or ~~his~~ **the person's** designated attorney or agent for service of process at:

- (A) ~~his~~ **the person's** last known residence;
- (B) ~~his~~ **the person's** last known place of business; or
- (C) the last known address at which ~~he~~ **the person** purports to receive mail;

(2) if personally delivered and left with a person of suitable age or in a conspicuous place at:

- (A) ~~his~~ **the person's** last known residence;
- (B) ~~his~~ **the person's** last known place of business; or
- (C) the last known address at which ~~he~~ **the person** purports to receive mail; or

(3) by personal service on the person.

SECTION 3. IC 23-2-5-10, AS AMENDED BY P.L.14-2000, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) **Whenever it appears to the commissioner that a person has engaged in or is about to engage in an act or a practice constituting a violation of this chapter or a rule or an order under this chapter, the commissioner may investigate and may issue, with a prior hearing if there exists no substantial threat of immediate irreparable harm or without a prior hearing, if there exists a substantial threat of immediate irreparable harm, orders and notices as the commissioner determines to be in the public interest, including cease and desist orders, orders to show**

cause, and notices. After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the rate of eight percent (8%) per year, directed to a person who has violated this chapter or a rule or order under this chapter.

(b) Upon the issuance of an order or notice without a prior hearing by the commissioner under subsection (a), the commissioner shall promptly notify the respondent:

- (1) that the order or notice has been issued;**
- (2) of the reasons the order or notice has been issued; and**
- (3) that upon the receipt of a written request the matter will be set down for a hearing to commence within fifteen (15) business days after receipt of the request unless the respondent consents to a later date.**

If a hearing is not requested and not ordered by the commissioner, an order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of an opportunity for hearing, may modify or vacate the order or extend it until final determination.

(c) The commissioner may deny, suspend, or revoke the license of a licensee or the registration of a registrant if the licensee or the registrant:

- (1) fails to maintain the bond required under section 5 of this chapter;**
- (2) is insolvent;**
- (3) has violated any provision of this chapter;**
- (4) has knowingly filed with the commissioner any document or statement containing any false representation of a material fact or omitting to state a material fact or if a representation becomes false after the filing but during the term of a license or certificate of registration as provided in subsection ~~(e)~~; **(g)**; or**
- (5) has been convicted, within ten (10) years before the date of the application, renewal, or review, of any crime involving fraud or deceit.**

~~(b)~~ (d) The commissioner may not enter a final order denying, suspending, or revoking the license of a licensee or the registration of a registrant without prior notice to all interested parties, opportunity for a hearing, and written findings of fact and conclusions of law.

However, the commissioner may by summary order deny, suspend, or revoke a license or certificate of registration pending final determination of any proceeding under this section. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered, of the reasons for the summary order, and that upon receipt by the commissioner of a written request from a party, the matter will be set for hearing to commence within fifteen (15) business days after receipt of the request. If no hearing is requested and none is ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of the hearing has been given to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

~~(c)~~ (e) IC 4-21.5 does not apply to a proceeding under this section.

~~(d)~~ (f) If:

- (1) a licensee desires to have a previously unregistered employee begin engaging in origination activities; or
- (2) an individual who was previously registered under this chapter is employed by another licensee who desires to have the registrant engage in origination activities;

the employer licensee shall, within fifteen (15) days after the employee first conducts origination activities, submit to the commissioner, on a form prescribed by the commissioner, notice of the registrant's employment. If the employee has not previously been registered, the licensee shall submit evidence that the employee has completed the education requirements of section 21 of this chapter.

~~(e)~~ (g) If a material fact or statement included in an application under this chapter changes after the application has been submitted, the applicant shall provide written notice to the commissioner of the change. The commissioner may revoke or refuse to renew the license or registration of any person who:

- (1) is required to submit a written notice under this subsection and fails to provide the required notice within two (2) business days after the person discovers or should have discovered the change; or
- (2) would not qualify for licensure or registration under this chapter as a result of a change in material fact or statement.

P.L.271-2003

[S.454. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote the agricultural, industrial and commercial development of the state, and to provide for the general welfare by the construction and operation, in cooperation with the federal government, or otherwise, of a modern port ~~on Lake Michigan and/or the Ohio River, and/or the Wabash River,~~ **system** with terminal facilities to accommodate water, rail, truck, ~~and~~ air-borne, **and other forms of** transportation, the Indiana Port Commission is hereby authorized and empowered to construct, maintain and operate, in cooperation with the federal government, or otherwise, at such ~~location on Lake Michigan and/or the Ohio River, and/or the Wabash River,~~ **locations** as shall be approved by the governor, **projects, including without limitation** public ports with terminal facilities and traffic exchange points **throughout Indiana** for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens from ~~the St. Lawrence Seaway;~~ **all forms of transportation,** and to issue ~~port~~ revenue bonds of the state payable solely from revenues, to pay the cost of such projects. **The commission's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.**

SECTION 2. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the Indiana Port Commission created by section 3 of this chapter, or, if said commission

shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include **any combination of:**

(1) any place or places on Lake Michigan, the Ohio River, and the Wabash River, or other water bodies, natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded or accommodated; **and**

(2) nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.

(c) The words "port word "project" shall include:

(1) any facilities, adjuncts and appurtenances necessary or useful to operate a modern port, whether or not permanently situated at the port, including:

(A) the dredging of approaches thereto, and including, among other things, but not limited to to a port; and

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or control of the commission, and other buildings and facilities which the commission may deem necessary for the operation of the port; and

(2) any other project located in Indiana, other than at a port, that the commission finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or ~~port~~ project ~~shall embrace means:~~

- (1) the cost of construction;
- (2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the commission for ~~such~~ construction;
- (3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved;
- (4) the cost of relocating public roads;
- (5) **the cost of land or easements therefor, for roads;**
- (6) the cost of all machinery and equipment;
- (7) financing charges;
- (8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;
- (9) **the** cost of engineering and legal expenses, plans, specifications, surveys, **and** estimates of cost, traffic and revenues;
- (10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
- (11) administrative expense; ~~and such~~
- (12) other expenses as may be necessary or incident to the **acquisition or** construction of the project, the financing of ~~such~~ **the acquisition or** construction, and the placing of the project in operation, **including the amount authorized in the resolution of the port commission providing for the issuance of port commission revenue bonds to be paid into any special funds from the proceeds of the bonds; and**
- (13) **any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may be regarded as part of the cost of the project and may be reimbursed out of the proceeds of port commission revenue bonds as authorized by this chapter.**

(e) The word "owner" shall include all individuals, copartnerships,

associations or corporations having any title or interest in any property, rights, easements and other interests authorized to be acquired by this chapter.

(f) The word "revenues" shall mean all fees, tolls, rentals, gifts, grants, moneys and all other funds coming into the possession or under the control of the commission by virtue of the terms and provisions of this ~~chapter~~, **article**, but shall not include real property or personal property other than money, nor the proceeds from the sale of bonds issued under provisions of this chapter.

(g) The word "public roads" shall include all public highways, roads, and streets in the state, whether maintained by the state, county, city, township or other political subdivision.

SECTION 3. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** There is hereby created a commission to be known as the "Indiana port commission" and by that name the commission may sue and be sued, and plead and be impleaded. The commission hereby created is a body both corporate and politic in the state of Indiana, and the exercise by the commission of the powers conferred by this ~~chapter~~ **article** in the construction, operation and maintenance of a port **or** project shall be deemed and held to be essential governmental functions of the state, but the commission shall not however be immune from liability by reason thereof.

(b) The commission shall consist of seven (7) members, appointed by the governor, no more than four (4) of whom shall be members of the same political party. The members shall be residents of the state, and shall have been qualified electors therein for a period of at least five (5) years next preceding their appointment. The members of the commission first appointed shall continue in office for terms expiring, in the case of two (2) members, on July 1, 1962, and in the case of three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965 and the first two (2) members appointed after January 1, 1975, shall continue in office for terms expiring July 1, 1977 for one (1) member and July 1, 1979 for the other member, respectively, and until their respective successors shall be duly appointed and qualified. The term of any member of the commission first appointed shall be designated by the governor. The successor of each such member shall be appointed for a term of four (4) years, except that any person appointed

to fill a vacancy shall be appointed to serve only for the unexpired term, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any ~~port~~ revenue bonds under the provisions of this ~~chapter~~, **article**, each appointed member of the commission shall give a surety bond to the state in the penal sum of twenty-five thousand dollars (\$25,000) and the secretary-treasurer shall give a surety bond to the state in the penal sum of fifty thousand dollars (\$50,000). Each such surety bond ~~to~~ **must** be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand, five hundred dollars (\$7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence. ~~The governor shall, however, appoint said members as herein provided within a period of sixty (60) days following the effective date of this chapter.~~

(e) Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

(f) All expenses incurred in carrying out the provisions of this ~~chapter article~~ shall be payable solely from funds provided under the authority of this ~~chapter article~~ and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this ~~chapter article~~.

SECTION 4. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under the provisions of this ~~chapter article~~ shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized in this ~~chapter article~~, unless such bonds are refunded by refunding bonds, issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out the provisions of this ~~chapter article~~ shall be payable solely from funds provided under the authority of this ~~chapter article~~ and nothing in this ~~chapter article~~ contained shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

SECTION 5. IC 8-10-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. **Except as specifically authorized by the general assembly, the commission may not pledge, in any form, to:**

- (1) seek funding from the state in the event of any default in the payment of revenue bonds; or
- (2) specify, in any form, in an agreement related to revenue bonds that money appropriated by the general assembly may or shall be deposited in a debt service fund or reserve fund for the revenue bonds.

SECTION 6. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port commission may:

(1) prepare sketches, plans, and descriptive material relating to ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote ~~such public port or port~~ **the ports or** projects and deems to be in the public interest;

(2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;

(3) locate and acquire a suitable ~~site~~ **sites** for ~~such public port or port~~ **ports or** projects;

(4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the commission, best serve the commercial, industrial, and agricultural interests of the state;

(5) provide adequate port and terminal facilities to accommodate water, rail, truck, and airborne transportation; and

(6) provide a traffic exchange point for all forms of transportation, giving particular attention to the benefits which may accrue to the state and its citizens by the opening of the St. Lawrence Seaway and river transportation.

(b) The title to all property included in any ~~port or~~ project shall be taken in the name of, and shall be in, the state of Indiana.

SECTION 7. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is authorized and empowered **to do the following:**

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal which shall not be the seal of the state of Indiana.

(3) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(4) To sue and be sued, and to plead and be impleaded in its own name. However, actions at law against the commission shall be brought in the circuit court of the county in which the principal office of the commission is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the commission by leaving a copy thereof at the principal office of the commission with the person in charge thereof or with the secretary of the commission. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

(5) To acquire, lease, construct, maintain, repair, police, and operate a port or ~~port~~ project as provided in this chapter, and to establish rules and regulations for the use of ~~such the~~ port or ~~port~~ project, and other property subject to the jurisdiction and control of the commission.

(6) To issue ~~port both taxable and tax exempt~~ revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or ~~port~~ project.

(7) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or ~~port~~ project.

(8) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or ~~port~~ project.

(9) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(10) To designate the location and establish, limit, and control points of ingress to and egress from ~~the a port property: or~~ **project.**

(11) To lease to others for development or operation such portions of any port or ~~port~~ project, on such terms and conditions as the commission shall deem advisable.

(12) To make and enter into all contracts, undertakings, and

agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. When the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than twenty-five thousand dollars (\$25,000), the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in ~~Marion County, Indiana,~~ **the county where the construction will occur** and in such other publications as the commission shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The commission may reject any and all bids. A bond with good and sufficient surety as shall be approved by the commission, shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(13) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(13)~~ **(14)** To employ an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation, but no compensation of any employee of the commission shall exceed the compensation of the highest paid officer or employee of the state. ~~However, the employment of an attorney shall be subject to such approval of the attorney general as may be required by law.~~

~~(14)~~ **(15)** To receive and accept from any federal agency grants for or in aid of the construction of any port or ~~port~~ project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(15)~~ **(16)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(16)~~ **(17)** To do all acts and things necessary or proper to carry out the powers expressly granted in this ~~chapter~~ **and article**.

~~(17)~~ **(18)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the commission.

SECTION 8. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission shall find it necessary to change the location of any portion of any public road, **highway**, railroad, or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and paid by the commission as a part of the cost of ~~such the~~ port or ~~port~~ project. The commission shall have authority to petition the circuit court of the county wherein is situated any public road or part thereof, affected by the location therein of any port or ~~port~~ project, for the vacation or relocation of such road or any part thereof with the same force and effect as statutes in effect on March 2, 1961, to the inhabitants of any municipality or governmental subdivision of the state. The proceedings upon such petition, whether it be for the appointment of appraisers or otherwise, shall be the same as provided by statutes in effect on March 2, 1961, for similar proceedings upon such petitions. In addition to the foregoing powers, the commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations as are

necessary or proper for the purposes of this ~~chapter, article~~, and such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; provided, that before entering upon the premises of any railroad, notice shall be given to the superintendent of such railroad involved at least five (5) days in advance of such entry, and provided, that no survey, sounding, drilling, and examination shall be made between the rails, or so close to a railroad track, as would render said track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters and premises, as a result of such activities. The state of Indiana, subject to the approval of the governor, hereby consents to the use of lands owned by it, including lands lying under water and riparian rights, which are necessary or proper for the construction or operation of any port or ~~port~~ project, provided adequate compensation is made for such use. The commission shall also have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation, and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances (referred to in this section as "public utility facilities") of any public utility in, on, along, over, or under any port or ~~port~~ project. Whenever the commission shall determine that it is necessary that any such public utility facilities which are, on or after March 2, 1961, located in, on, along, over, or under any ~~such~~ port or ~~port~~ project should be relocated or should be removed from ~~such the~~ port or ~~port~~ project, the public utility owning or operating such facilities shall relocate or remove the same in accordance with the order of the commission. ~~provided,~~ However, ~~that~~ the cost and expenses of such relocation or removal, including the cost of installing such facilities in a new location or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish such relocation or removal, shall be ascertained and paid by the commission as a part of the cost of ~~such the~~ port or ~~port~~ project, excepting, however, cases in which such equipment or facilities are located within the limits of highways or public thoroughfares being constructed, reconstructed, or improved under the provisions of this chapter. In case of any such relocation or removal of facilities, the public utility owning or

operating the same, its successors or assigns, may maintain and operate such facilities, with the necessary appurtenances, in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations subject, however, to the state's right of regulation under its police powers.

SECTION 9. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall have power to adopt such by-laws, rules and regulations as it may deem advisable for the control and regulation of any port or ~~port~~ project or traffic on any port or ~~port~~ project, for the protection of and preservation of property under its jurisdiction and control, and for the maintenance and preservation of good order within the property under its control, and such by-laws, rules and regulations shall be published in a newspaper of general circulation in Marion County, Indiana, and in such other manner as the commission shall prescribe; however, such rules and regulations shall provide that public officers shall be afforded ready access, while in performance of their official duty, to all property under the jurisdiction or control of the commission without the payment of tolls.

(b) Such rules and regulations adopted under this section shall be adopted under IC 4-22-2.

(c) A person who violates a rule or regulation of the commission commits a Class C infraction.

SECTION 10. IC 8-10-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. **(a)** The commission is hereby authorized and empowered to acquire by purchase whenever it shall deem such purchase expedient, any land, property, rights, right-of-ways, franchises, easements and other interests in lands, including lands under water and riparian rights, as it may deem necessary or convenient for the construction and operation of any port or ~~port~~ project, upon such terms and at such price as may be considered by it to be reasonable and can be agreed upon between the commission and the owner thereof, and to take title thereto in the name of the state.

(b) The commission is hereby further authorized and empowered to sell, transfer and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. ~~and it~~ **The commission** is further authorized

and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or port project, or as otherwise required under the provisions of this chapter. ~~Provided, That~~ **article. However**, no such sale shall be made without **first obtaining** the approval of the governor, ~~first obtained~~ and **a sale may not be made at not** less than the appraised value established by three (3) independent appraisers appointed by the governor. The commission shall be authorized to restrict the use of any land so sold by it and provide for a reversion to the commission in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the governor.

(c) The commission shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the commission, on such terms as the commission shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the governor. Leases of lands under the jurisdiction or control of the commission shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ~~the port and ports~~, terminal facilities, **and projects** under the jurisdiction or control of the commission. In the event the commission shall lease to others a building or structure financed by the issuance of revenue bonds **under IC 8-10-4**, the rental shall be in an amount at least sufficient to pay the interest on and principal of the amount of such bonds representing the cost of such building or structure to the extent such interest and principal is payable during the term of the lease, as well as to pay the cost of maintenance, repair and insurance for such building and a reasonable portion of the commission's administrative expense incurred during the term of the lease which is allocable to such building or structure.

(d) **No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the commission, a port, a project, or the state, unless a written agreement entered into by the commission expressly provides:**

- (1) the exact nature and extent of the right, claim, title, or interest;**
- (2) all the conditions under which the right, claim, title, or interest is granted; and**
- (3) a legal or complete description of the specific property.**

SECTION 11. IC 8-10-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is hereby authorized and empowered to acquire by appropriation, under the provisions of the eminent domain law of the state, any land, including lands under water and riparian rights, property, rights, rights-of-way, franchises, easements or other property necessary or proper for the construction or the efficient operation of any port or port project. The commission shall also be empowered to exercise such powers of eminent domain as may be conferred upon the commission by an act of Congress of the United States now in force, or which may hereafter be enacted. Title to the property condemned shall be taken in the name of the state of Indiana. Nothing herein shall authorize the commission to take or disturb property or facilities constituting all or part of any presently existing or operating public port and nothing herein shall authorize the commission to take or disturb property or facilities belonging to any public utility or to a common carrier engaged in interstate commerce, which property or facilities are required for the proper and convenient operation of such public utility or common carrier, unless provision is made for the restoration, relocation or duplication of such property or facilities elsewhere at the sole cost of the commission excepting however, cases in which such equipment or facilities are located within the limits of existing highways or public thoroughfares.

SECTION 12. IC 8-10-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and distinct revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the following:

- (1) Acquisition of land including lands under water and riparian rights, or options for the purchase of such land for a port or project site, and incidental expenses incurred in connection with such acquisition. and for**
- (2) Studies in connection with the port or project. and including**

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4) Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

(5) Administrative expenses of the commission. ~~Said~~

The fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others; provided, however, that not to exceed one hundred thousand dollars (\$100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port **or project** site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of ~~port~~ revenue bonds for any port **or project**, the funds expended from the Indiana port fund in connection with the development of such **port or project** and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such **port or project** shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 13. IC 8-10-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission is hereby authorized to provide by resolution, at one time or from time

to time, for the issuance of ~~port~~ revenue bonds of the state for the purpose of paying all or any part of the cost of a port **or project under this chapter or IC 8-10-4**. The principal of and the interest on such bonds shall be payable solely from the revenues specifically pledged to the payment thereof. The bonds of each issue shall be dated, shall bear interest at any rate, shall mature at such time or times not exceeding fifty (50) years from the date thereof, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price or prices and under such terms and conditions as may be fixed by the commission in the authorizing resolution.

(b) The commission shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest which may be at any bank or trust company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) All bonds issued under this ~~chapter~~ **article** shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, **except as provided in IC 8-10-4**.

(g) No action to contest the validity of any bonds issued by the commission under this article shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this article.

SECTION 14. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port **or** project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the commission may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed the cost of the port **or** project for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The commission may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. **Bonds and any other instruments or the security for the bonds and other instruments that are authorized by this article** may be issued under the provisions of this ~~chapter~~ **article** without obtaining the consent of any officer, department, division, commission, board, bureau, or agency of the state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 15. IC 8-10-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is hereby authorized to provide by resolution for the issuance of ~~port revenue~~ refunding bonds of the state payable solely from revenues for

the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of **section 13** of this chapter **or IC 8-10-4-2**, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the commission, for the additional purpose of constructing improvements, extensions, or enlargements of the port **or** project in connection with which the bonds to be refunded shall have been issued. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof and the rights, duties and obligations of the commission in respect of the same, shall be governed by the provisions of this ~~chapter~~ **article** insofar as the same may be applicable.

SECTION 16. IC 8-10-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of the commission any bonds issued under the provisions of this act may be secured by a trust agreement by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the state, **except as provided in IC 8-10-4**. Any resolution adopted by the commission providing for the issuance of **revenue** bonds and any trust agreement pursuant to which such bonds are issued may pledge or assign all or any portion of the revenues received or to be received by the commission except such part as may be necessary to pay the cost of the commission's administrative expenses, operation, maintenance and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the commission, but the commission shall not convey or mortgage any port ~~port~~ **or** project or any part thereof, **except for self liquidating projects under IC 8-10-4**. In authorizing the issuance of bonds for any particular port **or** project, ~~undertaken in connection with the development of the port~~, the commission may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the commission may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port **or** project on account of which the original bonds were issued, or to provide funds to pay the cost of additional ~~port~~ **or** projects undertaken in connection with the development of the port **or** project, or for both such purposes. Such additional bonds

shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the commission pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the commission shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the commission. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the port or project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals or other charges, to be collected for the use of the project, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds or other funds of the commission, to furnish such indemnifying bonds or to pledge such securities as may be required by the commission. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations. In addition to the foregoing, any such trust agreement may contain such other provisions as the commission may deem reasonable and proper for the security of the bondholders. All expenses

incurred in carrying out the provisions of any such trust agreement may be treated as a part of the cost of the operation of the port **or** project.

SECTION 17. IC 8-10-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission shall be authorized to fix, review, charge and collect fees, tolls, rentals, and other charges for the use of the ~~port~~, ~~port project~~, **ports, projects**, terminal facilities, and lands under the jurisdiction or control of the commission or services rendered by the commission, and the aggregate thereof shall provide revenues at least sufficient to pay the cost of operation, maintenance, and repair of the port **or project** and terminal facilities, including the administration expenses of the commission, and in case revenue bonds are issued, sufficient to pay the interest on and principal of the bonds in accordance with their terms, and also sufficient to establish and maintain reserves created for all such purposes and for depreciation purposes. The fixing and collection of such fees, tolls, rentals and other charges and the expenditure of the revenues derived therefrom shall not be subject to the supervision or regulation by any other officer, commission, board, bureau or agency of the state. After such bonds have been fully paid and discharged and all obligations under any trust agreement securing the same have been performed or satisfied, any remaining surplus net revenues and all surplus net revenues thereafter derived from the operation of ~~such the~~ **port or project** shall be paid into the state general fund.

SECTION 18. IC 8-10-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given in this chapter may be restricted by the authorizing resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the statutes of the state or granted under this chapter or under such trust agreement, or the resolution authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the commission or by any officer thereof, including the fixing, charging, and collecting of fees, tolls, rentals, or other charges for the use of the port **or port** project.

SECTION 19. IC 8-10-1-20 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~ project, as defined in section 2 of this chapter, when constructed and ~~opened to traffic~~ **placed in operation** shall be maintained and kept in good condition and repair by the commission. Each such project shall also be policed and operated by such force of police, tolltakers, and other operating employees as the commission may in its discretion employ. All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of this chapter.

SECTION 20. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real **or personal** property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

SECTION 21. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. **(a)** The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~project.~~ **commission's ports and projects.** The accounts, books and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~port project.~~ **commission's ports and projects.**

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to

the governor. Each member of the general assembly shall receive a copy of the report by making a request for it to the chairman of the commission. Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 22. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds issued by the commission under the provisions of this ~~chapter~~ **article** shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized under Indiana statutes. **The bonds are also made securities that may be deposited with and received by all public officers and bodies of Indiana or any agency or political subdivision of Indiana and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of Indiana is now or may be later authorized by law.**

SECTION 23. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of the powers granted by this ~~chapter~~ **article** will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port **or** project by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any port **or** project or any property acquired or used by the commission under the provisions of this ~~chapter~~ **article** or upon the income therefrom. The bonds issued by the commission, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the

financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port and that is owned by the state or the commission is exempt from property taxation. **However, an exemption under this subsection is not available for land not located at a port.**

SECTION 24. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 30. The state pledges and agrees with the holders of any bonds issued under this article that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.**

SECTION 25. IC 8-10-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2. (a)** In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, whenever it finds that the economic welfare of the state would thereby be benefited, by additional employment opportunities, or by additional diversification of industry within the state, or by increased income or prosperity to the state and its residents, or for any other reason, shall have the power to acquire, construct, maintain, repair, police, and lease to others such facilities for manufacturing, storage, or processing of goods, or for the carrying on of commercial, business, or recreational activities as the commission further finds will increase the ~~water-borne~~ traffic into or out of the ~~port~~ **project**. Any such facilities and the site thereof shall not be exempt from property taxation, and the lessee in any lease thereof shall agree to pay all property taxes levied on such facilities and the site thereof.

(b) In exercising the powers granted in this section, the commission shall have all the powers granted to it by this article, in connection with a ~~port~~ project, and the term "~~port~~" project", as used in IC 8-10-1, shall be deemed to include facilities, adjuncts, and appurtenances of the

character referred to in this section.

(c) It is further declared that the acquisition, construction, maintenance, repair, policing of, and leasing to others of such facilities under the conditions set forth in this section is a public purpose.

(d) Nothing in this section shall authorize the Indiana port commission to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The Indiana port commission shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 26. IC 8-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "self-liquidating port project" shall mean a port project for which a lease or leases have been executed providing for payment of rental in an amount at least sufficient to pay the interest and principal of such bonds to be issued to finance the cost of such port project and further providing for the payment by the lessee or lessees of all costs of maintenance, repair, and insurance of such port project.

(b) Other words and terms used in this chapter shall have the same meaning as in other provisions of this article, unless otherwise specifically provided.

SECTION 27. IC 8-10-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. In addition to the powers conferred upon the Indiana port commission by other provisions of this article, the commission, in connection with any self-liquidating port project, shall have the following powers notwithstanding any other provision of this article to the contrary:

(a) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be issued without regard to any maximum interest rate limitation in this article or any other law.

(b) The revenue bonds issued by the commission to finance the cost of such self-liquidating port project may be sold in such manner, either at public or private sale, as the commission may

determine, and the provisions of IC 4-1-5 shall not be applicable to such sale.

(c) IC 4-13.6, IC 5-16-1, IC 5-16-2, IC 5-16-3, IC 5-16-5, IC 5-16-5.5, IC 5-16-6, IC 5-16-6.5, IC 5-16-8, IC 5-16-9, IC 5-16-10, IC 5-16-11, IC 5-16-11.1, IC 8-10-1-7(12), IC 8-10-1-29, and IC 36-1-12 do not apply to a project to be leased to a private party whose payments are expected to be sufficient to pay all debt service on bonds issued by the commission to finance the project.

SECTION 28. IC 8-10-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Any lease of a port project may provide that the lessee, as its reasonable portion of the commission's administrative expense incurred during the term of the lease which the lessee is required to pay by IC 8-10-1-10, shall pay to the commission for the use of the harbor, the public docking facilities and public wharves and piers, all harbor, dockage, and wharfage charges established by the commission.

SECTION 29. IC 8-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The cost of any port project may include, instead of the cost of the acquisition of the land constituting the site of such port project, the value of such land as determined by the commission. The proceeds of any revenue bonds representing the value of such land shall be deposited in the Indiana port fund.

SECTION 30. IC 8-10-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. The commission may contract for the use of any license, process or device, whether patented or not, which the commission finds is necessary for the operation of any port project, and may permit the use thereof by any lessee on such terms and conditions as the commission may determine. The cost of such license, process or device may be included as part of the cost of the port project.

SECTION 31. IC 8-10-4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 6. The following provisions apply to this chapter:**

- (1) IC 8-10-1-4.**
- (2) IC 8-10-1-10.**
- (3) IC 8-10-1-13.**

- (4) IC 8-10-1-14.**
- (5) IC 8-10-1-15.**
- (6) IC 8-10-1-16.**
- (7) IC 8-10-1-19.**
- (8) IC 8-10-1-25.**
- (9) IC 8-10-1-27.**
- (10) IC 8-10-1-30.**



P.L.272-2003

[S.464. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-12-9, AS AMENDED BY P.L.291-2001, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:

- (1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;
- (2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:
 - (A) the individual and the individual's spouse; or
 - (B) the individual and all other individuals with whom:
 - (i) the individual shares ownership; or
 - (ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed twenty-five thousand dollars (\$25,000);

- (3) the individual has owned the real property, mobile home, or

manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed ~~sixty-nine one hundred~~ **forty-four** thousand dollars (~~\$69,000~~); (**\$144,000**); and

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions provided by sections 1, 37, and 38 of this chapter.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

- (1) one-half (1/2) of the assessed value of the real property; or
- (2) six thousand dollars (\$6,000).

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser of:

- (1) one-half (1/2) of the assessed value of the mobile home or manufactured home; or
- (2) six thousand dollars (\$6,000).

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

- (1) tenants by the entirety;
- (2) joint tenants; or
- (3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

- (1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;
- (2) the surviving spouse's deceased husband or wife was at least sixty-five (65) years of age at the time of a death;
- (3) the surviving spouse has not remarried; and
- (4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through (a)(6).

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

SECTION 2. IC 6-1.1-12-14, AS AMENDED BY P.L.291-2001, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) Except as provided in subsection (c) and except as provided in section 40.5 of this chapter, an individual may have the sum of six thousand dollars (\$6,000) deducted from the assessed value of the tangible property that the individual owns (or the real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home if the contract or a memorandum of the contract is recorded in the county recorder's office) if:

- (1) the individual served in the military or naval forces of the United States for at least ninety (90) days;
- (2) the individual received an honorable discharge;

- (3) the individual either:
 - (A) is totally disabled; or
 - (B) is at least sixty-two (62) years old and has a disability of at least ten percent (10%); and
- (4) the individual's disability is evidenced by:
 - (A) a pension certificate or an award of compensation issued by the United States Department of Veterans Affairs; or
 - (B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section.

(b) Except as provided in subsection (c), the surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) No one is entitled to the deduction provided by this section if the assessed value of the individual's tangible property, as shown by the tax duplicate, exceeds ~~fifty-four~~ **one hundred thirteen** thousand dollars ~~(\$54,000)~~. **(\$113,000)**.

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 3. IC 6-1.1-12-17.4, AS AMENDED BY P.L.291-2001, SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.4. (a) Except as provided in section 40.5 of this chapter, a World War I veteran who is a resident of Indiana is entitled to have the sum of nine thousand dollars (\$9,000) deducted from the assessed valuation of the real property (including a mobile home that is assessed as real property), mobile home that is not assessed as real property, or manufactured home that is not assessed as real property the veteran owns or is buying under a contract that requires the veteran to pay property taxes on the real property, if the contract or a memorandum of the contract is recorded in the county recorder's office, if:

- (1) the real property, mobile home, or manufactured home is the veteran's principal residence;
- (2) the assessed valuation of the real property, mobile home, or manufactured home does not exceed ~~seventy-eight~~ **one hundred sixty-three** thousand dollars (~~\$78,000~~); (**\$163,000**); and
- (3) the veteran owns the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction.

(b) An individual may not be denied the deduction provided by this section because the individual is absent from the individual's principal residence while in a nursing home or hospital.

(c) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by a husband and wife as tenants by the entirety, only one (1) deduction may be allowed under this section. However, the deduction provided in this section applies if either spouse satisfies the requirements prescribed in subsection (a).

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

SECTION 4. IC 6-1.1-18.5-9.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9.9. (a) The department of local government finance shall adjust the maximum property tax rate levied under the statutes listed in section 9.8(a) of this chapter, IC 6-1.1-19-10, or IC 21-2-15-11 in each county for property taxes first due and payable in:**

- (1) 2004;
- (2) the year the county first applies the deduction under IC 6-1.1-12-41 if the county first applies that deduction for property taxes first due and payable in 2005 or 2006; and
- (3) 2007 if the county does not apply the deduction under IC 6-1.1-12-41 for any year.

(b) If the county does not apply the deduction under IC 6-1.1-12-41 for property taxes first due and payable in 2004, the

department shall compute the adjustment under subsection (a)(1) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if exemptions under IC 6-1.1-10-29(b)(2) did not apply for the 2003 assessment date.

(c) If the county applies the deduction under IC 6-1.1-12-41 for property taxes first due and payable in 2004, the department shall compute the adjustment under subsection (a)(1) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if:

(1) exemptions under IC 6-1.1-10-29(b)(2); and

(2) deductions under IC 6-1.1-12-41;

did not apply for the 2003 assessment date.

(d) The department shall compute the adjustment under subsection (a)(2) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if deductions under IC 6-1.1-12-41 did not apply for the assessment date of the year that immediately precedes the year for which the adjustment is made.

(e) The department shall compute the adjustment under subsection (a)(3) to allow a levy for the fund for which the property tax rate is levied that equals the levy that would have applied for the fund if deductions under IC 6-1.1-12-42 did not apply for the 2006 assessment date.

SECTION 5. IC 6-3.5-7-25, AS ADDED BY P.L.192-2002(ss), SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. (a) This section applies only to a county that has adopted an ordinance under IC 6-1.1-12-41(f).

(b) For purposes of this section, "imposing entity" means the entity that adopted the ordinance under IC 6-1.1-12-41(f).

(c) The imposing entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). A county income tax council that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. **Except as provided in subsection (j)**, an ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The

ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

- (1) first applies to the certified distribution described in section 16(c) of this chapter made in the calendar year that immediately succeeds the calendar year in which the ordinance is adopted;
- (2) must specify the calendar years to which the ordinance applies; and
- (3) must specify that the certified distribution must be used ~~for the purpose to provide for:~~

(A) uniformly applied increased homestead credits as provided in subsection ~~(e)~~: (f); or

(B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 26 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

- (1) retained by the county auditor under subsection (g); and
- (2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the imposing entity shall use the certified distribution described in section 16(c) of this chapter to increase the ~~percentage of the~~ homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from a county deduction for inventory under IC 6-1.1-12-41.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(3)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
- (2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
- (3) the increased percentage of homestead credit that equates to

the amount of homestead credits determined under subdivision (2).

~~(f)~~ **(g)** The increased percentage of homestead credit determined by the county auditor under subsection ~~(e)~~ **(f)** applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(3)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and**
- (2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-41 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-41 in the county for the immediately preceding year's assessment date.**

~~(g)~~ **(i)** The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

(j) An entity authorized to adopt:

- (1) an ordinance under subsection (c); and**
- (2) an ordinance under IC 6-1.1-12-41(f);**

may consolidate the two (2) ordinances. The limitation under subsection (c) that an ordinance must be adopted after January 1 of a calendar year does not apply if a consolidated ordinance is adopted under this subsection.

SECTION 6. IC 6-3.5-7-26, AS ADDED BY P.L.192-2002(ss),

SECTION 128, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. (a) This section applies only to homestead credits for property taxes first due and payable after calendar year 2006.

(b) For purposes of this section, "adopting entity" means the entity that:

- (1) adopts an ordinance under IC 6-1.1-12-41(f); or
- (2) any other entity that may impose a county economic development income tax under section 5 of this chapter.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

- (1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and
- (2) must specify that the certified distribution must be used **for the purpose to provide for:**

- (A) uniformly applied increased homestead credits as provided in subsection ~~(e)~~: (f); or**
- (B) allocated increased homestead credits as provided in subsection (h).**

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

- (1) retained by the county auditor under subsection (g); and
- (2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting

entity shall use the certified distribution described in section 16(c) of this chapter to increase the ~~percentage of the~~ homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;
- (2) the amount of uniformly applied homestead credits for the year in the county that equals the amount determined under subdivision (1); and
- (3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

~~(f)~~ **(g)** The increased percentage of homestead credit determined by the county auditor under subsection ~~(f)~~ **(g)** applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(2)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

- (1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and**
- (2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.**

~~(g)~~ **(i)** The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if

any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

- (1) as if the money were from property tax collections; and
- (2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

SECTION 7. IC 14-23-3-3, AS AMENDED BY P.L.1-2002, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Annually there shall be levied and collected as other state taxes are levied and collected the amount of ~~twenty-two~~ **sixteen** hundredths of one cent (~~(\$0.0022)~~ **(\$0.0016)**) upon each one hundred dollars (\$100) worth of taxable property in Indiana. The money collected resulting from ~~two one~~ **sixteen fifty-seven** thousandths of one cent (~~(\$0.00216)~~ **(\$0.00157)**) of the rate shall be paid into the fund. The money collected resulting from ~~four~~ **three** thousandths of one cent (~~(\$0.00004)~~ **(\$0.00003)**) is appropriated to the budget agency for purposes of department of local government finance data base management.

SECTION 8. IC 15-1.5-8-1, AS AMENDED BY P.L.198-2001, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. A tax is imposed upon all the taxable property in the state at a rate of ~~eleven~~ **eight** hundredths of a cent (~~(\$0.0011)~~ **(\$0.0008)**) for each one hundred dollars (\$100) of assessed valuation.

SECTION 9. [EFFECTIVE JULY 1, 2003] **(a) The following, all as amended by this act, apply to property taxes first due and payable after December 31, 2003:**

- (1) IC 6-1.1-12-9.**
- (2) IC 6-1.1-12-14.**
- (3) IC 6-1.1-12-17.4.**
- (4) IC 14-23-3-3.**
- (5) IC 15-1.5-8-1.**

(b) This SECTION expires January 1, 2005.

SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) This section applies to certified applications for an enterprise zone inventory credit under IC 6-1.1-20.8 that were filed for property taxes due and payable in 2002.**

(b) Notwithstanding any other law, the county auditor may

determine that a person who filed a certified application no later than thirty (30) days after the time established in IC 6-1.1-20.8-2.5 is eligible to receive the credit. In order to approve the application, the county auditor shall make the findings set forth in subsection (d).

(c) To apply for a determination of eligibility under this section, a person must file with the auditor of the county in which the person's facility is located, by no later than July 1, 2003, an application for an enterprise zone inventory credit for its inventory as of March 1, 2001 on a form EZ-1 prescribed by the Department of Local Government Finance.

(d) If an application for an enterprise zone inventory credit is filed by a person under subsection (c), the county auditor shall, within thirty (30) days after such filing, determine whether the application should be approved. The county auditor shall make the following findings:

(1) The person applied for the credit no later than thirty (30) days after the time established in IC 6-1.1-20.8-2.5 and the application was denied as being not timely filed.

(2) The application would have been approved if it had been timely filed.

(3) Local officials support the approval of the application.

(4) Approval of the application will result in a significant assistance payment to the applicable local zone urban enterprise association.

(5) The approval of the application will promote economic development activities in the enterprise zone.

(e) If the auditor approves the application, the auditor shall determine the amount of the credit by calculating the person's property tax liability on inventory located within an enterprise zone as of March 1, 2001, payable in 2002.

(f) Without any appropriation being required, the county auditor shall issue warrants payable from the county general fund to a person eligible for credit under subsection (e) in the following amounts and on the following dates:

(1) On July 15, 2004, for an amount equal to one-half of the liability calculated under subsection (e)(1).

(2) On January 15, 2005, for an amount equal to one-half of the liability calculated under subsection (e)(1).

(g) In addition to issuing a warrant, the county auditor may choose to grant the person a credit against the person's property tax liability payable in 2004 and 2005 for all or a portion of the amount of the credit determined in subsection (e).

(h) Within thirty (30) days after receiving either the credit against property tax liability under subsection (g) or each of the warrants issued under subsection (f), the person shall pay an amount equal to the pro-rata amount of any additional registration fee under IC 4-4-6.1-2(a)(4) and the pro-rata amount of any assistance payment under IC 4-4-6.1-2(b).

(i) This SECTION expires December 31, 2005.

SECTION 11. An emergency is declared for this act.



P.L.273-2003

[S.486. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-4-4-3, AS AMENDED BY P.L.30-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) For calendar quarters beginning on and after April 1, 1979, and before April 1, 1984, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand six hundred sixty-six dollars (\$3,666) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after April 1, 1984, and before April 1, 1985, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand nine hundred twenty-six dollars (\$3,926) and may not include payments specified in section 2(b) of this chapter.

(c) For calendar quarters beginning on and after April 1, 1985, and

before January 1, 1991, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand one hundred eighty-six dollars (\$4,186) and may not include payments specified in section 2(b) of this chapter.

(d) For calendar quarters beginning on and after January 1, 1991, and before July 1, 1995, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand eight hundred ten dollars (\$4,810) and may not include payments specified in section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 1995, and before July 1, 1997, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand dollars (\$5,000) and may not include payments specified in section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars (\$5,400) and may not include payments specified in section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars (\$5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 1999, and before July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars (\$5,800) and may not include payments that are excluded from the definition of wages under

section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars (\$6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2001, and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars (\$7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(k) For calendar quarters beginning on and after July 1, 2002, **and before July 1, 2003**, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars (\$7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(l) For calendar quarters beginning on and after July 1, 2003, and before July 1, 2004, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand two hundred sixteen dollars (\$8,216) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(m) For calendar quarters beginning on and after July 1, 2004, and before July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not

exceed eight thousand seven hundred thirty-three dollars (\$8,733) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(n) For calendar quarters beginning on and after July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed nine thousand two hundred fifty dollars (\$9,250) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 2. IC 22-4-10.5-7, AS ADDED BY P.L.290-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. **(a) After making the deposit required by subsection (b),** the department shall deposit skills 2016 training assessments paid to the department under this chapter in the skills 2016 training fund established by IC 22-4-24.5-1.

(b) After June 30, 2003, unless the board approves a lesser amount, the department annually shall deposit the first four hundred fifty thousand dollars (\$450,000) in skills 2016 training assessments paid to the department under this chapter in the special employment and training services fund established by IC 22-4-25-1 for the training and counseling assistance described in IC 22-4-25-1(f).

SECTION 3. IC 22-4-11-3, AS AMENDED BY P.L.30-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. ~~(a) Except as provided in section 3.2 of this chapter,~~ The applicable schedule of rates for the calendar year 1983 and thereafter shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for

payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) **For calendar years before 2002**, if the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
As	Than	A	B	C	D	E
3.0		1.2	0.2	0.2	0.2	0.15
2.8	3.0	1.4	0.4	0.2	0.2	0.15
2.6	2.8	1.6	0.6	0.2	0.2	0.15
2.4	2.6	1.8	0.8	0.4	0.2	0.2
2.2	2.4	2.0	1.0	0.6	0.2	0.2
2.0	2.2	2.2	1.2	0.8	0.4	0.4
1.8	2.0	2.4	1.4	1.0	0.6	0.6
1.6	1.8	2.6	1.6	1.2	0.8	0.8
1.4	1.6	2.8	1.8	1.4	1.0	1.0
1.2	1.4	3.0	2.0	1.6	1.2	1.2
1.0	1.2	3.2	2.2	1.8	1.4	1.4
0.8	1.0	3.4	2.4	2.0	1.6	1.6
0.6	0.8	3.6	2.6	2.2	1.8	1.8

0.4	0.6	3.8	2.8	2.4	2.0	2.0
0.2	0.4	4.0	3.0	2.6	2.2	2.2
0	0.2	4.2	3.2	2.8	2.4	2.4

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much	But Less	Rate Schedules (%)				
As	Than	A	B	C	D	E
	1.5	4.5	4.4	4.3	4.2	3.6
1.5	3.0	4.8	4.7	4.6	4.5	3.8
3.0	4.5	5.1	5.0	4.9	4.8	4.1
4.5	6.0	5.4	5.3	5.2	5.1	4.4
6.0		5.7	5.6	5.5	5.4	5.4

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 4. IC 22-4-11-3.3, AS AMENDED BY P.L.1-2002, SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.3. (a) For calendar years ~~2002 through 2004,~~ **after 2001**, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefore according to each employer's credit reserve ratio. ~~Except as provided in section 3.2(b) of this chapter,~~ Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
		A	B	C	D	E
3.00		1.10	0.10	0.10	0.10	0.15
2.80	3.00	1.30	0.30	0.10	0.10	0.15
2.60	2.80	1.50	0.50	0.10	0.10	0.15
2.40	2.60	1.70	0.70	0.30	0.10	0.20
2.20	2.40	1.90	0.90	0.50	0.10	0.20
2.00	2.20	2.10	1.10	0.70	0.30	0.40
1.80	2.00	2.30	1.30	0.90	0.50	0.60
1.60	1.80	2.50	1.50	1.10	0.70	0.80
1.40	1.60	2.70	1.70	1.30	0.90	1.00
1.20	1.40	2.90	1.90	1.50	1.10	1.20
1.00	1.20	3.10	2.10	1.70	1.30	1.40
0.80	1.00	3.30	2.30	1.90	1.50	1.60
0.60	0.80	3.50	2.50	2.10	1.70	1.80
0.40	0.60	3.70	2.70	2.30	1.90	2.00
0.20	0.40	3.90	2.90	2.50	2.10	2.20
0.00	0.20	4.10	3.10	2.70	2.30	2.40

(b) For calendar years ~~2002 through 2004~~, **after 2001**, if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are eligible therefore according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
		A	B	C	D	E
	1.50	4.40	4.30	4.20	4.10	5.40
1.50	3.00	4.70	4.60	4.50	4.40	5.40

3.00	4.50	5.00	4.90	4.70	4.70	5.40
4.50	6.00	5.30	5.20	5.10	5.00	5.40
6.00		5.60	5.50	5.40	5.40	5.40

SECTION 5. IC 22-4-17-2, AS AMENDED BY P.L.290-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of ~~his~~ **the individual's** status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished ~~him~~ **to the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ~~twenty (20)~~ **ten (10)** days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ~~twenty (20)~~ **ten (10)** days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits

paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ~~twenty (20)~~ **ten (10)** days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ~~twenty (20)~~ **ten (10)** days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within ~~twenty-five (25)~~ **fifteen (15)** days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the

request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) ~~No~~ A person may **not** participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

SECTION 6. IC 22-4-24.5-1, AS AMENDED BY P.L.1-2002, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The skills 2016 training fund is established to do the following:

- (1) Administer the costs of the skills 2016 training program established by IC 22-4-10.5.
- (2) Undertake any program or activity that furthers the purposes of IC 22-4-10.5.
- (3) Refund skills 2016 training assessments erroneously collected and deposited in the fund.

(b) ~~Subject to subsection (j),~~ Fifty-five percent (55%) of the money in the fund shall be allocated to the state educational institution

established under IC 20-12-61. The money so allocated to that state educational institution shall be used as follows:

(1) An amount to be determined annually shall be allocated to the state educational institution established under IC 20-12-61 for its costs in administering the training programs described in subsection ~~(b)~~: **(a)**. However, the amount so allocated may not exceed fifteen percent (15%) of the total amount of money allocated under this subsection.

(2) After the allocation made under subdivision (1), ~~forty~~ **fifty** percent ~~(40%)~~ **(50%)** shall be used to provide training to participants in joint labor and management building trades apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

(3) After the allocation made under subdivision (1), ~~forty~~ **fifty** percent ~~(40%)~~ **(50%)** shall be used to provide training to participants in joint labor and management industrial apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

~~(4) After the allocation made under subdivision (1), twenty percent (20%) shall be used to provide training to industrial employees not covered by subdivision (2):~~

(c) ~~Subject to subsection (j);~~ The remainder of the money in the fund shall be allocated as follows:

~~(1) An amount not to exceed one million dollars (\$1,000,000) shall be allocated to the department of workforce development annually for technology needs of the department.~~

~~(2) An amount not to exceed four hundred fifty thousand dollars (\$450,000) shall be allocated annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:~~

~~(A) have been unemployed for at least four (4) weeks;~~

~~(B) are not otherwise eligible for training and counseling assistance under any other program; and~~

~~(C) are not participating in programs that duplicate those programs described in IC 22-4-25-1(e).~~

~~Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of~~

~~IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.~~

~~(3)~~ **(1)** An amount to be determined annually shall be set aside for the payment of refunds from the fund.

~~(4)~~ **(2)** The remainder of the money in the fund after the allocations provided for in subsection (b) and ~~subdivisions~~ **subdivision (1) through (3)** shall be allocated to other incumbent worker training programs.

(d) The fund shall be administered by the board. However, all disbursements from the fund must be recommended by the incumbent workers training board and approved by the board as required by IC 22-4-18.3-6.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

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

(g) The fund consists of the following:

(1) Assessments deposited in the fund.

(2) Earnings acquired through the use of money belonging to the fund.

(3) Money received from the fund from any other source.

(4) Interest earned from money in the fund.

(5) Interest and penalties collected.

(h) All money deposited or paid into the fund is appropriated annually for disbursements authorized by this section.

(i) Not later than April 30 each year, the department shall prepare an annual report that shows the amount of unobligated money in the fund on that date.

(j) The incumbent workers training board may reallocate the unobligated money shown in the annual report required by subsection (i) in accordance with subsections (b) and (c)(2).

~~(k)~~ **(k)** Any balance in the fund does not lapse but is available continuously to the department for expenditures consistent with this chapter.

(j) If the fund ratio (as described in IC 22-4-11-3) is less than or equal to 1.5 or if the board determines that the solvency of the unemployment insurance benefit fund established by IC 22-4-26-1 is threatened, the funds assessed for or deposited in the skills 2016 training fund shall be directed or transferred to the unemployment insurance benefit fund.

SECTION 7. IC 22-4-25-1, AS AMENDED BY P.L.290-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund **and amounts deposited as required by IC 22-4-10.5-7(b)**, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order

the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars (\$5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

(f) The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars (\$450,000) annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:

- (1) have been unemployed for at least four (4) weeks;**
- (2) are not otherwise eligible for training and counseling assistance under any other program; and**
- (3) are not participating in programs that duplicate those programs described in subsection (e).**

Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance

under this subsection shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 22-4-10.5-1; IC 22-4-11-3.2.

P.L.274-2003

[S.493. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.3. "Activities of daily living", for purposes of IC 12-10-10 **and IC 12-10-11.5**, has the meaning set forth in IC 12-10-10-1.5.

SECTION 2. IC 12-7-2-24.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 24.8. "Caretaker", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-1.**

SECTION 3. IC 12-7-2-118.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 118.8. "Institution", for purposes of IC 12-10-11.5, has the meaning set forth in IC 12-10-11.5-1.**

SECTION 4. IC 12-7-2-180.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 180.1. "Special needs", for purposes of IC 12-10.5, has the meaning set forth in IC 12-10.5-1-2.**

SECTION 5. IC 12-10-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]:

Chapter 11.5. Long Term Care Services

Sec. 1. As used in this chapter, "institution" means any of the following:

(1) A health facility licensed under IC 16-28.

(2) An intermediate care facility for the mentally retarded.

Sec. 2. (a) This chapter is subject to funding available to the office of the secretary of family and social services.

(b) The secretary and the director of the state budget agency are responsible for ensuring that the cost of the services provided under this chapter does not exceed the total amount of funding, including state and federal funds, that is made available by the budget agency for the program established under this chapter to provide long term care, including home and community based services.

Sec. 3. The office of the secretary of family and social services shall establish a comprehensive program of home and community based long term care services to provide eligible individuals with care that is not more costly than services provided to similarly situated individuals who reside in institutions.

Sec. 4. An individual who has resided in the state for at least ninety (90) days shall be eligible for the home and community based long term care services program if the individual:

(1) participates in, or has been determined to be eligible for, the community and home options to institutional care for the elderly and disabled program established by IC 12-10-10-6; or

(2) meets the following requirements, which must meet the general eligibility standards for an individual receiving services under a home and community based Medicaid waiver:

(A) Has an income of not more than three hundred percent (300%) of the federal Supplemental Security Income level.

(B) Is unable to perform at least three (3) activities of daily living determined by an assessment conducted by an area agency on aging case manager or any other agency the state has contracted with to perform assessments.

(C) Is at risk of being placed in an institution or is currently residing in an institution and has been determined to be eligible for services under IC 12-10-10 or under a home and community based Medicaid waiver.

Sec. 5. The state shall provide access to the following long term care services that are appropriate and needed for an individual who is eligible for these services under this chapter:

(1) Any home and community based service that is available through:

(A) the community and home options to institutional care for the elderly and disabled program; or

(B) any state Medicaid waiver.

(2) Personal care services.

(3) Self-directed care.

(4) Assisted living.

(5) Adult foster care.

(6) Adult day care services.

(7) The provision of durable medical equipment or devices.

(8) Housing modifications.

(9) Adaptive medical equipment and devices.

(10) Adaptive nonmedical equipment and devices.

(11) Any other service that is necessary to maintain an individual in a home and community based setting.

Sec. 6. (a) The office of the secretary of family and social services shall annually determine any state savings generated by home and community based services under this chapter by reducing the use of institutional care.

(b) The secretary shall annually report to the governor, the budget agency, the budget committee, the select commission on Medicaid oversight, and the executive director of the legislative services agency the savings determined under subsection (a).

(c) Savings determined under subsection (a) may be used to fund the state's share of additional home and community based Medicaid waiver slots.

Sec. 7. When possible, the office of the secretary of family and social services shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this chapter.

SECTION 6. IC 12-10.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

ARTICLE 10.5. RESPITE CARE SERVICES

Chapter 1. Caretaker Support Program

Sec. 1. As used in this chapter, "caretaker" means an individual who:

- (1) provides ongoing care for an individual who:
 - (A) is at least eighteen (18) years of age; and
 - (B) has special needs; and
- (2) does not receive money for the care provided under subdivision (1).

Sec. 2. As used in this chapter, "special needs" means any of the following:

- (1) Alzheimer's disease or any related disorder.
- (2) Inability to perform at least two (2) activities of daily living.
- (3) Any other condition that the division determines by rule should be covered by this article.

Sec. 3. The caretaker support program is established.

Sec. 4. (a) The division of disability, aging, and rehabilitative services established by IC 12-9-1-1 shall administer the caretaker support program established under this chapter.

(b) The division of disability, aging, and rehabilitative services shall do the following:

- (1) Adopt rules under IC 4-22-2 for the coordination and administration of the caretaker support program.
- (2) Administer any money for the caretaker support program that is appropriated by the general assembly.

Sec. 5. An individual who is at least sixty-five (65) years of age and:

- (1) a caretaker; or
- (2) an individual with special needs being taken care of by a caretaker;

is eligible for the caretaker support program.

Sec. 6. Caretaker support program services include the following services administered by the area agencies on aging:

- (1) Information for caretakers about available services.
- (2) Assistance to caretakers in gaining access to the services.
- (3) Individual counseling, organization of support groups, and caretaker training to assist caretakers in making decisions and solving problems in the individual's role as caretaker.
- (4) Respite care to offer caretakers temporary relief from caretaker responsibilities.

Sec. 7. The division shall develop and implement a client cost share formula for respite care services.

Sec. 8. When possible, the division shall make use of volunteers and volunteer groups, including faith based groups, when executing its duties under this article.

Chapter 2. Continuum of Care

Sec. 1. The division shall:

- (1) provide standards for the training of; and**
- (2) promote best practices for;**

continuum of care program providers.

Sec. 2. The division may adopt rules under IC 4-22-2 necessary to carry out this chapter.

SECTION 7. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "board" refers to the community and home options to institutional care for the elderly and disabled board established by IC 12-10-11-1.

(b) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(c) As used in this SECTION, "waiver" refers to the aged and disabled Medicaid waiver.

(d) Before September 1, 2003, the office shall discuss and review any amendment to the waiver required under this SECTION with the board.

(e) Before October 1, 2003, the office shall apply to the United States Department of Health and Human Services to amend the waiver to include in the waiver any service that is offered under the community and home options to institutional care for the elderly and disabled (CHOICE) program established by IC 12-10-10-6. A service provided under this subsection may not be more restrictive than the corresponding service provided under IC 12-10-10.

(f) The office may not implement the waiver until the office files an affidavit with the governor attesting that the amendment to the waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(g) If the office receives approval for the amendment to the waiver under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (f), the office shall implement the

waiver not more than sixty (60) days after the governor receives the affidavit.

(h) Before January 1, 2004, the office shall meet with the board to discuss any changes to other state Medicaid waivers that are necessary to provide services that may not be more restrictive than the services provided under the CHOICE program. The office shall recommend the changes determined necessary by this subsection to the governor.

(i) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(j) This SECTION expires July 1, 2008.

SECTION 8. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) As used in this SECTION, "waiver" refers to a Medicaid waiver approved by the United States Department of Health and Human Services (42 U.S.C. 1396 et seq.).

(c) Before September 1, 2003, the office shall seek approval from the United States Department of Health and Human Services to amend the waiver to modify income eligibility requirements to include spousal impoverishment protection provisions under 42 U.S.C. 1396r-5 that are at least at the level of the spousal impoverishment protections afforded to individuals who reside in health facilities licensed under IC 16-28. The office also shall seek approval for twenty thousand (20,000) additional waiver slots at no additional cost to the state.

(d) The office may not implement the waiver amendments until the office files an affidavit with the governor attesting that the federal waiver amendment applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver amendment is approved.

(e) If the United States Department of Health and Human Services approves the waiver amendment requested under this SECTION and the governor receives the affidavit filed under subsection (d), the office shall implement the waiver amendments not more than sixty (60) days after the governor receives the affidavit.

(f) The office may adopt rules under IC 4-22-2 necessary to

implement this SECTION.

(g) This SECTION expires July 1, 2008.

SECTION 9. [EFFECTIVE JULY 1, 2003] **(a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.**

(b) An individual who receives Medicaid services through a Medicaid waiver shall receive the following:

- (1) The development of a care plan addressing the individual's needs.**
- (2) Advocacy on behalf of the individual's interests.**
- (3) The monitoring of the quality of community and home care services provided to the individual.**
- (4) Information and referral services on community and home care services if the individual is eligible for these services.**

(c) The use by or on behalf of an individual receiving Medicaid waiver services of any of the following services or devices does not make the individual ineligible for services under a Medicaid waiver:

- (1) Skilled nursing assistance.**
- (2) Supervised community and home care services, including skilled nursing supervision.**
- (3) Adaptive medical equipment and devices.**
- (4) Adaptive nonmedical equipment and devices.**

(d) If necessary to implement this SECTION, the office shall apply to the United States Department of Health and Human Services for an amendment to a Medicaid waiver to comply with this SECTION.

(e) If the office applies for a waiver amendment under subsection (d), the office may not implement the waiver amendment until the office files an affidavit with the governor attesting that the federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not later than five (5) days after the office is notified that the waiver is approved.

(f) If the office receives a waiver amendment under this SECTION from the United States Department of Health and Human Services and the governor receives the affidavit filed under subsection (e), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(g) The office may adopt rules under IC 4-22-2 necessary to implement this SECTION.

(h) This SECTION expires July 1, 2005.

SECTION 10. [EFFECTIVE JULY 1, 2003] (a) As used in this SECTION, "office" refers to the office of the secretary of family and social services established by IC 12-8-1-1.

(b) Before July 1, 2004, the office shall have self-directed care options services available for:

(1) the community and home options to institutional care for the elderly and disabled program established by IC 12-10-10-6; and

(2) a Medicaid waiver;

for an eligible individual who chooses self-directed care services.

(c) This SECTION expires December 31, 2006.

SECTION 11. [EFFECTIVE JULY 1, 2003] (a) The Indiana health facility financing authority created by IC 5-1-16-2(a) is encouraged to work with for profit health facilities and nonprofit organizations that are operating under a joint agreement to convert health facility beds to less intensive care beds through the issuance, sale, or delivery of a bond under IC 5-1-16.

(b) This SECTION expires July 1, 2005.

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) Before December 31, 2003, the secretary of family and social services (IC 12-8-1-2) shall discuss with the community and home options to institutional care for the elderly and disabled (CHOICE) board established by IC 12-10-11-1, and with any other agency, volunteer, volunteer group, faith based group, or individual that the secretary considers appropriate, the establishment of a system of integrated services, including:

(1) transportation;

(2) housing;

(3) education; and

(4) workforce development;

to enhance the viability and availability of home and community based care.

(b) The secretary shall report to the governor and the budget committee any recommendations for funding these services.

(c) This SECTION expires December 31, 2004.

SECTION 13. [EFFECTIVE UPON PASSAGE] (a) Before

December 31, 2003, the office of the secretary of family and social services (IC 12-8-1-2) and the area agencies on aging shall calculate the number of individuals who may reasonably need care under this act, including the following individuals:

(1) An individual receiving home and community based services under the community and home options to institutional care for the elderly and disabled (CHOICE) program established by IC 12-10-10-6.

(2) An individual on the waiting list to receive home and community based services under the CHOICE program.

(3) An individual receiving home and community based services under a state Medicaid waiver.

(4) An individual on a Medicaid waiver waiting list to receive home and community based services.

(5) An individual who receives assisted living services or adult foster care services under a Medicaid waiver.

(6) An individual residing in a health facility licensed under IC 16-28 who may be appropriately served in a home and community based setting.

(b) Before December 31, 2003, the secretary shall report the findings under subsection (a) to the governor, the budget committee, and the budget agency.

(c) This SECTION expires December 31, 2004.

SECTION 14. [EFFECTIVE UPON PASSAGE] (a) Beginning July 1, 2003, the office of Medicaid policy and planning shall implement a policy that allows the amount of Medicaid funds necessary to provide for services to follow an individual who is transferring from institutional care to Medicaid home and community based care. The amount may not exceed the amount that would have been spent on the individual if the individual had stayed in institutional care.

(b) This SECTION expires July 1, 2005.

SECTION 15. An emergency is declared for this act.

P.L.275-2003
[S.494. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-2.3-4-3, AS ADDED BY P.L.192-2002(ss), SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3. Gross receipts received by:

- (1) a conservancy district established under IC 14-33-20 or IC 13-3-4 (before its repeal);
- (2) a regional water, sewage, or solid waste district established under IC 13-26 or IC 13-3-2 (before its repeal);
- (3) a nonprofit corporation formed solely for the purpose of supplying water to the public;
- (4) a county solid waste management district or a joint solid waste management district established under IC 13-21 or IC 13-9.5-2 (before its repeal);
- (5) a nonprofit corporation formed for the purpose of providing a combination of:

- (A) water; and
- (B) sewer and sewage service;

to the public; **or**

- (6) a county onsite waste management district established under IC 36-11; **or**

- (7) a political subdivision for sewer and sewage service;**

are exempt from the utility receipts tax.

SECTION 2. An emergency is declared for this act.

P.L.276-2003

[S.501. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 6-1.1-19-1.5, AS AMENDED BY HEA 1001-2003, SECTION 136, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) The following definitions apply throughout this section and IC 21-3-1.7:

- (1) "Adjustment factor" means the adjustment factor determined by the department of local government finance for a school corporation under IC 6-1.1-34.
- (2) "Adjusted target property tax rate" means:
 - (A) the school corporation's target general fund property tax rate determined under IC 21-3-1.7-6.8; multiplied by
 - (B) the school corporation's adjustment factor.
- (3) "Previous year property tax rate" means the school corporation's previous year general fund property tax rate after the reductions cited in IC 21-3-1.7-5(1), IC 21-3-1.7-5(2), and IC 21-3-1.7-5(3).

(b) Except as otherwise provided in this chapter, a school corporation may not, for a calendar year beginning after December 31, 2004, impose a general fund ad valorem property tax levy which exceeds the following:

STEP ONE: Determine the result of:

- (A) the school corporation's adjusted target property tax rate; minus
- (B) the school corporation's previous year property tax rate.

STEP TWO: If the school corporation's adjusted target property tax rate:

- (A) exceeds the school corporation's previous year property tax rate, perform the calculation under STEP THREE and not under STEP FOUR;
- (B) is less than the school corporation's previous year property

tax rate, perform the calculation under STEP FOUR and not under STEP THREE; or

(C) equals the school corporation's previous year property tax rate, determine the levy resulting from using the school corporation's adjusted target property tax rate and do not perform the calculation under STEP THREE or STEP FOUR.

STEP THREE: Determine the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by the lesser of:

- (A) the STEP ONE result; or
- (B) five cents (\$0.05).

STEP FOUR: Determine the levy resulting from using the school corporation's previous year property tax rate after reducing the rate by the lesser of:

- (A) the absolute value of the STEP ONE result; or
- (B) five cents (\$0.05).

STEP FIVE: Determine the result of:

- (A) the STEP TWO (C), STEP THREE, or STEP FOUR result, whichever applies; plus
- (B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the portion of any excessive levy and the levy for new facilities.

STEP SIX: Determine the result of:

- (A) the STEP FIVE result; plus**
- (B) the product of:**
 - (i) the weighted average of the amounts determined under IC 21-3-1.7-6.7(e) STEP NINE for all charter schools attended by students who have legal settlement in the school corporation; multiplied by**
 - (ii) thirty-five hundredths (0.35).**

In determining the number of students for purposes of this STEP, each kindergarten pupil shall be counted as one-half (1/2) pupil.

The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year

following the year in which the result applies or in the school corporation's determination of tuition support.

(c) For purposes of this section, "total assessed value", as adjusted under subsection (d), with respect to a school corporation means the total assessed value of all taxable property for ad valorem property taxes first due and payable during that year.

(d) The department of local government finance may adjust the total assessed value of a school corporation to eliminate the effects of appeals and settlements arising from a statewide general reassessment of real property.

(e) The department of local government finance shall annually establish an assessment ratio and adjustment factor for each school corporation to be used upon the review and recommendation of the budget committee. The information compiled, including background documentation, may not be used in a:

- (1) review of an assessment under IC 6-1.1-8, IC 6-1.1-13, IC 6-1.1-14, or IC 6-1.1-15;
- (2) petition for a correction of error under IC 6-1.1-15-12; or
- (3) petition for refund under IC 6-1.1-26.

(f) All tax rates shall be computed by rounding the rate to the nearest one-hundredth of a cent (\$0.0001). All tax levies shall be computed by rounding the levy to the nearest dollar amount.

(g) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation may impose a general fund ad valorem property tax levy in the amount determined under STEP SEVEN of the following formula:

STEP ONE: Determine the quotient of:

- (A) the school corporation's 2003 assessed valuation; divided by
- (B) the school corporation's 2002 assessed valuation.

STEP TWO: Determine the greater of zero (0) or the difference between:

- (A) the STEP ONE amount; minus
- (B) one (1).

STEP THREE: Determine the lesser of eleven-hundredths (0.11) or the product of:

- (A) the STEP TWO amount; multiplied by
- (B) eleven-hundredths (0.11).

STEP FOUR: Determine the sum of:

- (A) the STEP THREE amount; plus
- (B) one (1).

STEP FIVE: Determine the product of:

- (A) the STEP FOUR amount; multiplied by
- (B) the school corporation's general fund ad valorem property tax levy for calendar year 2003.

STEP SIX: Determine the lesser of:

- (A) the STEP FIVE amount; or
- (B) the levy resulting from using the school corporation's previous year property tax rate after increasing the rate by five cents (\$0.05).

STEP SEVEN: Determine the result of:

- (A) the STEP SIX amount; plus
- (B) an amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

The maximum levy is to include the part of any excessive levy and the levy for new facilities.

STEP EIGHT: Determine the result of:

- (A) the STEP SEVEN result; plus**
- (B) the product of:**
 - (i) the weighted average of the amounts determined under IC 21-3-1.7-6.7(e) STEP NINE for all charter schools attended by students who have legal settlement in the school corporation; multiplied by**
 - (ii) thirty-five hundredths (0.35).**

In determining the number of students for purposes of this STEP, each kindergarten pupil shall be counted as one-half (1/2) pupil.

The result determined under this STEP may not be included in the school corporation's adjusted base levy for the year following the year in which the result applies or in the school corporation's determination of tuition support.

SECTION 2. IC 6-1.1-19-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 12. (a) Not later than**

the date on which the department of local government finance certifies a final action under IC 6-1.1-17-16, the department of local government finance shall provide to each county auditor the amount determined under IC 20-5.5-7-3(c)(6) for each charter school attended by a student who has legal settlement in both the county and a school corporation located in the county.

(b) This subsection applies beginning with the first distribution of property taxes to a school corporation after December 31, 2003. At the same time a county auditor distributes property taxes to a school corporation, the county auditor shall distribute to a charter school the amount described in subsection (a) for the charter school.

(c) A distribution of property taxes to a school corporation does not include an amount distributed under subsection (b).

SECTION 3. IC 20-5.5-1-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: **Sec. 1.3. "ADM of the previous year" or "ADM of the prior year" has the meaning set forth in IC 21-3-1.6-1.1(m).**

SECTION 4. IC 20-5.5-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: **Sec. 1.5. "Average daily membership" or "ADM" has the meaning set forth in IC 21-3-1.6-1.1(d).**

SECTION 5. IC 20-5.5-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: **Sec. 5.5. "Current ADM" has the meaning set forth in IC 21-3-1.6-1.1(n).**

SECTION 6. IC 20-5.5-3-13, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) This section applies to university sponsors.**

(b) The ultimate responsibility for choosing to sponsor a charter school and responsibilities for maintaining sponsorship shall rest with the university's board of trustees.

(c) Notwithstanding subsection (b), the university's board of trustees may vote to assign sponsorship authority and sponsorship responsibilities to another person or entity that functions under the

direction of the university's board. Any decisions made under this subsection shall be communicated in writing to the department of education and the charter school review panel.

(d) Before a university may sponsor a charter school, the university must conduct a public meeting with public notice in the county where the charter school will be located.

(e) A university may not sponsor a charter school in Marion County. This subsection expires June 30, 2005.

(f) The total number of charter schools that may be approved and opened in a calendar year by all university sponsors may not exceed five (5). This subsection expires June 30, 2005.

SECTION 7. IC 20-5.5-3-14, AS AMENDED BY P.L.1-2002, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 14. (a) This section applies to charter schools sponsored by the mayor of a consolidated city.

(b) The number of charter schools may not be more than five (5) during the 2001 calendar year.

(c) During each year after calendar year 2001, the maximum number of charter schools is greater by five (5) than the maximum number for the previous year.

(d) The limits resulting from subsections (b) and (c) shall be cumulative from year to year. **However, there shall be no accumulation from January 1, 2003, through December 31, 2005.**

SECTION 8. IC 20-5.5-6-1, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a) Except as provided in subsection (b),** individuals who work at a charter school are employees of the charter school or of an entity with which the charter school has contracted to provide services.

(b) Teachers in a conversion charter school are employees of both the charter school and the school corporation that sponsored the charter school. For purposes of the collective bargaining agreement, conversion charter school teachers are considered employees of the school corporation that sponsored the charter school.

(c) All benefits accrued by teachers as employees of the conversion charter school are the financial responsibility of the

conversion charter school. The conversion charter school is required to pay those benefits directly or to reimburse the school corporation for the cost of the benefits.

(d) All benefits accrued by a teacher during the time that the teacher was an employee only of the school corporation that sponsored the charter school are the financial responsibility of the school corporation. The school corporation is required to pay those benefits directly or to reimburse the conversion charter school for the cost of the benefits.

(e) For any other purpose, a teacher is an employee of the charter school.

SECTION 9. IC 20-5.5-7-3, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3. (a) Not later than the date established by the department for determining average daily membership under IC 21-3-1.6-1.1(d), **and after May 31**, the organizer shall submit to the department the following information **on a form prescribed by the department**:

- (1) The number of students enrolled in the charter school.
- (2) The name **and address** of each student. ~~and~~
- (3) ~~The name of the school corporation in which the student resides:~~ **has legal settlement.**
- (4) **The name of the school corporation, if any, that the student attended during the immediately preceding school year.**
- (5) **The grade level in which the student will enroll in the charter school.**

The department shall verify the accuracy of the information reported.

(b) ~~After verifying the accuracy of the information reported under subsection (a);~~ **This subsection applies after December 31 of the calendar year in which a charter school begins its initial operation.**

The department shall distribute ~~the following~~ to the organizer

- (1) ~~Tuition support and other state funding for any purpose for students in the charter school;~~
- (2) ~~A proportionate share of state and federal funds received for students with disabilities or staff services for students with disabilities for the students with disabilities enrolled in the charter~~

school:

(3) A proportionate share of funds received under federal or state categorical aid programs for students who are eligible for the federal or state aid enrolled in the charter school: **the amount determined under IC 21-3-1.7 for the charter school. The department shall make a distribution under this subsection at the same time and in the same manner as the department makes a distribution under IC 21-3-1.7.**

(c) Not later than the date established by the department for determining average daily membership under IC 21-3-1.6-1.1(d), the organizer shall submit to each governing body a report of the total number and names of students from the governing body's school corporation enrolled in the charter school. Upon verifying the accuracy of the information reported, the governing body shall distribute to the organizer a proportionate share of local support for the students enrolled in the charter school in an amount determined under STEP THREE of the following formula:

STEP ONE: Add the revenues obtained by the school corporation's:

(A) general fund property tax levy; and

(B) general fund auto excise and financial institutions tax.

STEP TWO: Divide the sum determined under STEP ONE by the total number of students enrolled in the school corporation:

STEP THREE: Multiply the quotient determined under STEP TWO by the number of students enrolled in the charter school:

(d) The distribution under subsection (b) shall be made on the same schedule as the schedule on which the school corporation receives the funds:

(c) The department shall provide to the department of local government finance the following information:

(1) For each county, the number of students who:

(A) have legal settlement in the county; and

(B) attend a charter school.

(2) The school corporation in which each student described in subdivision (1) has legal settlement.

(3) The charter school that a student described in subdivision (1) attends and the county in which the charter school is located.

(4) The amount determined under IC 6-1.1-19-1.5(g) STEP EIGHT for 2004 and IC 6-1.1-19-1.5(b) STEP SIX for 2005 for each school corporation described in subdivision (2).

(5) The amount determined under STEP TWO of the following formula:

STEP ONE: Determine the product of:

- (A) the amount determined under IC 21-3-1.7-6.7(d) or IC 21-3-1.7-6.7(e) for a charter school described in subdivision (3); multiplied by**
- (B) thirty-five hundredths (0.35).**

STEP TWO: Determine the product of:

- (A) the STEP ONE amount; multiplied by**
- (B) the current ADM of a charter school described in subdivision (3).**

(6) The amount determined under STEP THREE of the following formula:

STEP ONE: Determine the number of students described in subdivision (1) who:

- (A) attend the same charter school; and**
- (B) have legal settlement in the same school corporation located in the county.**

STEP TWO: Determine the subdivision (5) STEP ONE amount for a charter school described in STEP ONE (A).

STEP THREE: Determine the product of:

- (A) the STEP ONE amount; multiplied by**
- (B) the STEP TWO amount.**

SECTION 10. IC 20-5.5-7-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 3.5. (a) This section applies to a conversion charter school.

(b) Not later than the date established by the department for determining average daily membership under IC 21-3-1.6-1.1(d), and after July 2, the organizer shall submit to a governing body on a form prescribed by the department the information reported under section 3(a) of this chapter for each student who:

- (1) is enrolled in the organizer's conversion charter school; and**
- (2) has legal settlement in the governing body's school corporation.**

(c) Beginning not more than sixty (60) days after the department receives the information reported under section 3(a) of this chapter, the department shall distribute to the organizer:

- (1) tuition support and other state funding for any purpose for students enrolled in the conversion charter school;**
- (2) a proportionate share of state and federal funds received for students with disabilities or staff services for students with disabilities for students with disabilities enrolled in the conversion charter school; and**
- (3) a proportionate share of funds received under federal or state categorical aid programs for students who are eligible for the federal or state categorical aid and are enrolled in the conversion charter school;**

for the second six (6) months of the calendar year in which the conversion charter school is established. The department shall make a distribution under this subsection at the same time and in the same manner as the department makes a distribution to the governing body of the school corporation in which the conversion charter school is located. A distribution to the governing body of the school corporation in which the conversion charter school is located is reduced by the amount distributed to the conversion charter school. This subsection does not apply to a conversion charter school after December 31 of the calendar year in which the conversion charter school is established.

(d) This subsection applies beginning with the first property tax distribution described in IC 6-1.1-27-1 to the governing body of the school corporation in which a conversion charter school is located after the governing body receives the information reported under subsection (b). Not more than ten (10) days after the governing body receives a property tax distribution described in IC 6-1.1-27-1, the governing body shall distribute to the conversion charter school the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the quotient of:

- (A) the number of students who:**
 - (i) are enrolled in the conversion charter school; and**
 - (ii) were counted in the ADM of the previous year for the school corporation in which the conversion charter school is located; divided by**

(B) the current ADM of the school corporation in which the conversion charter school is located.

In determining the number of students enrolled under clause (A)(i), each kindergarten pupil shall be counted as one-half (1/2) pupil.

STEP TWO: Determine the total amount of the following revenues to which the school corporation in which the conversion charter school is located is entitled for the second six (6) months of the calendar year in which the conversion charter school is established:

(A) Revenues obtained by the school corporation's:

(i) general fund property tax levy; and

(ii) excise tax revenue (as defined in IC 21-3-1.7-2).

(B) The school corporation's certified distribution of county adjusted gross income tax revenue under IC 6-3.5-1.1 that is to be used as property tax replacement credits.

STEP THREE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP TWO amount.

(e) Subsection (d) does not apply to a conversion charter school after the later of the following dates:

(1) December 31 of the calendar year in which the conversion charter school is established.

(2) Ten (10) days after the date on which the governing body of the school corporation in which the conversion charter school is located receives the final distribution described in IC 6-1.1-27-1 of revenues to which the school corporation in which the conversion charter school is located is entitled for the second six (6) months of the calendar year in which the conversion charter school is established.

(f) This subsection applies during the second six (6) months of the calendar year in which a conversion charter school is established. A conversion charter school may apply for an advance from the charter school advancement account under IC 20-5.5-7.5 in the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the result under subsection (d) STEP ONE (A).

STEP TWO: Determine the difference between:

- (A) the conversion charter school's current ADM; minus
- (B) the STEP ONE amount.

STEP THREE: Determine the quotient of:

- (A) the STEP TWO amount; divided by
- (B) the conversion charter school's current ADM.

STEP FOUR: Determine the product of:

- (A) the STEP THREE amount; multiplied by
- (B) the quotient of:
 - (i) the subsection (d) STEP TWO amount; divided by
 - (ii) two (2).

SECTION 11. IC 20-5.5-7-4, AS AMENDED BY P.L.1-2002, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 4. (a) Services that a school corporation provides to a charter school, including transportation, may be provided at not more than one hundred three percent (103%) of the actual cost of the services.

(b) This subsection applies to a sponsor that is a state educational institution described in IC 20-5.5-1-15(1)(B). **In a calendar year, a state educational institution may receive from the organizer of a charter school sponsored by the state educational institution an administrative fee equal to not more than three percent (3%) of the total amount the governing body distributes under sections 3(b)(1) and 3(c) of this chapter: organizer receives during the calendar year under IC 6-1.1-19-12 and IC 21-3-1.7-8.2.**

SECTION 12. IC 20-5.5-7-5, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: Sec. 5. (a) An organizer may apply for and accept for a charter school:

- (1) independent financial grants; or
- (2) funds from public or private sources other than the department.

(b) An organizer shall make all applications, enter into all contracts, and sign all documents necessary for the receipt by a charter school of aid, money, or property from the federal government.

SECTION 13. IC 20-5.5-7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 9. (a) This section applies if:**

(1) a sponsor:

(A) revokes a charter before the end of the term for which the charter is granted; or

(B) does not renew a charter; or

(2) a charter school otherwise terminates its charter before the end of the term for which the charter is granted.

(b) Any local or state funds that remain to be distributed to the charter school in the calendar year in which an event described in subsection (a) occurs shall be distributed as follows:

(1) First, to the common school loan fund to repay any existing obligations of the charter school under IC 20-5.5-7.5.

(2) Second, to the entities that distributed the funds to the charter school. A distribution under this subdivision shall be on a pro rata basis.

(c) If the funds described in subsection (b) are insufficient to repay all existing obligations of the charter school under IC 20-5.5-7.5, the state shall repay any remaining obligations of the charter school under IC 20-5.5-7.5 from the amount appropriated for distributions under IC 21-3-1.7.

SECTION 14. IC 20-5.5-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]:

Chapter 7.5. Charter School Advancement Account

Sec. 1. The charter school advancement account is established within the common school fund.

Sec. 2. As used in this chapter, "operational costs" means costs other than construction costs incurred by:

(1) a charter school other than a conversion charter school during the second six (6) months of the calendar year in which the charter school begins its initial operation; or

(2) a charter school, including a conversion charter school, during the second six (6) months of a calendar year in which the charter school's most recent enrollment reported under IC 20-5.5-7-3(a) divided by the charter school's previous year's ADM is at least one and fifteen-hundredths (1.15).

Sec. 3. The board shall advance money to charter schools from the charter school advancement account to be used for operational

costs.

Sec. 4. (a) The amount of an advance under section 3 of this chapter for operational costs described in section 2(1) of this chapter may not exceed the amount determined under STEP THREE of the following formula:

STEP ONE: Determine the product of:

- (A) the charter school's enrollment reported under IC 20-5.5-7-3(a); multiplied by
- (B) the target revenue per ADM determined under IC 21-3-1.7-6.7(d) or IC 21-3-1.7-6.7(e) for the charter school.

STEP TWO: Determine the quotient of:

- (A) the STEP ONE amount; divided by
- (B) two (2).

STEP THREE: Determine the product of:

- (A) the STEP TWO amount; multiplied by
- (B) one and fifteen-hundredths (1.15).

(b) The amount of an advance under section 3 of this chapter for operational costs described in section 2(2) of this chapter may not exceed the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the quotient of:

- (A) the target revenue per ADM determined under IC 21-3-1.7-6.7(d) or IC 21-3-1.7-6.7(e) for the charter school; divided by
- (B) two (2).

STEP TWO: Determine the difference between:

- (A) the charter school's current ADM; minus
- (B) the charter school's ADM of the previous year.

STEP THREE: Determine the product of:

- (A) the STEP ONE amount; multiplied by
- (B) the STEP TWO amount.

STEP FOUR: Determine the product of:

- (A) the STEP THREE amount; multiplied by
- (B) one and fifteen-hundredths (1.15).

Sec. 5. (a) Money advanced to a charter school under this chapter may be advanced for a period not to exceed twenty (20) years. A charter school to which money is advanced under this chapter must pay interest on the advance at the rate determined

under section 6 of this chapter. The board shall provide that the advances are prepayable by the charter school or by the general assembly at any time.

(b) This subsection applies if the general assembly prepays an advance of money under this chapter. Any prepayment under this subsection must be deducted from the amount appropriated for distributions under IC 21-3-1.7.

(c) The board, after consulting with the department and upon approval of the budget agency, shall establish the terms of an advance before the date on which the advance is made. The terms must include a provision allowing the state to withhold funds due to a charter school to which an advance is made until the advance, including interest accrued on the advance, is paid.

Sec. 6. The state board of finance shall establish periodically the rate of interest payable on advances of money under this chapter. An interest rate established under this section may not:

- (1) be less than one percent (1%); and
- (2) exceed four percent (4%).

Sec. 7. (a) To ensure timely payment of an advance under this chapter according to the terms of the advance, the state may withhold from funds due to the charter school to which the advance is made an amount necessary to pay the advance and the interest on the advance.

(b) If the state withholds funds under subsection (a), the state first shall withhold funds from the distribution of state tuition support to the charter school to which the advance is made. If the tuition support distribution is unavailable or inadequate, the state may withhold funds from any other distribution of state funds to the charter school.

Sec. 8. A charter school that desires to obtain an advance under this chapter must submit an application to the board on a form prescribed by the board after consulting with the department and the budget agency for the board to determine the amount of the advance.

Sec. 9. (a) An advance under this chapter to a charter school is not an obligation of the charter school within the meaning of any constitutional limitation on or prohibition against indebtedness. This chapter does not relieve the organizer of the charter school to qualify the charter school for state tuition support.

(b) An agreement with the board to collect and pay over amounts deducted from state tuition support for the benefit of another party is not a debt of the state within the meaning of any constitutional limitation on or prohibition against state indebtedness.

Sec. 10. Priority of advances for operational costs must be on a basis determined by the board after consulting with the department and the budget agency.

SECTION 15. IC 20-5.5-8-5, AS ADDED BY P.L.100-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

- (1) IC 5-11-1-9 (required audits by the state board of accounts).
- (2) IC 20-1-1.5 (unified accounting system).
- (3) IC 20-1-6 (special education).
- (4) IC 20-5-2-7 and IC 20-6.1-3-7.1 (criminal history).
- (5) IC 20-5-2-3 (subject to laws requiring regulation by state agencies).
- (6) IC 20-6.1-4-15 (void teacher contract when two (2) contracts are signed).
- (7) IC 20-6.1-6-11 (nondiscrimination for teacher marital status).
- (8) IC 20-6.1-6-13 (teacher freedom of association).
- (9) IC 20-6.1-6-15 (school counselor immunity).
- (10) For conversion charter schools only, IC 20-6.1-4, IC 20-6.1-5 and IC 20-6.1-6.
- (11) IC 20-8.1-3 (compulsory school attendance).
- (12) IC 20-8.1-4 (limitations on employment of children).
- (13) IC 20-8.1-5.1-13, IC 20-8.1-5.1-15, and IC 20-8.1-5.1-15.5 (student due process and judicial review).
- (14) IC 20-8.1-5.1-10 (firearms and deadly weapons).
- (15) IC 20-8.1-7 and IC 20-8.1-8 (health and safety measures).
- ~~(16) IC 20-8.1-9-3 (exemption from school fees for eligible families and fee reimbursement):~~
- ~~(17) IC 20-8.1-9-5 (notice to parents concerning financial assistance):~~
- ~~(18)~~ **(16)** IC 20-8.1-12 (reporting of student violations of law).
- ~~(19)~~ **(17)** IC 20-10.1-2-4 and IC 20-10.1-2-6 (patriotic

commemorative observances).

~~(20)~~ **(18)** IC 20-10.1-16, IC 20-10.1-17, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).

~~(21)~~ **(19)** IC 20-10.1-22.4 (parental access to education records).

~~(22)~~ **(20)** IC 20-10.2 (accountability for school performance and improvement).

SECTION 16. IC 20-6.1-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. ~~(a) Void Contract When Two Contracts Are Signed.~~ A contract entered into after August 15 between a school corporation and a teacher is void if the teacher, at the time of signing the contract, is bound by a previous contract to teach in a public school. However, another contract may be signed by the teacher which will be effective if **the teacher:**

- (1) ~~he~~ furnishes the governing body a release by the employers under the previous contract; or
- (2) ~~he~~ shows proof that twenty-one (21) days' written notice was delivered by the teacher to the first employer.

Each governing body may request from the teacher at the time of contracting a written statement as to whether the teacher has signed another teaching contract. However, the teacher's failure to provide the statement is not a cause for subsequently voiding the contract.

(b) This section does not apply to an individual who works at a conversion charter school for purposes of the individual's employment with the school corporation that sponsored the conversion charter school.

SECTION 17. IC 20-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 1. ~~Definition; "School Corporation":~~ As used in this article, the term "school corporation" means any public school corporation established by and under the laws of the state of Indiana. The term includes, but is not necessarily limited to, any school city, school town, school township, consolidated school corporation, metropolitan school district, township school corporation, county school corporation, united school corporation or any community school corporation. **For purposes of IC 20-8.1-9, the term includes a charter school.**

SECTION 18. IC 20-8.1-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:

Sec. 2. As used in this article, the term "governing body" means any township trustee and the township board of a school township, any board of school commissioners, any metropolitan board of education, any board of trustees or any other board or commission charged by law with the responsibility of administering the affairs of a school corporation. **For purposes of IC 20-8.1-9, the term includes the organizer of a charter school.**

SECTION 19. IC 20-8.1-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 3. (a) If a parent of a child or an emancipated minor who is enrolled in a public school, in grades K-12, meets the financial eligibility standard under section 2 of this chapter, the parent or the emancipated minor may not be required to pay the fees for school books, supplies, or other required class fees. Such fees shall be paid by the school corporation in which the child ~~resides~~: **attends**.

(b) The school corporation may apply for a reimbursement under section 9 of this chapter from the department of the costs incurred under subsection (a).

(c) To the extent the reimbursement received by the school corporation is less than the textbook rental fee assessed for textbooks that have been adopted under IC 20-10.1-9-1 or waived under IC 20-10.1-9-27, the school corporation may request that the parent or emancipated minor pay the balance of this amount.

SECTION 20. IC 21-1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) It is the duty of the general assembly under the Constitution of the State of Indiana to encourage by all suitable means moral, intellectual, scientific, and agricultural improvement and to provide, by law, for a general and uniform system of common schools, wherein tuition shall be without charge, and equally open to all.

(b) It is the intent of the general assembly that:

(1) the common school fund should be used to:

(A) assist school corporations and school townships in financing their school building construction and educational technology programs; **and**

(B) **assist charter schools in financing their operations;**

as authorized by law and under circumstances such that the principal of the fund remains inviolate;

(2) to the end described in subdivision (1), the common school fund may be used to make advances to:

(A) school corporations and school townships under IC 21-1-5; and

(B) **charter schools under IC 20-5.5-7-3.5(f) and IC 20-5.5-7.5; and**

(3) this chapter is in furtherance of the duties which are imposed exclusively upon the general assembly by the Constitution of the State of Indiana in connection with the maintenance of a general and uniform system of common schools and the investment and reinvestment of the common school fund and shall be liberally construed to carry out the purposes of the Constitution of the State of Indiana.

(c) In addition, the common school fund may be used to make advances under IC 21-1-5.1.

SECTION 21. IC 21-1-30-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:** **Sec. 0.5. As used in this chapter, "school corporation" includes a charter school.**

SECTION 22. IC 21-2-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: **Sec. 3. As used in this chapter, "school corporation" means school township, school town, school city, or public school corporation. The term does not include a charter school.**

SECTION 23. IC 21-3-1.6-1.1, AS AMENDED BY HEA 1001-2003, SECTION 156, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: **Sec. 1.1. As used in this chapter:**

(a) "School corporation" means any local public school corporation established under Indiana law. **Except as otherwise indicated, the term includes a charter school.**

(b) "School year" means a year beginning July 1 and ending the next succeeding June 30.

(c) "State distribution" due a school corporation means the amount of state funds to be distributed to a school corporation in any calendar year under this chapter.

(d) "Average daily membership" or "ADM" of a school corporation

means the number of eligible pupils enrolled in the school corporation or in a transferee corporation on a day to be fixed annually by the Indiana state board of education and, beginning in the school year that ends in the 2005 calendar year, as subsequently adjusted not later than January 30 under the rules adopted by the state board of education. The initial day of the count shall fall within the first thirty (30) days of the school term. If, however, extreme patterns of student in-migration, illness, natural disaster, or other unusual conditions in a particular school corporation's enrollment on either the day fixed by the Indiana state board of education or on the subsequent adjustment date, cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the Indiana state board of education may designate another day for determining the school corporation's enrollment. The Indiana state board of education shall monitor changes that occur after the fall count, in the number of students enrolled in programs for children with disabilities and shall, before December 2 of that same year and, beginning in the 2004 calendar year, before April 2 of the following calendar year, make an adjusted count of students enrolled in programs for children with disabilities. The superintendent of public instruction shall certify the December adjusted count to the budget committee before February 5 of the following year and the April adjusted count not later than May 31 immediately after the date of the April adjusted count. In determining the ADM, each kindergarten pupil shall be counted as one-half (1/2) pupil. Where a school corporation commences kindergarten in a school year, the ADM of the current and prior calendar years shall be adjusted to reflect the enrollment of the kindergarten pupils. In determining the ADM, each pupil enrolled in a public school and a nonpublic school is to be counted on a full-time equivalency basis as provided in section 1.2 of this chapter.

(e) "Additional count" of a school corporation, or comparable language, means the aggregate of the additional counts of the school corporation for certain pupils as set out in section 3 of this chapter (repealed) and as determined at the times for calculating ADM. "Current additional count" means the initial computed additional count of the school corporation for the school year ending in the calendar year. "Prior year additional count" of a school corporation used in computing its state distribution in a calendar year means the initial

computed additional count of the school corporation for the school year ending in the preceding calendar year.

(f) **For purposes of this subsection, "school corporation" does not include a charter school.** "Adjusted assessed valuation" of any school corporation used in computing state distribution for a calendar year means the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34. The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, then the state superintendent of public instruction shall prescribe adjustments in the distributions of state funds pursuant to this chapter as are thereafter to become due to a school corporation affected by the delinquency as will ensure that the school corporation will not have been unjustly enriched under the provisions of P.L.382-1987(ss). The amount of the valuation shall also be adjusted downward by the department of local government finance to the extent it consists of real or personal property described in IC 6-1.1-17-0.5(b).

(g) "General fund" means a ~~school corporation~~ fund established under IC 21-2-11-2.

(h) "Teacher" means every person who is required as a condition of employment by a school corporation to hold a teacher's license issued or recognized by the state, except substitutes and any person paid entirely from federal funds.

(i) **For purposes of this subsection, "school corporation" does not include a charter school.** "Teacher ratio" of a school corporation used in computing state distribution in any calendar year means the ratio assigned to the school corporation pursuant to section 2 of this chapter.

(j) "Eligible pupil" means a pupil enrolled in a school corporation if:

- (1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;

- (2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-8.1-6.1, because the pupil is transferred for education to another school corporation (the "transferee corporation");
- (3) the pupil is enrolled in a school corporation as a transfer student under IC 20-8.1-6.1-3 or entitled to be counted for ADM or additional count purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;
- (4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-8.1-6.1; or
- (5) all of the following apply:
- (A) The school corporation is a transferee corporation.
 - (B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).
 - (C) The transferee corporation's attendance area includes a state licensed private or public health care facility, child care facility, or foster family home where the pupil was placed:
 - (i) by or with the consent of the division of family and children;
 - (ii) by a court order;
 - (iii) by a child placing agency licensed by the division of family and children; or
 - (iv) by a parent or guardian under IC 20-8.1-6.1-5.

For purposes of IC 21-3-12, the term includes a student enrolled in a charter school.

(k) "General fund budget" of a school corporation means the amount of the budget approved for a given year by the department of local government finance and used by the department of local government finance in certifying a school corporation's general fund tax levy and tax rate for the school corporation's general fund as provided for in IC 21-2-11. **The term does not apply to a charter school.**

(l) "At risk index" means the **following**:

(1) For a school corporation that is a not a charter school, the sum of:

- (+) **(A)** the product of sixteen-hundredths (0.16) multiplied by the percentage of families in the school corporation with children who are less than eighteen (18) years of age and who

have a family income below the federal income poverty level (as defined in IC 12-15-2-1);

(2) **(B)** the product of four-tenths (0.4) multiplied by the percentage of families in the school corporation with a single parent; and

(3) **(C)** the product of forty-four hundredths (0.44) multiplied by the percentage of the population in the school corporation who are at least twenty (20) years of age with less than a twelfth grade education.

The data to be used in making the calculations under this ~~subsection~~ **subdivision** must be the data from the ~~1990~~ **2000** federal decennial census.

(2) For a charter school, the index determined under subdivision (1) for the school corporation in which the charter school is located.

(m) "ADM of the previous year" or "ADM of the prior year" used in computing a state distribution in a calendar year means the initial computed ADM for the school year ending in the preceding calendar year.

(n) "Current ADM" used in computing a state distribution in a calendar year means the initial computed ADM for the school year ending in the calendar year.

SECTION 24. IC 21-3-1.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:
 Sec. 2. **(a) As used in this section, "school corporation" does not include a charter school.**

(b) To each school corporation there shall be assigned for each calendar year a teacher ratio which shall consist of the average training and experience factor of the school corporation divided by the state training and experience factor for the same year. The training and experience factor of the school corporation for each calendar year shall be calculated by assigning to each of its teachers employed on October 1 of the preceding year an index number in accordance with the following table, adding the total index numbers of all teachers in the school corporation and dividing the total by the number of teachers. The state factor shall be similarly calculated for all the teachers employed by the state's school corporations.

	Amount of College Training	Amount of Experience	Index Factor
(a)	Less than 4 years	Not applicable	0.7
(b)	4 years but less than 5 years	Less than 6 years	0.8
		6 years or more	0.9
(c)	5 years or more	Less than 5 years	1.0
		5 years or more but less than 11 years	1.1
		11 years or more but less than 17 years	1.2
		17 years or more	1.3a

SECTION 25. IC 21-3-1.7-2, AS AMENDED BY P.L.192-2002(ss), SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 2. As used in this chapter, "excise tax revenue" means the amount of:

- (1) financial institution excise tax revenue (IC 6-5.5); plus
- (2) the motor vehicle excise taxes (IC 6-6-5) and the commercial vehicle excise taxes (IC 6-6-5.5);

the school corporation received for deposit in the school corporation's general fund in a year. **The excise tax revenue for a charter school is zero (0).**

SECTION 26. IC 21-3-1.7-3.1, AS AMENDED BY P.L.1-2003, SECTION 68, AND BY HEA 1001-2003, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

- (1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:
 - (A) special education grants;
 - (B) vocational education grants;
 - (C) at-risk programs;
 - (D) the enrollment adjustment grant;
 - (E) the academic honors diploma award;
 - (F) the primetime distribution; and
 - (G) for 2005 and thereafter, the supplemental remediation

grant;

for the year that precedes the current year; plus

(2) the school corporation's tuition support levy for the year that precedes the current year before the reductions required under section 5(1) and 5(2) of this chapter; plus

(3) distributions received by the school corporation under IC 6-1.1-21.6 for the year that precedes the current year; plus

(4) the school corporation's excise tax revenue for the year that precedes the current year by two (2) years; minus

(5) an amount equal to the reduction in the school corporation's tuition support under subsection (b) or IC 20-10.1-2-1, or both; plus

(6) in calendar year 2003, the amount determined for calendar year 2002 under section 8.2 of this chapter, STEP TWO (C); plus

(7) in calendar year 2004, the amount determined for calendar year 2002 under section 8.2 of this chapter, STEP TWO (D); plus

(8) notwithstanding subdivision (1), in calendar year 2004, the school corporation's distribution under section 9.7 of this chapter for calendar year 2003.

(b) A school corporation's previous year revenue shall be reduced if:

(1) the school corporation's state tuition support for special or vocational education was reduced as a result of a complaint being filed with the department of education after December 31, 1988, because the school program overstated the number of children enrolled in special or vocational education programs; and

(2) the school corporation's previous year revenue has not been reduced under this subsection more than one (1) time because of a given overstatement.

The amount of the reduction equals the amount the school corporation would have received in tuition support for special and vocational education because of the overstatement.

(c) A school corporation's previous year revenue shall be reduced if an existing elementary or secondary school located in the school corporation converts to a charter school under IC 20-5.5-11. The amount of the reduction equals the product of:

(1) the sum of the amounts distributed to the conversion charter school under IC 20-5.5-7-3.5(c) and

**IC 20-5.5-7-3.5(d); multiplied by
(2) two (2).**

SECTION 27. IC 21-3-1.7-5, AS AMENDED BY P.L.85-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 5. **(a) As used in this section, "school corporation" does not include a charter school.**

(b) As used in this chapter, "tuition support levy" means with respect to a school corporation for a year the maximum general fund ad valorem property tax levy for the school corporation determined under IC 6-1.1-19-1.5 reduced by the following:

- (1) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.
- (2) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

SECTION 28. IC 21-3-1.7-6.6, AS AMENDED BY HEA 1001-2003, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 6.6. **(a)** For purposes of this chapter, a school corporation's "adjusted ADM" for the current year is the result determined under the following formula:

STEP ONE: Determine the greatest of the following:

- (A) The school corporation's ADM for the year preceding the current year by three (3) years.
- (B) The school corporation's ADM for the year preceding the current year by two (2) years.
- (C) The school corporation's ADM for the year preceding the current year by one (1) year.
- (D) The school corporation's ADM for the current year.

STEP TWO: Determine the greater of zero (0) or the result of:

- (A) the school corporation's ADM for the year preceding the current year by four (4) years; minus
- (B) the STEP ONE amount.

STEP THREE: Determine the greatest of the following:

- (A) The school corporation's ADM for the year preceding the current year by two (2) years.

(B) The school corporation's ADM for the year preceding the current year by one (1) year.

(C) The school corporation's ADM for the current year.

STEP FOUR: Determine the greater of zero (0) or the result of:

(A) the school corporation's ADM for the year preceding the current year by three (3) years; minus

(B) the STEP THREE amount.

STEP FIVE: Determine the greater of the following:

(A) The school corporation's ADM for the year preceding the current year by one (1) year.

(B) The school corporation's ADM for the current year.

STEP SIX: Determine the greater of zero (0) or the result of:

(A) the school corporation's ADM for the year preceding the current year by two (2) years; minus

(B) the STEP FIVE amount.

STEP SEVEN: Determine the greater of zero (0) or the result of:

(A) the school corporation's ADM for the year preceding the current year by one (1) year; minus

(B) the school corporation's ADM for the current year.

STEP EIGHT: Determine the sum of the following:

(A) The STEP TWO result multiplied by two-tenths (0.2).

(B) The STEP FOUR result multiplied by four-tenths (0.4).

(C) The STEP SIX result multiplied by six-tenths (0.6).

(D) The STEP SEVEN result multiplied by eight-tenths (0.8).

STEP NINE: Determine the result of:

(A) the school corporation's ADM for the current year; plus

(B) the STEP EIGHT result.

STEP TEN: This STEP applies to a school corporation for which the amount determined under STEP EIGHT is zero (0). Determine the sum of:

(A) the school corporation's ADM for the 2003 school year; plus

(B) the subsection (b) or (c) result, whichever is applicable.

Round the result to the nearest five-tenths (0.5).

(b) This subsection applies during the 2004 calendar year to a school corporation described in subsection (a) ~~STEP SIX: TEN~~. Determine the result under the following formula:

STEP ONE: Determine the difference between:

(A) the school corporation's ADM for the 2004 school year;
minus

(B) the school corporation's ADM for the 2003 school year.

STEP TWO: Determine the greater of zero (0) or the STEP ONE amount.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) two-thousandths (0.002).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) Seventy-five hundredths (0.75).

STEP FIVE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP FOUR amount.

(c) This subsection applies during the 2005 calendar year to a school corporation described in subsection (a) STEP ~~SIX~~: **TEN**. Determine the result under the following formula:

STEP ONE: Determine the difference between:

(A) the school corporation's ADM for the 2005 school year;
minus

(B) the school corporation's ADM for the 2004 school year.

STEP TWO: Determine the greater of zero (0) or the STEP ONE amount.

STEP THREE: Determine the product of:

(A) the STEP TWO amount; multiplied by

(B) two-thousandths (0.002).

STEP FOUR: Determine the lesser of the following:

(A) The STEP THREE amount.

(B) Seventy-five hundredths (0.75).

STEP FIVE: Determine the product of:

(A) the STEP ONE amount; multiplied by

(B) the STEP FOUR amount.

STEP SIX: Determine the subsection (b) amount.

STEP SEVEN: Determine the sum of:

(A) the STEP FIVE result; plus

(B) the STEP SIX result.

(d) For a charter school whose current ADM is at least fifteen percent (15%) greater than the charter school's ADM of the

previous year, the charter school's adjusted ADM for purposes of this section is the charter school's current ADM.

SECTION 29. IC 21-3-1.7-6.7, AS AMENDED BY HEA 1001-2003, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.7. (a) This subsection applies during the 2003 calendar year. For each school corporation **that is not a charter school**, the index used in subsection ~~(c)~~ **(d)** is determined under the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of the following:

- (1) Multiply the school corporation's at risk index by twenty-five hundredths (0.25).
- (2) Divide the result under subdivision (1) by three thousand seven hundred thirty-six ten-thousandths (0.3736).
- (3) Subtract three hundred ninety-five ten-thousandths (0.0395) from the result under subdivision (2).

STEP TWO: Determine the greater of zero (0) or the result of the following:

- (1) Multiply the percentage of the school corporation's students who were eligible for free lunches in the school year ending in 2001 by twenty-five hundredths (0.25).
- (2) Divide the result under subdivision (1) by seven hundred twenty-three thousandths (0.723).

STEP THREE: Determine the greater of zero (0) or the result of the following:

- (1) Multiply the percentage of the school corporation's students who were classified as limited English proficient in the school year ending in 2000 by twenty-five hundredths (0.25).
- (2) Divide the result under subdivision (1) by one thousand seven hundred fifteen ten-thousandths (0.1715).

STEP FOUR: Determine the result of:

- (1) the sum of the results in STEPS ONE through THREE; divided by
- (2) three (3).

STEP FIVE: Determine the result of one (1) plus the STEP FOUR result.

- (b) This subsection applies to calendar years beginning after

December 31, 2003. For each school corporation **that is not a charter school**, the index used in subsection ~~(d)~~ **(e)** is determined under the following STEPS:

STEP ONE: Determine the greater of zero (0) or the result of the following:

- (1) Determine the percentage of the population in the school corporation who are at least twenty (20) years of age with less than a twelfth grade education.
- (2) Determine the quotient of:
 - (A) eight hundred seventy dollars (\$870) in 2004 and nine hundred seventy dollars (\$970) in 2005; divided by
 - (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.
- (3) Determine the product of:
 - (A) the subdivision (1) amount; multiplied by
 - (B) the subdivision (2) amount.

STEP TWO: Determine the greater of zero (0) or the result of the following:

- (1) Determine the percentage of the school corporation's students who were eligible for free lunches in the school year ending in 2003.
- (2) Determine the quotient of:
 - (A) one thousand one hundred dollars (\$1,100) in 2004 and one thousand two hundred dollars (\$1,200) in 2005; divided by
 - (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.
- (3) Determine the product of:
 - (A) the subdivision (1) amount; multiplied by
 - (B) the subdivision (2) amount.

STEP THREE: Determine the greater of zero (0) or the result of the following:

- (1) Determine the percentage of the school corporation's students who were classified as limited English proficient in the school year ending in 2003.
- (2) Determine the quotient of:

- (A) three hundred ten dollars (\$310) in 2004 and four hundred thirty dollars (\$430) in 2005; divided by
- (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.

(3) Determine the product of:

- (A) the subdivision (1) amount; multiplied by
- (B) the subdivision (2) amount.

STEP FOUR: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of families in the school corporation with a single parent.

(2) Determine the quotient of:

- (A) four hundred forty dollars (\$440) in 2004 and five hundred thirty dollars (\$530) in 2005; divided by
- (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.

(3) Determine the product of:

- (A) the subdivision (1) amount; multiplied by
- (B) the subdivision (2) amount.

STEP FIVE: Determine the greater of zero (0) or the result of the following:

(1) Determine the percentage of families in the school corporation with children who are less than eighteen (18) years of age and who have a family income level below the federal income poverty level (as defined in IC 12-15-2-1).

(2) Determine the quotient of:

- (A) two hundred twenty dollars (\$220) in 2004 and three hundred thirty dollars (\$330) in 2005; divided by
- (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.

(3) Determine the product of:

- (A) the subdivision (1) amount; multiplied by
- (B) the subdivision (2) amount.

STEP SIX: Determine the sum of the results in STEPS ONE through FIVE.

STEP SEVEN: Determine the result of one (1) plus the STEP SIX result.

STEP EIGHT: This STEP applies if the STEP SEVEN result is equal to or greater than one and twenty-five hundredths (1.25).

Determine the result of the following:

- (1) Determine the STEP TWO (1) amount for the school corporation.
- (2) Determine the quotient of:
 - (A) one hundred fifty dollars (\$150); divided by
 - (B) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005.
- (3) Determine the product of:
 - (A) the subdivision (1) amount; multiplied by
 - (B) the subdivision (2) amount.
- (4) Determine the STEP FIVE (1) amount for the school corporation.
- (5) Determine the product of:
 - (A) the subdivision (4) amount; multiplied by
 - (B) the subdivision (2) amount.
- (6) Determine the result of:
 - (A) the subdivision (3) result; plus
 - (B) the subdivision (5) result.
- (7) Determine the result of:
 - (A) the STEP SEVEN result; plus
 - (B) the subdivision (6) result.

The data to be used in making the calculations under STEP ONE, STEP FOUR, and STEP FIVE of this subsection must be the data from the 2000 federal decennial census.

(c) For each charter school, the index used in section (d) or (e) is the index determined under subsection (a) or (b) for the school corporation in which the charter school is located.

(d) This subsection applies to calendar years ending before January 1, 2004. A school corporation's target revenue per ADM for a calendar year is the result determined under STEP SIX of the following formula:

STEP ONE: Determine the result under clause (B) of the following formula:

- (A) Determine the result of:

(i) four thousand five hundred sixty dollars (\$4,560); multiplied by

(ii) the index determined for the school corporation under subsection (a) **or (c), as applicable.**

(B) Multiply the clause (A) result by the school corporation's adjusted ADM for the current year.

STEP TWO: Divide the school corporation's previous year revenue by the school corporation's adjusted ADM for the previous year.

STEP THREE: Multiply the ~~subsection (a)~~ **STEP FIVE result index determined under subsection (a) or (c), as applicable,** by the following:

(A) If the STEP TWO result is not more than four thousand five hundred sixty dollars (\$4,560), multiply by ninety dollars (\$90).

(B) If the STEP TWO result is more than four thousand five hundred sixty dollars (\$4,560) and not more than five thousand eight hundred twenty-five dollars (\$5,825), multiply by the result under clause (C).

(C) Determine the result of **the following:**

(i) The STEP TWO result minus four thousand five hundred sixty dollars (\$4,560).

(ii) Divide the item (i) result by one thousand two hundred sixty-five dollars (\$1,265).

(iii) Multiply the item (ii) result by forty dollars (\$40).

(iv) Subtract the item (iii) result from ninety dollars (\$90).

(D) If the STEP TWO result is more than five thousand eight hundred twenty-five dollars (\$5,825), multiply by fifty dollars (\$50).

STEP FOUR: Add the STEP TWO result and the STEP THREE result.

STEP FIVE: Determine the greatest of the following:

(A) Multiply the STEP FOUR result by the school corporation's adjusted ADM for the current year.

(B) Multiply the school corporation's previous year revenue by one and two-hundredths (1.02).

(C) The STEP ONE amount.

STEP SIX: Divide the STEP FIVE amount by the school

corporation's adjusted ADM for the current year.

(d) (e) This subsection applies to calendar years beginning after December 31, 2003. A school corporation's target revenue per ADM for a calendar year is the result determined under ~~STEP EIGHT~~ **NINE** of the following formula:

STEP ONE: Determine the result under clause (B) of the following formula:

(A) Determine the result of:

(i) four thousand three hundred fifty dollars (\$4,350) in 2004 and four thousand three hundred sixty-eight dollars (\$4,368) in 2005; multiplied by

(ii) the index determined for the school corporation under subsection (b) **or (c), as applicable.**

(B) Multiply the clause (A) result by the school corporation's adjusted ADM for the current year.

STEP TWO: Determine the result under the following formula:

(A) Determine the quotient of:

(i) the school corporation's previous year revenue; divided by

(ii) the school corporation's ADM for the previous year.

(B) Determine the product of:

(i) the clause (A) amount; multiplied by

(ii) one and two-hundredths (1.02).

(C) Determine the product of:

(i) the clause (B) amount; multiplied by

(ii) the school corporation's current ADM.

STEP THREE: Determine the result under the following formula:

(A) Determine the product of:

(i) the STEP TWO clause (A) amount; multiplied by

(ii) ninety-eight hundredths (0.98).

(B) Determine the product of:

(i) the clause (A) amount; multiplied by

(ii) the school corporation's current ADM.

STEP FOUR: Determine the lesser of:

(A) the STEP ONE amount; or

(B) the STEP TWO amount.

STEP FIVE: Determine the greater of:

(A) the STEP THREE amount; or

(B) the STEP FOUR amount.

STEP SIX: Divide the school corporation's previous year revenue by the school corporation's adjusted ADM for the previous year.

STEP SEVEN: Determine the product of:

(A) the STEP SIX result; multiplied by

(B) the school corporation's current adjusted ADM.

STEP EIGHT: Determine the greatest of the following:

(A) The product of:

(i) the school corporation's previous year revenue; multiplied by

(ii) one and one-hundredth (1.01).

(B) The STEP FIVE amount.

(C) The STEP SEVEN amount.

STEP NINE: Determine the quotient of:

(A) the STEP EIGHT amount; divided by

(B) the school corporation's current adjusted ADM.

SECTION 30. IC 21-3-1.7-6.8, AS AMENDED BY HEA 1001-2003, SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6.8. (a) **This section does not apply to a charter school.**

(b) This subsection does not apply after December 31, 2003. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP THREE of the following formula:

STEP ONE: This STEP applies only if the amount determined in STEP FIVE of the formula in section ~~6.7(c)~~ **6.7(d)** of this chapter minus the result determined in STEP ONE of the formula in section ~~6.7(c)~~ **6.7(d)** of this chapter is greater than zero (0).

Determine the result under clause (E) of the following formula:

(A) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the result determined in STEP ONE of the formula in section ~~6.7(c)~~ **6.7(d)** of this chapter from the amount determined in STEP FIVE of the formula in section ~~6.7(c)~~ **6.7(d)** of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP TWO: This STEP applies only if the amount determined in STEP FIVE of the formula in section ~~6.7(c)~~ **6.7(d)** of this chapter is equal to STEP ONE of the formula in section ~~6.7(c)~~ **6.7(d)** of this chapter and the result of clause (A) is greater than zero (0).

Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The portion of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's 2002 assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Thirty-nine dollars (\$39) in 2002 and thirty-nine dollars and seventy-five cents (\$39.75) in 2003.

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP THREE: Determine the sum of

(A) ninety-one and eight-tenths cents (\$0.918) in 2002; and

(B) ninety-five and eight-tenths cents (\$0.958) in 2003; and if applicable, the STEP ONE or STEP TWO result.

~~(b)~~ (c) This subsection applies to calendar years beginning after

December 31, 2004. A school corporation's target general fund property tax rate for purposes of IC 6-1.1-19-1.5 is the result determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount determined for the school corporation in STEP ONE of the formula in section ~~6.7(d)~~ **6.7(e)** of this chapter.

STEP TWO: This STEP applies only if the amount determined in STEP EIGHT of the formula in section ~~6.7(d)~~ **6.7(e)** of this chapter minus the STEP ONE result is greater than zero (0).

Determine the result under clause (E) of the following formula:

(A) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(B) Divide the clause (A) result by ten thousand (10,000).

(C) Determine the greater of the following:

(i) The clause (B) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(D) Determine the result determined under item (ii) of the following formula:

(i) Subtract the STEP ONE result from the amount determined in STEP EIGHT of the formula in section ~~6.7(d)~~ **6.7(e)** of this chapter.

(ii) Divide the item (i) result by the school corporation's current ADM.

(E) Divide the clause (D) result by the clause (C) result.

(F) Divide the clause (E) result by one hundred (100).

STEP THREE: This STEP applies only if the amount determined in STEP EIGHT of the formula in section ~~6.7(d)~~ **6.7(e)** of this chapter is equal to the STEP ONE result and the result of clause (A) is greater than zero (0). Determine the result under clause (G) of the following formula:

(A) Add the following:

(i) An amount equal to the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(ii) The part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new

school facility during the preceding year.

(B) Divide the clause (A) result by the school corporation's current ADM.

(C) Divide the school corporation's assessed valuation by the school corporation's current ADM.

(D) Divide the clause (C) result by ten thousand (10,000).

(E) Determine the greater of the following:

(i) The clause (D) result.

(ii) Forty-three dollars and sixty-five cents (\$43.65).

(F) Divide the clause (B) result by the clause (E) amount.

(G) Divide the clause (F) result by one hundred (100).

STEP FOUR: Determine the sum of sixty-three and seven-tenths cents (\$0.637) and, if applicable, the STEP TWO or STEP THREE result.

(c) For the calendar year beginning January 1, 2004, and ending December 31, 2004, a school corporation's general fund ad valorem property tax levy is determined under IC 6-1.1-19-1.5(g).

SECTION 31. IC 21-3-1.7-8.2, AS ADDED BY HEA 1001-2003, SECTION 162, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8.2. (a) As used in this section, "transfer amount" means the product of:

(1) a school corporation's assessed valuation for calendar year 2002 divided by one hundred (100); multiplied by

(2) the lesser of:

(A) three hundred twenty-eight ten-thousandths (0.0328); or

(B) the school corporation's capital projects fund tax rate for calendar year 2002 multiplied by five-tenths (0.5).

(b) This subsection applies to calendar years ending before January 1, 2004. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

(A) For a school corporation not described in clause (B), determine the school corporation's result under STEP FIVE of section ~~6.7(c)~~ **6.7(d)** of this chapter for the calendar year.

(B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount

under STEP ONE (A) of section ~~6.7(c)~~ **6.7(d)** of this chapter, determine the sum of:

- (i) the school corporation's result under STEP ONE of section ~~6.7(c)~~ **6.7(d)** of this chapter for the calendar year; plus
- (ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus
- (iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

STEP TWO: Determine the sum of:

- (A) the school corporation's tuition support levy;
- (B) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year;
- (C) for the last six (6) months of calendar year 2002, the school corporation's transfer amount; plus
- (D) for the first six (6) months of calendar year 2003, the school corporation's transfer amount.

The amount determined under this STEP for a charter school is zero (0).

STEP THREE: Determine the difference between:

- (A) the STEP ONE amount; minus
- (B) the **applicable STEP TWO or STEP THREE** amount.

(c) This subsection applies to calendar years beginning after December 31, 2003. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

- (A) For a school corporation not described in clause (B), determine the school corporation's result under STEP ~~FIVE~~ **EIGHT** of section ~~6.7(d)~~ **6.7(e)** of this chapter for the calendar year.
- (B) For a school corporation that has target revenue per adjusted ADM for a calendar year that is equal to the amount

under STEP ONE (A) of section ~~6.7(d)~~ **6.7(e)** of this chapter, determine the sum of:

- (i) the school corporation's result under STEP ONE of section ~~6.7(f)~~ **6.7(e)** of this chapter for the calendar year; plus
- (ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus
- (iii) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

STEP TWO: This STEP applies to a school corporation that is not a charter school. Determine the sum of:

- (A) the school corporation's tuition support levy; plus
- (B) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year.

STEP THREE: This STEP applies to a charter school. Determine the product of:

- (A) the amount determined under STEP EIGHT of section **6.7(e)** of this chapter for the charter school; multiplied by
- (B) **thirty-five hundredths (0.35).**

STEP FOUR: Determine the difference between:

- (A) the STEP ONE amount; minus
- (B) the STEP TWO **or STEP THREE** amount, **as applicable.**

(d) If the state tuition support determined for a school corporation under this section is negative, the school corporation is not entitled to any state tuition support. In addition, the school corporation's maximum general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount of the negative result.

SECTION 32. IC 21-3-1.7-9.5, AS AMENDED BY HEA 1001-2003, SECTION 164, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]: Sec. 9.5. (a) **As used in this section, "school corporation" includes:**

- (1) **a conversion charter school; and**
- (2) **beginning in the second calendar year after the calendar year in which a nonconversion charter school begins its initial**

operation, a nonconversion charter school.

(b) In addition to the distribution under sections 8.2, 9.7, 9.8, and 9.9 of this chapter, a school corporation is eligible for an enrollment adjustment grant if the school corporation's:

- (1) current ADM minus the school corporation's previous year ADM is at least two hundred fifty (250); or
- (2) current ADM divided by the school corporation's previous year ADM is at least one and five-hundredths (1.05).

~~(b)~~ **(c)** The amount of the enrollment adjustment grant is the amount determined in STEP THREE of the following formula:

STEP ONE: Determine the school corporation's target revenue per ADM divided by three (3).

STEP TWO: Determine the result of the school corporation's current ADM minus the school corporation's previous year ADM.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

~~(c)~~ **(d)** Notwithstanding any other provision, for purposes of computing the amount of a grant under this section, "ADM" does not include an eligible pupil who is described in IC 21-3-1.6-1.2(a).

SECTION 33. IC 21-3-3.1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:** **Sec. 0.5. As used in this chapter, "school corporation" does not include a charter school.**

SECTION 34. IC 21-3-12-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)]:** **Sec. 1.5. As used in this chapter, "school corporation" includes a charter school.**

SECTION 35. IC 20-5.5-7-2 IS REPEALED [EFFECTIVE JANUARY 1, 2002 (RETROACTIVE)].

SECTION 36. [EFFECTIVE UPON PASSAGE] **(a) An advance to a charter school from the department education that is financed by a transfer by the state board of finance from the abandoned property fund established in IC 32-34-1-33 is forgiven.**

(b) This SECTION expires June 30, 2005.

SECTION 37. [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)] **(a) This SECTION applies only to Campagna**

Academy Charter School.

(b) Notwithstanding IC 21-3-1.6-1.1(l), as amended by this act, the at risk index for Campagna Academy Charter School equals the weighted average of the at risk indices for the school corporations in which the students who attend Campagna Academy Charter School have legal settlement.

(c) Notwithstanding IC 21-3-1.7-6.7(b), as amended by this act, the index for purposes of IC 21-3-1.7-6.7(c) for Campagna Academy Charter School equals the weighted average of the indices determined under IC 21-3-1.7-6.7(a) for the school corporations in which the students who attend Campagna Academy Charter School have legal settlement.

(d) This SECTION expires June 30, 2005.

SECTION 38. [EFFECTIVE UPON PASSAGE] To the extent possible, if there is a conflict between this act and the provisions of any other act, it is the intent of the general assembly that:

- (1) charter schools be funded under the same formula as other school corporations to the extent of the conflict;**
- (2) the two (2) acts be read together consistently and harmoniously; and**
- (3) the policies in both acts be implemented into law.**

SECTION 39. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding the effective dates of the provisions in HEA 1001(2003) and this act, and excluding the provisions of this act that are applied retroactively to January 1, 2002, for the purposes of calculating and distributing tuition support and other state funding to school corporations, including charter schools, the provisions in HEA 1001(2003) and this act shall be applied retroactively to January 1, 2003.

(b) It is the intent of the general assembly that charter schools and affected school corporations be funded after December 31, 2002, in conformity with school funding formulas in HEA 1001(2003) as enhanced by the provisions of this act. To the extent that a cross reference or an effective date in this act is inconsistent with this intent or in conflict with HEA 1001(2003), the provisions shall be harmonized to effectuate the intent expressed in this SECTION. The legislative services agency shall prepare legislation for introduction in the 2004 session of the general assembly to

**correct the statutory law to be in conformity with this SECTION.
SECTION 40. An emergency is declared for this act.**

P.L.277-2003

[S.506. Approved May 8, 2003.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 6-8.1-9.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. For purposes of this chapter:

"Claimant agency" means any state department, institution, commission, committee, board, division, bureau, authority, officer, ~~or~~ official, **or clerk of a circuit court.**

"Debtor" means any person or legal entity that is delinquent in paying a debt to a claimant agency that has not been adjudicated, satisfied by court order, set aside by court order, or discharged in bankruptcy.

"Debt" means any liquidated amount owed and due to a Title IV-D agency of another state, or to any claimant agency which has accrued through contract, subrogation, assignment for purposes of collection, tort, operation of law, or any other legal theory, regardless of whether there is an outstanding judgment for that sum.

SECTION 2. IC 11-13-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A court or division of a court authorized to impose probation shall appoint one (1) or more probation officers, depending on the needs of the court, except that two (2) or more divisions within a court, two (2) or more courts within a county, or two (2) or more courts not in the same county may jointly appoint and employ one (1) or more probation officers for the purpose of meeting the requirements of this section.

(b) A person may be appointed as a probation officer after the

effective date established by the judicial conference of Indiana only if that person meets the minimum employment qualifications adopted by the conference, except that this requirement does not apply to any person certified as a qualified probation officer before that effective date. Any uncertified person appointed as a probation officer after the effective date who fails to successfully complete the written examination established under section 8 of this chapter within six (6) months after the date of ~~his~~ **the person's** appointment is prohibited from exercising the powers of a probation officer as granted by law.

(c) Probation officers shall serve at the pleasure of the appointing court and are directly responsible to and subject to the orders of the court. The amount and time of payment of salaries of probation officers shall be fixed by the ~~court consistent with section 8 of this chapter to~~ **county, city, or town fiscal body in accordance with the salary schedule adopted by the county, city, or town fiscal body under IC 36-2-16.5. The salary of a probation officer shall** be paid out of the county, ~~or city, or town~~ treasury by the county auditor or city controller. Probation officers are entitled to their actual expenses necessarily incurred in the performance of their duties. Probation officers shall give a bond if the court so directs in a sum to be fixed by the court.

(d) A court, or two (2) or more courts acting jointly, may designate a probation officer to direct and supervise the work of the probation department.

SECTION 3. IC 31-31-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) **The salary of a probation officer shall be fixed by the county fiscal body in accordance with the salary schedule adopted by the county fiscal body under IC 36-2-16.5. The salary of a probation officer shall be paid by the county.**

(b) Subject to the approval of the county fiscal body, the judge shall fix and the county shall pay the salaries of ~~the probation officers and other~~ juvenile court employees **other than probation officers.**

~~(b)~~ (c) In addition to their annual salary, probation officers shall be reimbursed for any necessary travel expenses incurred in the performance of their duties in accordance with the law governing state officers and employees.

SECTION 4. IC 31-40-1-1.7 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.7. (a) A person may pay a monthly probation user's fee under section 1 or 1.5 of this chapter before the date the payment is required to be made without obtaining the prior approval of a court or a probation department. However, if a delinquent child is discharged from probation before the date the delinquent child was scheduled to be released from probation, any monthly probation user's fee paid in advance for the delinquent child may not be refunded.**

(b) A probation department may petition a court to:

(1) impose a probation user's fee on a person; or

(2) increase a person's probation user's fee;

under section 1 or 1.5 of this chapter if the financial ability of the person to pay a probation user's fee changes while the person is on probation.

(c) An order to pay a probation user's fee under section 1 or 1.5 of this chapter:

(1) is a judgment lien that:

(A) attaches to the property of the person subject to the order;

(B) may be perfected;

(C) may be enforced to satisfy any payment that is delinquent under section 1 or 1.5 of this chapter; and

(D) expires;

in the same manner as a judgment lien created in a civil proceeding;

(2) is not discharged by the completion of the person's probationary period or other sentence imposed on the person; and

(3) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5.

(d) A delinquent child placed on probation for more than one (1) delinquent act:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month;

to either the probation department or the clerk of the court.

(e) If a court orders a person to pay a probation user's fee under

section 1 or 1.5 of this chapter, the court may garnish the wages, salary, and other income earned by the person to enforce the order.

(f) If:

- (1) a person is delinquent in paying the person's probation user's fees required under section 1 or 1.5 of this chapter; and**
- (2) the person's driver's license or permit has been suspended or revoked or the person has never been issued a driver's license or permit;**

the court may order the bureau of motor vehicles to not issue a driver's license or permit to the person until the person has paid the person's delinquent probation user's fees.

SECTION 5. IC 31-40-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Subject to IC 31-40-1-3, a juvenile court may order each delinquent child who receives supervision under IC 31-37-19 or the child's parent, guardian, or custodian to pay to **either** the probation department **or the clerk of the court:**

- (1) an initial probation user's fee of at least twenty-five dollars (\$25) but not more than one hundred dollars (\$100); ~~and~~**
 - (2) a probation user's fee of at least ~~five ten~~ **ten** dollars (~~\$5~~) **(\$10)** but not more than ~~fifteen~~ **twenty-five** dollars (~~\$15~~) **(\$25)** for each month the child receives supervision; **and****
 - (3) an administrative fee of one hundred dollars (\$100) if the delinquent child is supervised by a juvenile probation officer.**
- (b) If a clerk of a court collects a probation user's fee, the clerk:**
- (1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-19-6-1.5; and**
 - (2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:**
 - (A) county auditor who shall deposit the money transferred under this subdivision into the county general fund;**
 - (B) city general fund when requested by the city fiscal officer; or**
 - (C) town general fund when requested by the town fiscal**

officer.

(c) The probation department or clerk shall collect the administrative fee under subsection (a)(3) before collecting any other fee under subsection (a). The probation department or the clerk shall deposit the probation user's fees and the administrative fees paid under subsection (a) into the county supplemental juvenile probation services fund.

(d) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(e) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (a).

(f) The probation department shall deposit the credit card service fees collected under subsection (e) into the county supplemental juvenile probation services fund. These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 6. IC 31-40-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. Notwithstanding the probation user's fee amounts established under section 1 of this chapter, a court may order a person to pay a probation user's fee that exceeds the maximum amount allowed under section 1 of this chapter if:

- (1) the person was placed on probation in another state and moved or was transferred to Indiana;**
- (2) the other state allows a higher probation user's fee than the maximum amount allowed under section 1 of this chapter;**

and

(3) the probation user's fee the court orders the person to pay does not exceed the maximum amount allowed in the other state.

SECTION 7. IC 31-40-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The fiscal body of the county shall appropriate money from the county supplemental juvenile probation services fund:

(1) to the juvenile courts of the county for the use by the courts in supplementing probation services to juveniles; and

(2) to supplement the salaries of juvenile probation officers in accordance with the salary schedule set by the county fiscal body under IC 36-2-16.5.

(b) Money in the county supplemental juvenile probation services fund may be used only for supplementing probation services and ~~for salary increases for~~ **to supplement the salaries of** probation officers in accordance with IC 31-31-5.

SECTION 8. IC 33-19-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6.5. Credit Card Service Fee

Sec. 1. This chapter applies to any transaction in which:

(1) the clerk is required to collect money from a person, including:

(A) bail;

(B) a fine;

(C) a civil penalty;

(D) a court fee, court cost, or user fee imposed by the court; or

(E) a fee for the preparation, duplication, or transmission of a document; and

(2) the person pays the clerk by means of a credit card, debit card, charge card, or similar method.

Sec. 2. A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit. The clerk may contract with a bank or credit card vendor for acceptance of

bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk may collect a credit card service fee from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

Sec. 3. The clerk shall forward credit card service fees collected under section 2 of this chapter to the county auditor or city or town fiscal officer in accordance with IC 33-19-1-3(a). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 9. IC 35-33-8-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 9. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee if a credit card service fee is imposed under IC 33-19-6.5.**

SECTION 10. IC 35-33-9-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 7. In addition to any other condition of bail imposed under this chapter, a defendant who posts bail by means of a credit card shall pay the credit card service fee if a credit card service fee is imposed under IC 33-19-6.5.**

SECTION 11. IC 35-38-2-1, AS AMENDED BY P.L.170-2002, SECTION 132, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1. (a) Whenever it places a person on probation, the court shall:**

- (1) specify in the record the conditions of the probation; and
- (2) advise the person that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:
 - (A) One (1) year after the termination of probation.
 - (B) Forty-five (45) days after the state receives notice of the violation.

(b) In addition, if the person was convicted of a felony and is placed on probation, the court shall order the person to pay to the probation department the user's fee prescribed under subsection (c). If the person

was convicted of a misdemeanor, the court may order the person to pay the user's fee prescribed under subsection (d). The court may:

- (1) modify the conditions (except a fee payment ~~under subsection (e)~~ **may only be modified as provided in section 1.7(b) of this chapter**); or
- (2) terminate the probation;

at any time. If the person commits an additional crime, the court may revoke the probation.

(c) If a clerk of a court collects a probation user's fee, the clerk:

- (1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-19-6-1.5; and**
- (2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:**
 - (A) county auditor, who shall deposit the money transferred under this subdivision into the county general fund;**
 - (B) city general fund when requested by the city fiscal officer; or**
 - (C) town general fund when requested by the town fiscal officer.**

~~(e)~~ **(d)** In addition to any other conditions of probation, the court shall order each person convicted of a felony to pay:

- (1) not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) as an initial probation user's fee;
- (2) a monthly probation user's fee of not less than ~~five~~ **fifteen** dollars ~~(\$5)~~ **(\$15)** nor more than ~~fifteen~~ **thirty** dollars ~~(\$15)~~ **(\$30)** for each month that the person remains on probation;
- (3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; ~~and~~
- (4) an alcohol abuse deterrent fee and a medical fee set by the court under IC 9-30-9-8, if the court has referred the defendant to an alcohol abuse deterrent program; **and**

(5) an administrative fee of one hundred dollars (\$100);
to either the probation department or the clerk.

~~(d)~~ **(e)** In addition to any other conditions of probation, the court may order each person convicted of a misdemeanor to pay:

- (1) not more than a fifty dollar (\$50) initial probation user's fee;
- (2) ~~not more than a ten dollar (\$10)~~ **monthly probation user's fee of not less than ten dollars (\$10) nor more than twenty dollars (\$20)** for each month that the person remains on probation; ~~and~~
- (3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; **and**

(4) an administrative fee of fifty dollars (\$50);
to either the probation department or the clerk.

~~(e)~~ **(f)** The probation department or clerk shall collect the administrative fees under subsections **(d)(5) and (e)(4) before collecting any other fee under subsection (d) or (e)**. All money collected by the probation department or the clerk under this section shall be transferred to the county treasurer who shall deposit the money into the county supplemental adult probation services fund. The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

- (1) to the county, superior, circuit, or municipal court of the county that provides probation services to adults to supplement adult probation services; and**
- (2) to supplement the salaries of probation officers in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.**

~~(f)~~ **(g)** The probation department or clerk shall collect the administrative fee under subsection **(e)(4) before collecting any other fee under subsection (e)**. All money collected by the probation department or the clerk of a city or town court under this section shall be transferred to the fiscal officer of the city or town. ~~The fiscal officer shall for~~ deposit the money into the local supplemental adult probation services fund. The fiscal body of the city or town shall appropriate money from the local supplemental adult probation services fund to the city or town court of the city or town for the court's use in providing

probation services to adults or for the court's use for other purposes as may be appropriated by the fiscal body. Money may be appropriated under this subsection only to those city or town courts that have an adult probation services program. If a city or town court does not have such a program, the money collected by the probation department must be transferred and appropriated as provided under subsection ~~(e)~~: **(f)**.

~~(g)~~ **(h)** Except as provided in subsection ~~(f)~~; **(j)**, the county or local supplemental adult probation services fund may be used only to supplement probation services and to ~~increase~~ **supplement** salaries for probation officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.

~~(h)~~ **(i)** A person placed on probation for more than one (1) crime:

(1) may ~~not~~ be required to pay more than ~~(1)~~ one (1) initial probation user's fee; and

(2) **may not be required to pay more than** one (1) monthly probation user's fee per month;

to the probation department **or the clerk.**

~~(i)~~ **(j)** This subsection applies to a city or town located in a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000). Any money remaining in the local supplemental adult probation services fund at the end of the local fiscal year may be appropriated by the city or town fiscal body to the city or town court for use by the court for purposes determined by the fiscal body.

(k) **In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.**

(l) **The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to**

the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (d) or (e).

(m) The probation department shall forward the credit card service fees collected under subsection (l) to the county treasurer or city or town fiscal officer in accordance with subsection (f) or (g). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.

SECTION 12. IC 35-38-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. Notwithstanding the probation user's fee amounts established under section 1 of this chapter, a court may order a person to pay a probation user's fee that exceeds the maximum amount allowed under section 1 of this chapter if:**

- (1) the person was placed on probation in another state and moved or was transferred to Indiana;**
- (2) the other state allows a higher probation user's fee than the maximum amount allowed under section 1 of this chapter;**
- and**
- (3) the probation user's fee the court orders the person to pay does not exceed the maximum amount allowed in the other state.**

SECTION 13. IC 35-38-2-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.7. (a) A person may pay a monthly probation user's fee under section 1 or 1.5 of this chapter before the date the payment is required to be made without obtaining the prior approval of a court or a probation department. However, if the person is discharged from probation before the date the person was scheduled to be released from probation, any monthly probation user's fee paid in advance by the person may not be refunded.**

- (b) A probation department may petition a court to:**
- (1) impose a probation user's fee on a person; or**
 - (2) increase a person's probation user's fee;**

under section 1 or 1.5 of this chapter if the financial ability of the person to pay a probation user's fee changes while the person is on probation.

(c) An order to pay a probation user's fee under section 1 or 1.5 of this chapter:

(1) is a judgment lien that:

(A) attaches to the property of the person subject to the order;

(B) may be perfected;

(C) may be enforced to satisfy any payment that is delinquent under section 1 or 1.5 of this chapter; and

(D) expires;

in the same manner as a judgment lien created in a civil proceeding;

(2) is not discharged by the completion of the person's probationary period or other sentence imposed on the person; and

(3) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5.

(d) If a court orders a person to pay a probation user's fee under section 1 or 1.5 of this chapter, the court may garnish the wages, salary, and other income earned by the person to enforce the order.

(e) If:

(1) a person is delinquent in paying the person's probation user's fees required under section 1 or 1.5 of this chapter; and

(2) the person's driver's license or permit has been suspended or revoked or the person has never been issued a driver's license or permit;

the court may order the bureau of motor vehicles to not issue a driver's license or permit to the person until the person has paid the person's delinquent probation user's fees.

SECTION 14. IC 36-2-16.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 16.5. Salary Schedule for Probation Officers

Sec. 1. This chapter applies to all counties, cities, and towns that employ probation officers.

Sec. 2. As used in this chapter, "probation officer" means a

probation officer or a juvenile probation officer.

Sec. 3. In consultation with:

(1) at least one (1) judge of a court or division of a court authorized to impose probation; and

(2) at least one (1) probation officer;

the county, city, or town fiscal body shall adopt a salary schedule setting the compensation of a probation officer. The salary schedule must comply with the minimum compensation requirements for probation officers adopted by the judicial conference of Indiana under IC 11-13-1-8.

Sec. 4. The county, city, or town fiscal body shall fix the salary of a probation officer based on the salary schedule adopted under this chapter.

Sec. 5. Unless otherwise specified in the salary schedule, a probation officer is entitled to the same benefits, holidays, and hours as other county, city, or town employees.

SECTION 15. [EFFECTIVE JULY 1, 2003] IC 31-40-1-1.7(b), IC 31-40-1-1.7(d), IC 31-40-2-1(a), IC 31-40-2-1(b), IC 31-40-2-1.5, IC 35-38-2-1(c), IC 35-38-2-1(d), IC 35-38-2-1(e), IC 35-38-2-1(i), IC 35-38-2-1.5, and IC 35-38-2-1.7(b), all as amended by this act, apply only to individuals who are placed on probation after June 30, 2003.

SECTION 16. [EFFECTIVE JULY 1, 2003] (a) Except as provided in subsection (b), the administrative fee deposited into:

(1) the county supplemental juvenile probation services fund under IC 31-40-2-1;

(2) the county supplemental adult probation services fund under IC 35-38-2-1(f);

(3) the local supplemental adult probation services fund under IC 35-38-2-1(g);

as amended by this act shall be used to pay for salary increases required under the salary schedule adopted under IC 36-2-16.5 and IC 11-13-8 that became effective January 1, 2004.

(b) Administrative fees collected that exceed the amount required to pay for salary increases required under the salary schedule adopted under IC 36-2-16.5 and IC 11-13-1-8 may be used in any manner permitted under IC 31-40-2-2, IC 35-38-2-1(f), or IC 35-38-2-1(i).

P.L.278-2003

[SJ.5. Passed April 14, 2003.]

A JOINT RESOLUTION proposing an amendment to Article 10, SECTION 1 of the Constitution of the State of Indiana concerning taxation.

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

SECTION 1. The following proposed amendment to the Constitution of the State of Indiana, which was agreed to by the One Hundred Twelfth General Assembly of the State of Indiana and referred to this General Assembly for reconsideration and agreement, is agreed to by this the One Hundred Thirteenth General Assembly of the State of Indiana.

SECTION 2. ARTICLE 10, SECTION 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 1. (a) The General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal. The General Assembly may exempt from property taxation any property in any of the following classes:

- (1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.
- (2) Tangible personal property other than ~~property being held for sale in the ordinary course of a trade or business; property being held used or consumed in connection with the production of income or~~ property being held as an investment.
- (3) Intangible personal property.
- (4) Tangible real property, including curtilage, used as a principal place of residence by an:**
 - (A) owner of the property;**
 - (B) individual who is buying the tangible real property under a contract; or**
 - (C) individual who has a beneficial interest in the owner of**

the tangible real property.

(b) The General Assembly may exempt any motor vehicles, mobile homes, airplanes, boats, trailers, or similar property, provided that an excise tax in lieu of the property tax is substituted therefor.



P.L.279-2003

[HJ.7. Passed April 1, 2003.]

A JOINT RESOLUTION proposing an amendment to Article 6, Section 2 of the Indiana Constitution concerning local government.

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

SECTION 1. The following amendment to the Constitution of the State of Indiana, which was agreed to by the One Hundred Twelfth General Assembly and referred to this General Assembly for reconsideration and agreement, is agreed to by this the One Hundred Thirteenth General Assembly of the State of Indiana.

SECTION 2. ARTICLE 6, SECTION 2 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 2. (a) There shall be elected, in each county by the voters thereof, at the time of holding general elections, a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor, who shall, severally, hold their offices for four years. ~~and~~

(b) The General Assembly may provide by law for uniform dates for beginning the terms of the county officials listed in subsection (a). If the General Assembly enacts a law to provide a uniform date for beginning the terms of a county official listed in subsection (a), the General Assembly may provide that the term of each county official initially elected after enactment of the law to provide the uniform date for beginning the terms of the county official is for less than four years in order to establish a uniform schedule of dates for the beginning of terms for the office. However, after the initial election for each office, the term for that office shall be for four years.

(c) No person shall be eligible to the office of Clerk, Auditor, Recorder, Treasurer, Sheriff, or Coroner more than eight years in any period of twelve years.



P.L.280-2003

[HJ.8. Passed April 8, 2003.]

A JOINT RESOLUTION proposing an amendment to Article 5 of the Indiana Constitution concerning state offices and administration.

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

SECTION 1. The following amendment to the Constitution of the State of Indiana, which was agreed to by the One Hundred Twelfth General Assembly and referred to this General Assembly for reconsideration and agreement, is agreed to by this the One Hundred Thirteenth General Assembly of the State of Indiana.

SECTION 2. ARTICLE 5, SECTION 10 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 10. (a) In case the Governor-elect fails to assume office, or in case of the death or resignation of the Governor or ~~his the~~ **Governor's** removal from office, the Lieutenant Governor shall become Governor and hold office for the unexpired term of the person whom ~~he the~~ **Lieutenant Governor** succeeds. In case the Governor is unable to discharge the powers and duties of ~~his the~~ office, the Lieutenant Governor shall discharge the powers and duties of the office as Acting Governor.

(b) Whenever there is a vacancy in the office of Lieutenant Governor, the Governor shall nominate a Lieutenant Governor who shall take office upon confirmation by a majority vote in each house of the General Assembly and hold office for the unexpired term of the ~~person whom he succeeds:~~ **previous Lieutenant Governor**. If the General Assembly is not in session, the Governor shall call it into special session to receive and act upon the Governor's nomination. In the event of the inability of the Lieutenant Governor to discharge the

powers and duties of **his the** office, the General Assembly may provide by law for the manner in which a person shall be selected to act in **his the Lieutenant Governor's** place and declare which powers and duties of the office such person shall discharge.

(c) Whenever the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives **his the Governor's** written declaration that **he the Governor** is unable to discharge the powers and duties of **his the** office, and until **he the Governor** transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as Acting Governor. Thereafter, when the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives **his the Governor's** written declaration that no inability exists, **he the Governor** shall resume the powers and duties of **his the** office.

(d) Whenever the President pro tempore of the Senate and the Speaker of the House of Representatives file with the Supreme Court a written statement suggesting that the Governor is unable to discharge the powers and duties of **his the** office, the Supreme Court shall meet within forty-eight hours to decide the question and such decision shall be final. Thereafter, whenever the Governor files with the Supreme Court **his the Governor's** written declaration that no inability exists, the Supreme Court shall meet within forty-eight hours to decide whether such be the case and such decision shall be final. Upon a decision that no inability exists, the Governor shall resume the powers and duties of **his the** office.

(e) Whenever there is a vacancy in both the office of Governor and Lieutenant Governor, the General Assembly shall convene in joint session forty-eight hours after such occurrence and elect a Governor from and of the same political party as the immediately past Governor by a majority vote of each house. **If either house of the General Assembly is unable to assemble a quorum of its members because of vacancies in the membership of that house, the General Assembly shall convene not later than forty-eight hours after a sufficient number of the vacancies are filled to provide a quorum of members for that house.**

(f) **An individual holding one (1) of the following offices shall discharge the powers and duties of the governor if the office of**

governor and the office of lieutenant governor are both vacant, in the order listed:

- (1) The speaker of the house of representatives.**
 - (2) The president pro tempore of the senate, if the office described in subdivision (1) is vacant.**
 - (3) The treasurer of state, if the offices described in subdivisions (1) and (2) are vacant.**
 - (4) The auditor of state, if the offices described in subdivisions (1) through (3) are vacant.**
 - (5) The secretary of state, if the offices described in subdivisions (1) through (4) are vacant.**
 - (6) The state superintendent of public instruction, if the offices described in subdivisions (1) through (5) are vacant.**
- (g) An individual's authority to discharge the governor's powers and duties under subsection (f) ends when the general assembly fills the office of governor under this section.**

CERTIFICATE

INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L.1-2003 through P.L.280-2003 of the First Regular Session of the One Hundred Thirteenth General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 28th day of May, 2003.



Robert D. Garton
President Pro Tempore, Senate



B. Patrick Bauer
Speaker, House of Representatives

Seal

STATEMENT OF FUND NET ASSETS OF AUDITOR OF STATE
For the Year Ended June 30, 2002
(amounts expressed in thousands)

	Balance July 1, 2001	Revenues	Expenditures	Balance June 30, 2002
<u>Governmental Funds</u>				
General Fund	\$1,799,076	\$7,341,746	\$7,536,060	\$1,079,334
Other Financing Sources (Net)		(525,428)		
Special Revenue Funds	853,444	9,527,323	9,713,461	1,057,760
Other Financing Sources (Net)		390,454		
Highway Fund	112,208	600,486	986,717	238,832
Other Financing Sources (Net)		512,855		
Capital Projects Funds	636,434	53,179	89,016	246,313
Other Financing Sources (Net)		(354,284)		
Permanent Funds	474,429	7,024	26,693	471,277
Other Financing Sources (Net)		16,517		
<u>Proprietary Funds</u>				
Enterprise Funds	2,216,940	1,374,784	1,408,409	2,095,481
Nonoperating Revenues (Net)		19,381		
Operating Transfers (Net)		(107,215)		
Internal Service Funds	85,645	285,812	231,494	97,491
Nonoperating Revenues (Net)		(32,870)		
Operating Transfers (Net)		(9,602)		
<u>Fiduciary Funds</u>				
Pension Trust Funds	797,353	42,031	45,198	794,186
Private-Purpose Trust Funds	23,287	86,900	84,816	25,371
Total	<u>\$6,998,816</u>	<u>\$19,229,093</u>	<u>\$20,121,864</u>	<u>\$6,106,045</u>

Due to the implementation of the financial reporting model described in GASB Statement 34, there were several reclassifications between fund types.

\$523.8 million was reclassified to discretely presented component units for the Pension Relief Fund.

\$26.0 million was reclassified from agency funds to private-purpose trust funds.

Please see the State's Comprehensive Annual Financial Report for more information.

TABLES

AND

INDEX

Affected Provisions Type SEC Effective P.L.

Noncode

0-2002(ss)-292-209 .	Amended	176	07/01/2002	224-2003
0-2003-256-42	Amended	36	07/01/2003	245-2003
0-1998-37-3	Amended	112	04/02/2003	1-2003
0-2001-39-1	Amended	3	07/01/2003	11-2003
0-2001-39-2	Amended	4	07/01/2003	11-2003
0-2001-140-1	Amended	1	07/01/2003	31-2003
0-2001-195-15	Amended	2	04/15/2003	33-2003
0-2001-220-1	Amended	111	04/02/2003	1-2003
0-2001-253-3	Repealed	2	04/14/2003	10-2003
0-2001-253-4	Amended	4	04/14/2003	10-2003
0-2001-291-101	Amended	173	07/01/2003	224-2003
0-2002-95-1	Amended	14	07/01/2003	243-2003
0-2002-107-14	Amended	14	05/07/2003	184-2003
0-2002-119-33	Repealed	24	05/05/2003	141-2003
0-2002-133-70	Amended	107	04/02/2003	1-2003
0-2002-137-5	Amended	1	07/01/2003	82-2003
0-2002-148-16	Amended	83	07/01/2003	186-2003
0-2002-162-10	Amended	108	04/02/2003	1-2003
0-2002-173-6	Amended	109	04/02/2003	1-2003
0-2002-178-147	Repealed	113	04/02/2003	1-2003
0-2002-178-155	Amended	110	03/28/2002	1-2003
0-2002(ss)-192-196	Amended	12	01/01/2003	269-2003
0-2002(ss)-192-199	Amended	14	01/01/2003	269-2003
0-2002(ss)-192-199	Amended	15	07/01/2002	269-2003
0-2002(ss)-192-200	Amended	16	07/01/2003	269-2003

Title 1

1-1-3.5-3	Amended	1	07/01/2003	66-2003
1-2-3-6	New	1	07/01/2003	163-2003

Title 2

2-5-1.1-16	Amended	1	04/02/2003	1-2003
2-5-19-19	Amended	1	05/07/2003	209-2003
2-5-23-8	Amended	1	07/01/2003	193-2003
2-5-26-15	Amended	1	07/01/2003	184-2003
2-5-27	Repealed	2	05/08/2003	247-2003
2-7-3-2	Amended	1	07/01/2003	162-2003
2-7-3-6	Amended	2	07/01/2003	162-2003

Affected Provisions	Type	SEC	Effective	P.L.
Title 3				
3-5-2-10	Amended	1	07/01/2003	69-2003
3-5-2-26.2	New	2	05/07/2003	209-2003
3-5-2-48.5	Amended	2	07/01/2003	66-2003
3-5-2-53	Amended	3	07/01/2003	209-2003
3-5-4-7	Amended	4	05/07/2003	209-2003
3-5-4-9	New	1	07/01/2003	263-2003
3-5-8-2	Amended	5	07/01/2003	209-2003
3-5-8-3	Amended	6	07/01/2003	209-2003
3-6-3.7	New	7	07/01/2003	209-2003
3-6-4.2-2.5	New	8	05/07/2003	209-2003
3-6-4.2-7	Amended	3	07/01/2003	66-2003
3-6-4.2-12	Amended	9	05/07/2003	209-2003
3-6-4.2-12.1	New	10	05/07/2003	209-2003
3-6-4.2-12.5	New	11	05/07/2003	209-2003
3-6-4.2-14	Amended	12	07/01/2003	209-2003
3-6-4.5	New	13	07/01/2003	209-2003
3-6-5-17	Amended	14	07/01/2003	209-2003
3-6-5-17.5	New	15	07/01/2003	209-2003
3-6-5-23	Amended	16	07/01/2003	209-2003
3-6-5.1	New	17	07/01/2003	209-2003
3-6-6-13	Amended	18	07/01/2003	209-2003
3-6-6-39	Amended	19	07/01/2003	209-2003
3-6-6-40	Amended	4	07/01/2003	66-2003
3-6-6-40	New	1	07/01/2003	116-2003
3-7-11-2	Amended	20	07/01/2003	209-2003
3-7-11-6	Amended	21	07/01/2003	209-2003
3-7-12-28	Amended	22	07/01/2003	209-2003
3-7-12-28.1	New	23	07/01/2003	209-2003
3-7-12-38	Amended	24	07/01/2003	209-2003
3-7-13-3	Amended	5	07/01/2003	66-2003
3-7-13-5	Amended	1	07/01/2003	195-2003
3-7-13-13	Amended	25	07/01/2003	209-2003
3-7-22-1	Amended	26	07/01/2003	209-2003
3-7-22-2	Amended	27	07/01/2003	209-2003
3-7-22-3	Amended	28	07/01/2003	209-2003
3-7-22-4	Amended	29	07/01/2003	209-2003
3-7-22-5	Amended	30	07/01/2003	209-2003
3-7-26-2	Amended	31	07/01/2003	209-2003
3-7-26-3	Amended	32	07/01/2003	209-2003
3-7-26-8	Amended	33	07/01/2003	209-2003

Affected Provisions	Type	SEC	Effective	P.L.
3-7-26-20	Repealed	203	05/07/2003	209-2003
3-7-26-21	New	34	07/01/2003	209-2003
3-7-26.3	New	35	07/01/2003	209-2003
3-7-27-6	Amended	36	07/01/2003	209-2003
3-7-27-8	Amended	6	07/01/2003	66-2003
3-7-27-20	Amended	37	07/01/2003	209-2003
3-7-27-20.1	New	38	07/01/2003	209-2003
3-7-27-21	Amended	39	07/01/2003	209-2003
3-7-27-21.1	New	40	07/01/2003	209-2003
3-7-27-22	Amended	41	07/01/2003	209-2003
3-7-27-23	Amended	42	07/01/2003	209-2003
3-7-28-5	Amended	7	07/01/2003	66-2003
3-7-28-7	Amended	1	05/08/2003	261-2003
3-7-29-1	Amended	43	07/01/2003	209-2003
3-7-29-3	Amended	44	07/01/2003	209-2003
3-7-29-4	Amended	45	07/01/2003	209-2003
3-7-30-1	Amended	46	07/01/2003	209-2003
3-7-30-5	Amended	47	07/01/2003	209-2003
3-7-30-6	Amended	48	07/01/2003	209-2003
3-7-33-2	Amended	49	07/01/2003	209-2003
3-7-33-4	Amended	50	07/01/2003	209-2003
3-7-33-4.5	New	51	07/01/2003	209-2003
3-7-33-5	Amended	52	07/01/2003	209-2003
3-7-34-1	Amended	53	07/01/2003	209-2003
3-7-34-2	Amended	54	07/01/2003	209-2003
3-7-34-3	Amended	55	07/01/2003	209-2003
3-7-34-5	Amended	56	07/01/2003	209-2003
3-7-34-12	Amended	57	07/01/2003	209-2003
3-7-35-2	Amended	58	07/01/2003	209-2003
3-7-35-2.1	New	59	07/01/2003	209-2003
3-7-35-3	Amended	60	07/01/2003	209-2003
3-7-35-3.1	New	61	07/01/2003	209-2003
3-7-38.1-4	Amended	8	07/01/2003	66-2003
3-7-38.1-11	New	62	07/01/2003	209-2003
3-7-38.2-2	Amended	63	07/01/2003	209-2003
3-7-38.2-3	Amended	64	07/01/2003	209-2003
3-7-38.2-4	Amended	65	07/01/2003	209-2003
3-7-38.2-5	Amended	66	07/01/2003	209-2003
3-7-40-2	Amended	67	07/01/2003	209-2003
3-7-40-4	Amended	68	07/01/2003	209-2003
3-7-40-6	Amended	69	07/01/2003	209-2003
3-7-40-7	Amended	70	07/01/2003	209-2003

Affected Provisions	Type	SEC	Effective	P.L.
3-7-42-4	Amended	71	07/01/2003	209-2003
3-7-43-3	Amended	72	07/01/2003	209-2003
3-7-43-6	Amended	73	07/01/2003	209-2003
3-7-43-7	Amended	74	07/01/2003	209-2003
3-7-43-8	Amended	75	07/01/2003	209-2003
3-7-45-2	Amended	76	07/01/2003	209-2003
3-7-45-2.1	New	77	07/01/2003	209-2003
3-7-45-3	Amended	78	07/01/2003	209-2003
3-7-45-4	Amended	79	07/01/2003	209-2003
3-7-45-5	Amended	80	07/01/2003	209-2003
3-7-45-6	Amended	81	07/01/2003	209-2003
3-7-45-6.1	New	82	07/01/2003	209-2003
3-7-45-8	Amended	83	07/01/2003	209-2003
3-7-46-1	Amended	84	07/01/2003	209-2003
3-7-46-3	Amended	85	07/01/2003	209-2003
3-7-46-4	Amended	86	07/01/2003	209-2003
3-7-46-4.1	New	87	07/01/2003	209-2003
3-7-46-5	Amended	88	07/01/2003	209-2003
3-7-46-6	Amended	9	07/01/2003	66-2003
3-7-46-6	Amended	89	07/01/2003	209-2003
3-7-46-7	Amended	90	07/01/2003	209-2003
3-7-46-7.5	New	91	05/07/2003	209-2003
3-7-46-8	Amended	92	07/01/2003	209-2003
3-7-46-9	Amended	93	07/01/2003	209-2003
3-7-48-8	Amended	10	07/01/2003	66-2003
3-8-1-2	Amended	11	07/01/2003	66-2003
3-8-1-32	Amended	12	07/01/2003	66-2003
3-8-2-2.5	Amended	13	07/01/2003	66-2003
3-8-2-7	Amended	2	07/01/2003	69-2003
3-8-6-12	Amended	14	07/01/2003	66-2003
3-8-6-14	Amended	15	07/01/2003	66-2003
3-8-7-2	Amended	16	07/01/2003	66-2003
3-8-7-12	Amended	17	07/01/2003	66-2003
3-8-7-14	Amended	18	07/01/2003	66-2003
3-8-7-16	Amended	19	07/01/2003	66-2003
3-9-3-1	Amended	20	07/01/2003	66-2003
3-9-3-5	New	21	07/01/2003	66-2003
3-9-4-4	Amended	1	07/01/2003	45-2003
3-9-4-6	Amended	22	07/01/2003	66-2003
3-9-4-16	Amended	23	07/01/2003	66-2003
3-9-4-17	Amended	24	07/01/2003	66-2003
3-9-5-8	Amended	25	07/01/2003	66-2003

Affected Provisions	Type	SEC	Effective	P.L.
3-9-5-13	Amended	26	07/01/2003	66-2003
3-9-5-20.1	Amended	27	07/01/2003	66-2003
3-10-1-7	Amended	94	07/01/2003	209-2003
3-10-1-7.1	New	95	07/01/2003	209-2003
3-10-1-8	Amended	96	07/01/2003	209-2003
3-10-1-10.5	New	97	07/01/2003	209-2003
3-10-1-13	Amended	28	07/01/2003	66-2003
3-10-1-24	Amended	98	07/01/2003	209-2003
3-10-1-24.5	Amended	99	07/01/2003	209-2003
3-10-1-24.6	New	100	07/01/2003	209-2003
3-10-1-31	Amended	29	07/01/2003	66-2003
3-10-1-31	Amended	101	07/01/2003	209-2003
3-10-1-34	Amended	30	07/01/2003	66-2003
3-10-2-15	Amended	31	07/01/2003	66-2003
3-10-4-5	Amended	32	07/01/2003	66-2003
3-10-7-4	Amended	33	07/01/2003	66-2003
3-10-7-33	Amended	102	07/01/2003	209-2003
3-10-8-4.5	Amended	10	07/01/2003	2-2003
3-10-11-5	Amended	103	07/01/2003	209-2003
3-10-12-3.5	New	104	07/01/2003	209-2003
3-11-1.5-17	Amended	2	04/02/2003	1-2003
3-11-2-2	Amended	34	07/01/2003	66-2003
3-11-2-4	Amended	35	07/01/2003	66-2003
3-11-3-11	Amended	105	07/01/2003	209-2003
3-11-3-16	Amended	106	07/01/2003	209-2003
3-11-3-17	Amended	107	07/01/2003	209-2003
3-11-3-18	Amended	108	07/01/2003	209-2003
3-11-3-19	Amended	109	07/01/2003	209-2003
3-11-3-21	Amended	110	07/01/2003	209-2003
3-11-3-24	Amended	3	07/01/2003	69-2003
3-11-3-25	Amended	111	07/01/2003	209-2003
3-11-4-3	Amended	3	04/02/2003	1-2003
3-11-4-5.5	New	112	07/01/2003	209-2003
3-11-4-6	Amended	4	04/02/2003	1-2003
3-11-4-6	Amended	113	07/01/2003	209-2003
3-11-4-8	Amended	36	07/01/2003	66-2003
3-11-4-13	Amended	37	07/01/2003	66-2003
3-11-4-14	Amended	38	07/01/2003	66-2003
3-11-4-15	Amended	39	07/01/2003	66-2003
3-11-4-17.5	Amended	114	07/01/2003	209-2003
3-11-4-17.7	Amended	115	07/01/2003	209-2003
3-11-4-18	Amended	116	07/01/2003	209-2003

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Affected Provisions	Type	SEC	Effective	P.L.
3-11-4-19	Amended	2	07/01/2003	263-2003
3-11-4-21	Amended	117	07/01/2003	209-2003
3-11-6.5-0.3	New	118	05/07/2003	209-2003
3-11-6.5-0.5	New	2	07/01/2003	116-2003
3-11-6.5-0.7	New	119	05/07/2003	209-2003
3-11-6.5-1	Amended	120	05/07/2003	209-2003
3-11-6.5-2	Amended	121	05/07/2003	209-2003
3-11-6.5-3	Repealed	203	05/07/2003	209-2003
3-11-6.5-3.1	New	122	05/07/2003	209-2003
3-11-6.5-4	Amended	123	05/07/2003	209-2003
3-11-6.5-5	Amended	124	05/07/2003	209-2003
3-11-6.5-6	Repealed	203	05/07/2003	209-2003
3-11-6.5-6.1	New	125	05/07/2003	209-2003
3-11-6.5-7	Repealed	203	05/07/2003	209-2003
3-11-6.5-7.1	New	126	05/07/2003	209-2003
3-11-6.5-8	Amended	127	07/01/2003	209-2003
3-11-8-1.2	New	3	07/01/2003	116-2003
3-11-8-2	Amended	4	07/01/2003	116-2003
3-11-8-3	Amended	5	07/01/2003	116-2003
3-11-8-3.1	Amended	6	07/01/2003	116-2003
3-11-8-3.2	Amended	7	07/01/2003	116-2003
3-11-8-3.4	New	128	05/07/2003	209-2003
3-11-8-4.2	Repealed	11	07/01/2003	116-2003
3-11-8-6	Amended	8	07/01/2003	116-2003
3-11-8-6.5	New	9	07/01/2003	116-2003
3-11-8-7	Amended	4	07/01/2003	69-2003
3-11-8-11	Amended	129	07/01/2003	209-2003
3-11-8-15	Amended	40	07/01/2003	66-2003
3-11-8-15	Amended	130	07/01/2003	209-2003
3-11-8-16	Amended	5	07/01/2003	69-2003
3-11-8-22	Amended	131	07/01/2003	209-2003
3-11-8-23	Amended	132	07/01/2003	209-2003
3-11-8-23.5	New	133	07/01/2003	209-2003
3-11-8-25	Amended	134	07/01/2003	209-2003
3-11-8-25.1	New	135	07/01/2003	209-2003
3-11-8-25.5	Amended	136	07/01/2003	209-2003
3-11-8-26	Amended	137	07/01/2003	209-2003
3-11-8-26.1	New	138	07/01/2003	209-2003
3-11-8-27.5	New	139	01/01/2004	209-2003
3-11-9-5	New	41	07/01/2003	66-2003
3-11-10-4.5	New	140	07/01/2003	209-2003
3-11-10-11	Amended	141	07/01/2003	209-2003

Affected Provisions	Type	SEC	Effective	P.L.
3-11-10-12	Amended	142	07/01/2003	209-2003
3-11-10-16	Amended	143	07/01/2003	209-2003
3-11-10-16.5	New	144	07/01/2003	209-2003
3-11-10-17	Amended	5	04/02/2003	1-2003
3-11-10-24.5	New	145	07/01/2003	209-2003
3-11-10-25	Amended	146	07/01/2003	209-2003
3-11-10-26	Amended	147	07/01/2003	209-2003
3-11-10-26.2	New	6	07/01/2003	69-2003
3-11-10-27	Amended	3	07/01/2003	263-2003
3-11-10-28	Amended	148	07/01/2003	209-2003
3-11-10-35	Amended	149	07/01/2003	209-2003
3-11-10-39	Amended	42	07/01/2003	66-2003
3-11-11-1.2	New	150	07/01/2003	209-2003
3-11-11-6	Amended	151	07/01/2003	209-2003
3-11-11-7	Amended	152	07/01/2003	209-2003
3-11-11-9	Amended	153	07/01/2003	209-2003
3-11-12-40	New	154	07/01/2003	209-2003
3-11-13-4	Repealed	55	07/01/2003	66-2003
3-11-13-4.5	New	155	07/01/2003	209-2003
3-11-13-18	Amended	156	07/01/2003	209-2003
3-11-13-20	Amended	157	07/01/2003	209-2003
3-11-13-28.5	Amended	158	07/01/2003	209-2003
3-11-13-28.7	Amended	159	07/01/2003	209-2003
3-11-13-29	Amended	160	07/01/2003	209-2003
3-11-13-31.7	Amended	161	07/01/2003	209-2003
3-11-14-23	Amended	162	07/01/2003	209-2003
3-11-15-13	Amended	10	07/01/2003	116-2003
3-11-15-13	Amended	163	07/01/2003	209-2003
3-11-15-13.1	New	43	04/28/2003	66-2003
3-11-15-13.3	New	164	07/01/2003	209-2003
3-11-15-13.5	New	165	07/01/2003	209-2003
3-11-15-20	Amended	166	07/01/2003	209-2003
3-11-15-32	Amended	167	07/01/2003	209-2003
3-11-15-43	Amended	168	07/01/2003	209-2003
3-11.5-4-12	Amended	169	07/01/2003	209-2003
3-11.5-4-13	Amended	6	04/02/2003	1-2003
3-11.7-1-5	Amended	170	07/01/2003	209-2003
3-11.7-2-1	Amended	171	07/01/2003	209-2003
3-11.7-2-2	Amended	172	07/01/2003	209-2003
3-11.7-2-3	Amended	173	07/01/2003	209-2003
3-11.7-2-4	Amended	174	07/01/2003	209-2003
3-11.7-3-5	Amended	175	07/01/2003	209-2003

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Affected Provisions	Type	SEC	Effective	P.L.
3-11.7-5-2	Amended	176	07/01/2003	209-2003
3-11.7-5-3	Amended	177	07/01/2003	209-2003
3-11.7-5-8	Amended	178	07/01/2003	209-2003
3-11.7-6-3	New	179	07/01/2003	209-2003
3-12-1-1.2	New	180	07/01/2003	209-2003
3-12-2-1	Amended	181	07/01/2003	209-2003
3-12-2.5-10	New	182	07/01/2003	209-2003
3-12-3-1.1	New	183	07/01/2003	209-2003
3-12-3-5	Amended	4	05/08/2003	263-2003
3-12-3.5-1.1	New	184	07/01/2003	209-2003
3-12-4-4	Amended	185	07/01/2003	209-2003
3-12-4-5.5	New	186	07/01/2003	209-2003
3-12-5-1.5	New	187	07/01/2003	209-2003
3-12-5-14	Amended	44	07/01/2003	66-2003
3-12-6-1.2	New	188	07/01/2003	209-2003
3-12-6-9	Amended	45	07/01/2003	66-2003
3-12-6-22.5	Amended	46	07/01/2003	66-2003
3-12-8-2.5	New	189	07/01/2003	209-2003
3-12-8-8	Amended	47	07/01/2003	66-2003
3-12-11-1.5	New	190	07/01/2003	209-2003
3-12-12-1.5	New	191	07/01/2003	209-2003
3-13-1-15	Amended	48	07/01/2003	66-2003
3-13-1-20	Amended	49	07/01/2003	66-2003
3-13-2-8	Amended	50	07/01/2003	66-2003
3-13-9-4	Amended	7	04/02/2003	1-2003
3-13-11-3.5	Amended	8	04/02/2003	1-2003
3-14-2-6	Amended	192	07/01/2003	209-2003
3-14-2-19	Amended	51	07/01/2003	66-2003
3-14-3-16	Amended	52	07/01/2003	66-2003
3-14-4-3.5	Amended	193	07/01/2003	209-2003
3-14-4-9	Amended	53	07/01/2003	66-2003
3-14-6-1	Amended	194	07/01/2003	209-2003
3-14-6-1.1	New	195	07/01/2003	209-2003
3-14-6-2	Amended	196	07/01/2003	209-2003

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4-1-8-1	Amended	2	05/08/2003	261-2003
4-1-8-1	Amended	1	07/01/2003	178-2003
4-1-9	New	3	05/08/2003	261-2003
4-1.5	New	260	07/01/2003	224-2003
4-4-3.7-2.5	Amended	1	07/01/2003	13-2003

Affected Provisions	Type	SEC	Effective	P.L.
4-4-3.7-3	Amended	2	07/01/2003	13-2003
4-4-5.1-12	New	245	07/01/2003	224-2003
4-4-8-1	Amended	1	07/01/2003	254-2003
4-4-9.3	New	177	07/01/2003	224-2003
4-4-9.5-4	New	178	07/01/2003	224-2003
4-4-10.9-1	Amended	271	07/01/2003	224-2003
4-4-10.9-5.5	New	272	07/01/2003	224-2003
4-4-10.9-6.1	New	273	07/01/2003	224-2003
4-4-19-3	Amended	1	07/01/2003	30-2003
4-4-30-5	Amended	1	07/01/2003	171-2003
4-4-31	New	274	07/01/2003	224-2003
4-6-9-4	Amended	1	07/01/2003	49-2003
4-6-9.1-1	Amended	11	07/01/2003	2-2003
4-6-9.1-7	Amended	12	07/01/2003	2-2003
4-6-10-1.5	New	1	07/01/2003	73-2003
4-6-10-3	Amended	2	07/01/2003	73-2003
4-12-1-11.5	New	278	05/08/2003	224-2003
4-12-1-14.3	Amended	117	07/01/2003	224-2003
4-12-8.5-3	Amended	118	07/01/2003	224-2003
4-12-11	New	179	07/01/2003	224-2003
4-13-1-15	Amended	13	07/01/2003	2-2003
4-13-1.4-2	Amended	14	07/01/2003	2-2003
4-13-16.5-2	Amended	1	04/22/2003	41-2003
4-13-16.5-4	Amended	2	04/22/2003	41-2003
4-13.6-9	New	1	07/01/2003	159-2003
4-15-1.8-7	Amended	39	05/08/2003	224-2003
4-15-2-2	Amended	40	05/08/2003	224-2003
4-15-2-3.8	Amended	15	07/01/2003	2-2003
4-20.5-6-2	Amended	16	07/01/2003	2-2003
4-20.5-6-5	Amended	17	07/01/2003	2-2003
4-20.5-6-7	Amended	18	07/01/2003	2-2003
4-20.5-6-8	Amended	19	07/01/2003	2-2003
4-21.5-2-4	Amended	1	07/01/2003	256-2003
4-21.5-2-4	Amended	1	07/01/2003	188-2003
4-21.5-2-6	Amended	1	07/01/2003	241-2003
4-21.5-7-3	Amended	1	05/08/2003	240-2003
4-22-2-28	Amended	2	07/01/2003	240-2003
4-22-2-37.1	Amended	1	07/01/2003	141-2003
4-22-2-37.1	Amended	9	04/02/2003	1-2003
4-22-2-37.1	Amended	1	05/08/2003	235-2003
4-22-2-37.1	Amended	1	07/01/2003	255-2003
4-23-5.5-16	Amended	2	07/01/2003	171-2003

Affected Provisions	Type	SEC	Effective	P.L.
4-23-16-12	Amended	1	07/01/2003	28-2003
4-23-28	New	1	05/08/2003	247-2003
4-30-16-3	Amended	41	07/01/2003	224-2003
4-32-6-16.5	New	2	07/01/2003	188-2003
4-32-8-5	New	3	05/07/2003	188-2003
4-32-9-35	New	4	07/01/2003	188-2003
4-32-9-36	New	5	07/01/2003	188-2003
4-32-13-6	New	6	07/01/2003	188-2003
4-32-13-7	New	7	07/01/2003	188-2003
4-32-13-8	New	8	07/01/2003	188-2003
4-32-13-9	New	9	07/01/2003	188-2003
4-32-15-1	Amended	10	07/01/2003	188-2003
4-32-15-2	Amended	11	07/01/2003	188-2003
4-33-1-1	Amended	1	07/01/2003	92-2003
4-33-1-5	Amended	2	07/01/2003	92-2003
4-33-2-2	Amended	3	07/01/2003	92-2003
4-33-2-11.1	New	4	07/01/2003	92-2003
4-33-2-11.5	New	5	07/01/2003	92-2003
4-33-2-14.5	New	6	07/01/2003	92-2003
4-33-2-14.6	New	7	07/01/2003	92-2003
4-33-2-17	Amended	8	07/01/2003	92-2003
4-33-3-17	Amended	9	07/01/2003	92-2003
4-33-3-22	Amended	12	01/01/2003	188-2003
4-33-4-1	Amended	10	07/01/2003	92-2003
4-33-4-2	Amended	11	07/01/2003	92-2003
4-33-4-3	Amended	1	07/01/2003	143-2003
4-33-4-3	Amended	12	07/01/2003	92-2003
4-33-4-3.5	Amended	13	07/01/2003	92-2003
4-33-4-3.6	Repealed	63	07/01/2003	92-2003
4-33-4-4	Amended	14	07/01/2003	92-2003
4-33-4-6	Amended	15	07/01/2003	92-2003
4-33-4-7	Amended	2	07/01/2003	143-2003
4-33-4-8	Amended	16	07/01/2003	92-2003
4-33-4-8	Amended	3	07/01/2003	143-2003
4-33-4-9	Amended	17	07/01/2003	92-2003
4-33-4-11	Amended	18	07/01/2003	92-2003
4-33-4-12	Amended	19	07/01/2003	92-2003
4-33-4-13	Amended	20	07/01/2003	92-2003
4-33-4-15	Amended	21	07/01/2003	92-2003
4-33-4-16	Amended	22	07/01/2003	92-2003
4-33-4-17	Amended	23	07/01/2003	92-2003
4-33-4-18	Amended	4	05/08/2003	261-2003

Affected Provisions	Type	SEC	Effective	P.L.
4-33-4-21	Amended	42	07/01/2003	224-2003
4-33-4-21.2	Amended	24	07/01/2003	92-2003
4-33-4-22	New	43	07/01/2003	224-2003
4-33-5-1	Amended	25	07/01/2003	92-2003
4-33-5-2	Amended	26	07/01/2003	92-2003
4-33-6-1	Amended	27	07/01/2003	92-2003
4-33-6-1	Amended	1	07/01/2003	149-2003
4-33-6-3	Amended	2	07/01/2003	149-2003
4-33-6-3.5	New	3	07/01/2003	149-2003
4-33-6-6	Amended	28	07/01/2003	92-2003
4-33-6-18	Amended	29	07/01/2003	92-2003
4-33-6-19	Amended	30	07/01/2003	92-2003
4-33-6-21	Amended	44	07/01/2003	224-2003
4-33-6.5	New	31	07/01/2003	92-2003
4-33-7-2	Amended	32	07/01/2003	92-2003
4-33-7-3	Amended	33	07/01/2003	92-2003
4-33-7-7	Amended	34	07/01/2003	92-2003
4-33-8-2	Amended	35	07/01/2003	92-2003
4-33-8-4	Amended	36	07/01/2003	92-2003
4-33-8-9	Amended	37	07/01/2003	92-2003
4-33-8-10	Amended	38	07/01/2003	92-2003
4-33-9-1	Amended	39	07/01/2003	92-2003
4-33-9-4	Amended	40	07/01/2003	92-2003
4-33-9-7	Amended	41	07/01/2003	92-2003
4-33-9-9	Amended	42	07/01/2003	92-2003
4-33-9-10	Amended	43	07/01/2003	92-2003
4-33-9-15	Amended	44	07/01/2003	92-2003
4-33-10-2	Amended	45	07/01/2003	92-2003
4-33-10-2.1	Amended	46	07/01/2003	92-2003
4-33-10-2.5	Amended	47	07/01/2003	92-2003
4-33-11-3	Amended	48	07/01/2003	92-2003
4-33-12-1	Amended	49	07/01/2003	92-2003
4-33-12-3	Amended	50	07/01/2003	92-2003
4-33-12-4	Amended	51	07/01/2003	92-2003
4-33-12-5	Amended	52	07/01/2003	92-2003
4-33-12-6	Amended	10	04/02/2003	1-2003
4-33-12-6	Amended	53	07/01/2003	92-2003
4-33-13-1	Amended	45	07/01/2002	224-2003
4-33-13-1.5	Amended	46	07/01/2002	224-2003
4-33-13-1.5	Amended	54	07/01/2003	92-2003
4-33-13-5	Amended	47	07/01/2003	224-2003
4-33-13-5	Amended	1	05/07/2003	185-2003

Affected Provisions	Type	SEC	Effective	P.L.
4-33-13-5	Amended	55	07/01/2003	92-2003
4-33-14-5	Amended	56	07/01/2003	92-2003
4-33-14-6	Amended	57	07/01/2003	92-2003
4-33-14-8	Amended	58	07/01/2003	92-2003
4-33-15	Repealed	63	07/01/2003	92-2003
4-33-18-8	Amended	59	07/01/2003	92-2003

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5-1-14-12.5	New	265	05/08/2003	224-2003
5-1.5-1-8	Amended	1	07/01/2003	50-2003
5-2-5	Repealed	102	07/01/2003	2-2003
5-2-5-1	Amended	1	07/01/2003	156-2003
5-2-5-1	Amended	11	04/02/2003	1-2003
5-2-5-5	Amended	12	04/02/2003	1-2003
5-2-5-7	Amended	2	07/01/2003	156-2003
5-2-5-13	Amended	1	07/01/2003	138-2003
5-2-5.1	Repealed	102	07/01/2003	2-2003
5-2-6.1-32	Amended	1	07/01/2003	7-2003
5-2-7-1	Amended	3	07/01/2003	156-2003
5-2-8-1	Amended	13	04/02/2003	1-2003
5-2-8-2	Amended	14	04/02/2003	1-2003
5-2-8-5	Amended	15	04/02/2003	1-2003
5-2-9-1.7	New	1	07/01/2003	221-2003
5-2-9-6	Amended	2	07/01/2003	221-2003
5-2-10.5-6	Amended	1	07/01/2003	205-2003
5-2-12-5	Amended	1	07/01/2003	55-2003
5-2-12-7	Amended	20	07/01/2003	2-2003
5-2-12-9	Amended	1	07/01/2003	154-2003
5-2-12-13	Amended	1	07/01/2003	222-2003
5-8-5-1	Amended	16	04/02/2003	1-2003
5-8-5-3	Amended	17	04/02/2003	1-2003
5-8-5-4	Amended	18	04/02/2003	1-2003
5-10-0.5-1	Amended	21	07/01/2003	2-2003
5-10-1.5-1	Amended	22	07/01/2003	2-2003
5-10-1.7-1	Amended	23	07/01/2003	2-2003
5-10-8-2.2	Amended	1	07/01/2003	86-2003
5-10-8-10	Amended	1	07/01/2003	237-2003
5-10-8-13	New	1	07/01/2003	251-2003
5-10-10-4	Amended	1	07/01/2003	56-2003
5-10.2-2-2.5	Amended	185	07/01/2003	224-2003
5-10.2-2-18	New	186	07/01/2003	224-2003

Affected Provisions	Type	SEC	Effective	P.L.
5-10.2-3-7.5	Amended	1	07/01/2003	190-2003
5-10.2-4-1.2	New	1	07/01/2003	47-2003
5-10.2-4-1.4	New	2	07/01/2003	47-2003
5-10.2-4-7	Amended	2	07/01/2003	190-2003
5-10.2-5-33	New	3	07/01/2003	190-2003
5-10.2-5-34	New	4	07/01/2003	190-2003
5-10.2-5-34.4	New	1	07/01/2003	172-2003
5-10.3-3-8	Amended	1	07/01/2003	183-2003
5-10.3-5-3	Amended	187	07/01/2003	224-2003
5-10.3-5-5	Amended	1	07/01/2003	72-2003
5-11-4-3	Amended	1	07/01/2003	191-2003
5-11-10-1	Amended	1	07/01/2003	99-2003
5-11-10-1.6	Amended	2	07/01/2003	191-2003
5-11-10-1.6	Amended	2	07/01/2003	99-2003
5-13-6-3	Amended	1	07/01/2003	245-2003
5-13-8-9	Amended	1	07/01/2003	173-2003
5-13-9-1	Amended	1	07/01/2003	220-2003
5-13-9-2	Amended	2	07/01/2003	220-2003
5-13-9-2.4	Repealed	6	07/01/2003	220-2003
5-13-9-4	Amended	2	07/01/2003	173-2003
5-13-9-10	New	276	07/01/2003	224-2003
5-13-10.5-3	Amended	3	07/01/2003	220-2003
5-13-10.5-10	Amended	4	07/01/2003	220-2003
5-13-10.5-11.5	New	5	07/01/2003	220-2003
5-13-11-2.5	New	3	07/01/2003	173-2003
5-14-1.5-2	Amended	1	07/01/2003	35-2003
5-14-1.5-5	Amended	1	07/01/2003	200-2003
5-14-1.5-6.1	Amended	2	07/01/2003	200-2003
5-14-3-2	Amended	5	05/08/2003	261-2003
5-14-3-3	Amended	4	05/07/2003	173-2003
5-14-3-3	Amended	6	05/08/2003	261-2003
5-14-3-4	Amended	3	07/01/2003	200-2003
5-14-3-4	Amended	1	07/01/2003	208-2003
5-14-3-4	Amended	7	05/08/2003	261-2003
5-14-3-4	Amended	5	05/07/2003	173-2003
5-14-3-5	Amended	24	07/01/2003	2-2003
5-14-3-9	Amended	8	05/08/2003	261-2003
5-14-3-9	Amended	6	05/07/2003	173-2003
5-14-6	New	1	07/01/2003	51-2003
5-16-12.2	New	2	07/01/2003	159-2003
5-17-1-11	New	2	07/01/2003	254-2003
5-22-3-4	Amended	19	04/02/2003	1-2003

Affected Provisions	Type	SEC	Effective	P.L.
5-22-16-4	Amended	3	07/01/2003	254-2003
5-26-1-1.2	New	25	07/01/2003	2-2003
5-26-1-1.4	New	26	07/01/2003	2-2003
5-26-1-1.6	New	27	07/01/2003	2-2003
5-26-1-1.8	New	28	07/01/2003	2-2003
5-26-1-3	Amended	29	07/01/2003	2-2003
5-26-1-4.3	New	30	07/01/2003	2-2003
5-26-1-4.6	New	31	07/01/2003	2-2003
5-26-1-6	Amended	32	07/01/2003	2-2003
5-26-3-5	Amended	33	07/01/2003	2-2003
5-26-6	New	34	07/01/2003	2-2003
5-26.5-1-8	Amended	20	04/02/2003	1-2003
5-26.5-1-9	Amended	21	04/02/2003	1-2003
5-26.5-2-5	Amended	197	07/01/2003	209-2003

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6-1.1-1-15	Amended	60	07/01/2003	92-2003
6-1.1-3-1	Amended	1	01/01/2004	74-2003
6-1.1-3-11	Amended	2	01/01/2004	74-2003
6-1.1-3-22	Amended	2	07/01/2003	245-2003
6-1.1-3-23	New	1	01/01/2003	120-2003
6-1.1-4-4	Amended	3	07/01/2003	245-2003
6-1.1-4-4.5	Amended	4	07/01/2003	245-2003
6-1.1-4-27.5	Amended	5	07/01/2003	245-2003
6-1.1-4-32	Amended	2	05/08/2003	235-2003
6-1.1-4-33	New	3	05/08/2003	235-2003
6-1.1-4-34	New	4	05/08/2003	235-2003
6-1.1-5-5-3	Amended	6	07/01/2003	245-2003
6-1.1-6-2	Amended	1	07/01/2003	186-2003
6-1.1-6-3	Amended	2	07/01/2003	186-2003
6-1.1-6-3.5	New	3	07/01/2003	186-2003
6-1.1-6-4	Amended	4	07/01/2003	186-2003
6-1.1-6-5	Amended	5	07/01/2003	186-2003
6-1.1-6-5.5	New	6	07/01/2003	186-2003
6-1.1-6-6	Amended	7	07/01/2003	186-2003
6-1.1-6-7	Amended	8	07/01/2003	186-2003
6-1.1-6-8	Repealed	81	07/01/2003	186-2003
6-1.1-6-9	Amended	9	07/01/2003	186-2003
6-1.1-6-10	Amended	10	07/01/2003	186-2003
6-1.1-6-11	Amended	11	07/01/2003	186-2003
6-1.1-6-12	Amended	12	07/01/2003	186-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-1.1-6-14	Amended	13	07/01/2003	186-2003
6-1.1-6-16	Amended	14	07/01/2003	186-2003
6-1.1-6-17	Amended	15	07/01/2003	186-2003
6-1.1-6-18	Amended	16	07/01/2003	186-2003
6-1.1-6-19	Amended	17	07/01/2003	186-2003
6-1.1-6-20	Amended	18	07/01/2003	186-2003
6-1.1-6-21	Amended	19	07/01/2003	186-2003
6-1.1-6-22	Amended	20	07/01/2003	186-2003
6-1.1-6-23	Amended	21	07/01/2003	186-2003
6-1.1-6-24	Amended	22	07/01/2003	186-2003
6-1.1-6-26	Amended	23	07/01/2003	186-2003
6-1.1-6.2-2	Amended	24	07/01/2003	186-2003
6-1.1-6.2-4	Repealed	81	07/01/2003	186-2003
6-1.1-6.2-5	Amended	25	07/01/2003	186-2003
6-1.1-6.2-6	Repealed	81	07/01/2003	186-2003
6-1.1-6.2-7	Repealed	81	07/01/2003	186-2003
6-1.1-6.2-8	Repealed	81	07/01/2003	186-2003
6-1.1-6.5-2.5	New	26	07/01/2003	186-2003
6-1.1-8-27	Amended	2	07/01/2003	256-2003
6-1.1-8-44	Amended	7	07/01/2003	245-2003
6-1.1-10-15.5	New	266	05/08/2003	224-2003
6-1.1-10-16	Amended	1	07/01/2003	264-2003
6-1.1-10-17	Amended	35	07/01/2003	2-2003
6-1.1-10-21	Amended	2	07/01/2003	264-2003
6-1.1-10-36.3	Amended	3	07/01/2003	264-2003
6-1.1-10-38	Amended	36	07/01/2003	2-2003
6-1.1-10-43	New	3	01/01/2004	74-2003
6-1.1-11-3	Amended	4	07/01/2003	264-2003
6-1.1-11-3.5	Amended	5	05/08/2003	264-2003
6-1.1-11-3.8	New	6	05/08/2003	264-2003
6-1.1-11-5	Amended	7	05/08/2003	264-2003
6-1.1-11-6	Amended	8	05/08/2003	264-2003
6-1.1-11-7	Amended	9	05/08/2003	264-2003
6-1.1-11-8	Amended	10	07/01/2003	264-2003
6-1.1-11-10	Amended	11	05/08/2003	264-2003
6-1.1-12-9	Amended	1	07/01/2003	272-2003
6-1.1-12-14	Amended	2	07/01/2003	272-2003
6-1.1-12-17.4	Amended	3	07/01/2003	272-2003
6-1.1-12.1-4.5	Amended	3	07/01/2003	256-2003
6-1.1-12.1-4.5	Amended	8	07/01/2003	245-2003
6-1.1-12.1-4.5	Amended	22	04/02/2003	1-2003
6-1.1-12.1-4.6	Amended	4	07/01/2003	256-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-1.1-12.1-5	Amended	9	07/01/2003	245-2003
6-1.1-12.1-5.4	Amended	5	07/01/2003	256-2003
6-1.1-12.1-5.4	Amended	10	07/01/2003	245-2003
6-1.1-12.1-5.8	Amended	6	07/01/2003	256-2003
6-1.1-12.1-5.9	Amended	7	07/01/2003	256-2003
6-1.1-12.1-11.3	Amended	11	07/01/2003	245-2003
6-1.1-12.1-13	New	12	07/01/2003	245-2003
6-1.1-12.2	New	180	01/01/2003	224-2003
6-1.1-12.3	New	279	01/01/2003	224-2003
6-1.1-13-6	Amended	8	07/01/2003	256-2003
6-1.1-14-8	Amended	9	07/01/2003	256-2003
6-1.1-14-11	Amended	10	07/01/2003	256-2003
6-1.1-15-3	Amended	11	07/01/2003	256-2003
6-1.1-15-4	Amended	13	07/01/2003	245-2003
6-1.1-15-5	Amended	14	07/01/2003	245-2003
6-1.1-15-5	Amended	12	07/01/2003	256-2003
6-1.1-15-6	Amended	15	07/01/2003	245-2003
6-1.1-15-12	Amended	13	07/01/2003	256-2003
6-1.1-17-3	Amended	14	07/01/2003	256-2003
6-1.1-17-5	Amended	23	04/02/2003	1-2003
6-1.1-17-13	Amended	24	04/02/2003	1-2003
6-1.1-17-16	Amended	15	07/01/2003	256-2003
6-1.1-18-3	Amended	84	07/01/2003	224-2003
6-1.1-18-6	Amended	16	07/01/2003	256-2003
6-1.1-18-6	Amended	7	07/01/2003	173-2003
6-1.1-18-7	Amended	8	07/01/2003	173-2003
6-1.1-18.5-3	Amended	25	04/02/2003	1-2003
6-1.1-18.5-5	Amended	1	06/01/2003	267-2003
6-1.1-18.5-8	Amended	17	07/01/2003	256-2003
6-1.1-18.5-9.7	Amended	85	07/01/2003	224-2003
6-1.1-18.5-9.9	New	4	07/01/2003	272-2003
6-1.1-18.5-13	Amended	18	07/01/2003	256-2003
6-1.1-18.5-13	Amended	16	07/01/2003	245-2003
6-1.1-18.5-13	Amended	246	07/01/2003	224-2003
6-1.1-18.5-15	Amended	19	07/01/2003	256-2003
6-1.1-18.6-1.1	Amended	86	07/01/2003	224-2003
6-1.1-18.6-2.2	New	87	07/01/2003	224-2003
6-1.1-18.6-4	New	88	07/01/2003	224-2003
6-1.1-19-1.5	Amended	1	07/01/2003	276-2003
6-1.1-19-1.5	Amended	136	07/01/2003	224-2003
6-1.1-19-4.5	Amended	54	07/01/2003	66-2003
6-1.1-19-7	Amended	20	07/01/2003	256-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-1.1-19-8	Amended	21	07/01/2003	256-2003
6-1.1-19-10.5	Amended	259	06/01/2003	224-2003
6-1.1-19-12	New	2	01/01/2003	276-2003
6-1.1-20-6	Amended	22	07/01/2003	256-2003
6-1.1-20.8-2.5	Amended	23	07/01/2003	256-2003
6-1.1-20.8-3	Amended	17	07/01/2003	245-2003
6-1.1-20.8-3	Amended	24	07/01/2003	256-2003
6-1.1-20.8-4	New	18	07/01/2003	245-2003
6-1.1-21-2	Amended	137	07/01/2003	224-2003
6-1.1-21-4	Amended	19	07/01/2003	245-2003
6-1.1-21-4	Amended	12	07/01/2003	264-2003
6-1.1-21-5	Amended	26	04/02/2003	1-2003
6-1.1-21.2-4	Amended	27	04/02/2003	1-2003
6-1.1-21.2-11	Amended	25	07/01/2003	256-2003
6-1.1-21.2-14	Amended	26	07/01/2003	256-2003
6-1.1-21.8-4	Amended	2	05/08/2003	267-2003
6-1.1-23-1	Amended	9	07/01/2003	173-2003
6-1.1-24-2	Amended	1	07/01/2003	170-2003
6-1.1-24-6	Amended	2	07/01/2003	170-2003
6-1.1-24-6.1	New	3	07/01/2003	170-2003
6-1.1-24-6.3	New	4	07/01/2003	170-2003
6-1.1-24-6.4	New	5	07/01/2003	170-2003
6-1.1-24-7	Amended	28	04/02/2003	1-2003
6-1.1-25-1	Amended	6	07/01/2003	170-2003
6-1.1-25-2	Amended	7	07/01/2003	170-2003
6-1.1-25-2.5	Amended	8	07/01/2003	170-2003
6-1.1-25-3	Amended	9	07/01/2003	170-2003
6-1.1-25-4	Amended	10	07/01/2003	170-2003
6-1.1-25-4.5	Amended	11	07/01/2003	170-2003
6-1.1-25-4.6	Amended	12	07/01/2003	170-2003
6-1.1-25-5.5	Amended	29	04/02/2003	1-2003
6-1.1-25-7	Amended	13	07/01/2003	170-2003
6-1.1-25-8	Amended	14	07/01/2003	170-2003
6-1.1-25-8	Amended	30	04/02/2003	1-2003
6-1.1-25-10	Amended	15	07/01/2003	170-2003
6-1.1-25-11	Amended	16	07/01/2003	170-2003
6-1.1-26-2	Amended	27	07/01/2003	256-2003
6-1.1-27-1	Amended	1	05/08/2003	230-2003
6-1.1-28-6	Amended	20	07/01/2003	245-2003
6-1.1-29-9	Amended	89	07/01/2003	224-2003
6-1.1-33.5-3	Amended	28	07/01/2003	256-2003
6-1.1-34-7	Amended	138	07/01/2003	224-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-1.1-35.2-2	Amended	29	07/01/2003	256-2003
6-1.1-41-9	Amended	30	07/01/2003	256-2003
6-1.1-44	New	1	01/01/2004	215-2003
6-1.5-1-4	New	21	07/01/2003	245-2003
6-1.5-4-1	Amended	31	07/01/2003	256-2003
6-1.5-5-1	Amended	31	04/02/2003	1-2003
6-1.5-5-1	Amended	32	07/01/2003	256-2003
6-1.5-5-1	Amended	22	07/01/2003	245-2003
6-1.5-5-2	Amended	23	07/01/2003	245-2003
6-1.5-5-4	Amended	24	07/01/2003	245-2003
6-1.5-6-2	New	25	07/01/2003	245-2003
6-2.3-1-12	Amended	1	01/01/2003	269-2003
6-2.3-4-3	Amended	1	01/01/2003	275-2003
6-2.3-6-1	Amended	2	01/01/2003	269-2003
6-2.5-1-5	Amended	1	01/01/2004	257-2003
6-2.5-1-11	New	2	01/01/2004	257-2003
6-2.5-1-12	New	3	01/01/2004	257-2003
6-2.5-1-13	New	4	01/01/2004	257-2003
6-2.5-1-14	New	5	01/01/2004	257-2003
6-2.5-1-15	New	6	01/01/2004	257-2003
6-2.5-1-16	New	7	01/01/2004	257-2003
6-2.5-1-17	New	8	01/01/2004	257-2003
6-2.5-1-18	New	9	01/01/2004	257-2003
6-2.5-1-19	New	10	01/01/2004	257-2003
6-2.5-1-20	New	11	01/01/2004	257-2003
6-2.5-1-21	New	12	01/01/2004	257-2003
6-2.5-1-22	New	13	01/01/2004	257-2003
6-2.5-1-23	New	14	01/01/2004	257-2003
6-2.5-1-24	New	15	01/01/2004	257-2003
6-2.5-1-25	New	16	01/01/2004	257-2003
6-2.5-1-26	New	17	01/01/2004	257-2003
6-2.5-1-27	New	18	01/01/2004	257-2003
6-2.5-4-1	Amended	19	01/01/2004	257-2003
6-2.5-4-4.5	New	49	07/01/2003	224-2003
6-2.5-4-10	Amended	20	01/01/2004	257-2003
6-2.5-4-14	New	4	07/01/2003	254-2003
6-2.5-5-1	Amended	21	01/01/2004	257-2003
6-2.5-5-2	Amended	22	01/01/2004	257-2003
6-2.5-5-8	Amended	1	07/01/2003	27-2003
6-2.5-5-18	Amended	23	01/01/2004	257-2003
6-2.5-5-19	Amended	24	01/01/2004	257-2003
6-2.5-5-20	Amended	25	01/01/2004	257-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-2.5-5-21	Amended	26	01/01/2004	257-2003
6-2.5-5-21.5	Amended	27	01/01/2004	257-2003
6-2.5-5-22	Amended	28	01/01/2004	257-2003
6-2.5-5-35	Amended	29	01/01/2004	257-2003
6-2.5-6-9	Amended	30	01/01/2004	257-2003
6-2.5-6-13	Amended	3	01/01/2003	269-2003
6-2.5-6-13	Amended	32	04/02/2003	1-2003
6-2.5-6-15	New	50	07/01/2003	224-2003
6-2.5-8-10	Amended	5	07/01/2003	254-2003
6-2.5-8-12	New	1	07/01/2003	65-2003
6-2.5-12	New	31	01/01/2004	257-2003
6-2.5-13	New	32	01/01/2004	257-2003
6-3-1-3.5	Amended	1	01/01/2003	105-2003
6-3-1-11	Amended	2	01/01/2003	105-2003
6-3-1-33	New	3	01/01/2003	105-2003
6-3-2-8	Amended	4	01/01/2004	269-2003
6-3-2-14.1	New	5	07/01/2002	269-2003
6-3-3-5	Amended	33	04/02/2003	1-2003
6-3-3-5	Amended	6	04/02/2003	269-2003
6-3-3-5.1	Amended	7	04/02/2003	269-2003
6-3-3-5.1	Amended	34	04/02/2003	1-2003
6-3-3-10	Amended	35	04/02/2003	1-2003
6-3-3-10	Amended	8	04/02/2003	269-2003
6-3-4-4.1	Amended	36	04/02/2003	1-2003
6-3-4-4.1	Amended	9	04/02/2003	269-2003
6-3-4-6	Amended	6	07/01/2003	254-2003
6-3-4-8.1	Amended	7	07/01/2003	254-2003
6-3.1-4-6	Amended	191	07/01/2003	224-2003
6-3.1-5	Repealed	14	07/01/2003	254-2003
6-3.1-11-22	Amended	37	04/02/2003	1-2003
6-3.1-13-12	Amended	192	07/01/2003	224-2003
6-3.1-13-26	Amended	193	07/01/2003	224-2003
6-3.1-18-8	Amended	38	04/02/2003	1-2003
6-3.1-18-8	Amended	10	04/02/2003	269-2003
6-3.1-19-1.5	New	194	01/01/2003	224-2003
6-3.1-19-2.5	New	195	01/01/2003	224-2003
6-3.1-19-3	Amended	196	01/01/2003	224-2003
6-3.1-23-1.5	New	26	01/01/2004	245-2003
6-3.1-23-3	Amended	27	01/01/2004	245-2003
6-3.1-23-3.5	New	28	01/01/2004	245-2003
6-3.1-23-5	Amended	29	01/01/2004	245-2003
6-3.1-23-7	Repealed	35	01/01/2004	245-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-3.1-23-8	Repealed	35	01/01/2004	245-2003
6-3.1-23-9	Repealed	35	01/01/2004	245-2003
6-3.1-23-10	Repealed	35	01/01/2004	245-2003
6-3.1-23-11	Amended	30	01/01/2004	245-2003
6-3.1-23-12	Amended	31	01/01/2004	245-2003
6-3.1-23-13	Amended	32	01/01/2004	245-2003
6-3.1-23-16	Amended	33	01/01/2004	245-2003
6-3.1-24-5	Amended	1	01/01/2003	214-2003
6-3.1-24-6	Amended	2	01/01/2003	214-2003
6-3.1-24-7	Amended	3	01/01/2003	214-2003
6-3.1-24-9	Amended	4	01/01/2003	214-2003
6-3.1-24-12	Amended	5	01/01/2003	214-2003
6-3.1-24-12.5	New	6	01/01/2003	214-2003
6-3.1-24-13	Amended	7	01/01/2003	214-2003
6-3.1-25.2	New	2	01/01/2004	215-2003
6-3.1-26	New	197	07/01/2003	224-2003
6-3.1-27	New	199	01/01/2004	224-2003
6-3.1-28	New	200	01/01/2004	224-2003
6-3.5-1.1-2	Amended	1	04/22/2003	42-2003
6-3.5-1.1-2.9	Amended	39	04/02/2003	1-2003
6-3.5-1.1-3.3	New	2	04/22/2003	42-2003
6-3.5-1.1-3.6	Amended	40	04/02/2003	1-2003
6-3.5-1.1-9	Amended	3	06/01/2003	267-2003
6-3.5-1.1-9.5	Repealed	16	06/01/2003	267-2003
6-3.5-1.1-10	Amended	3	04/22/2003	42-2003
6-3.5-1.1-10	Amended	41	04/02/2003	1-2003
6-3.5-1.1-11	Amended	4	04/22/2003	42-2003
6-3.5-1.1-11	Amended	4	06/01/2003	267-2003
6-3.5-1.1-15	Amended	2	07/01/2003	255-2003
6-3.5-1.1-21	Amended	5	06/01/2003	267-2003
6-3.5-1.1-21.1	Amended	6	06/01/2003	267-2003
6-3.5-6-2	Amended	7	06/01/2003	267-2003
6-3.5-6-13	Amended	247	05/08/2003	224-2003
6-3.5-6-17	Amended	8	06/01/2003	267-2003
6-3.5-6-17	Amended	42	04/02/2003	1-2003
6-3.5-6-17.2	Amended	9	06/01/2003	267-2003
6-3.5-6-17.3	Amended	10	06/01/2003	267-2003
6-3.5-6-17.4	Repealed	16	06/01/2003	267-2003
6-3.5-6-17.5	Repealed	16	06/01/2003	267-2003
6-3.5-6-17.6	Repealed	16	06/01/2003	267-2003
6-3.5-6-17.6	Amended	43	04/02/2003	1-2003
6-3.5-6-17.6	Amended	3	07/01/2003	255-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-3.5-6-18	Amended	4	07/01/2003	255-2003
6-3.5-6-18	Amended	44	04/02/2003	1-2003
6-3.5-6-18.5	Amended	5	07/01/2003	255-2003
6-3.5-6-19	Amended	11	06/01/2003	267-2003
6-3.5-7-5	Amended	5	04/22/2003	42-2003
6-3.5-7-5	Amended	254	07/01/2003	224-2003
6-3.5-7-10.5	Amended	12	06/01/2003	267-2003
6-3.5-7-11	Amended	13	06/01/2003	267-2003
6-3.5-7-12	Amended	6	07/01/2003	255-2003
6-3.5-7-12	Amended	255	07/01/2003	224-2003
6-3.5-7-13.1	Amended	256	07/01/2003	224-2003
6-3.5-7-15	Amended	45	04/02/2003	1-2003
6-3.5-7-17.3	Amended	14	06/01/2003	267-2003
6-3.5-7-19	Repealed	16	06/01/2003	267-2003
6-3.5-7-22.5	Amended	258	05/08/2003	224-2003
6-3.5-7-25	Amended	5	07/01/2003	272-2003
6-3.5-7-26	Amended	46	04/02/2003	1-2003
6-3.5-7-26	Amended	6	07/01/2003	272-2003
6-3.5-7-27	New	257	05/08/2003	224-2003
6-4.1-5-10	Amended	1	07/01/2003	176-2003
6-5.5-1-2	Amended	4	01/01/2003	105-2003
6-5.5-1-20	New	5	01/01/2003	105-2003
6-5.5-2-7	Amended	11	04/02/2003	269-2003
6-5.5-2-7	Amended	47	04/02/2003	1-2003
6-5.5-9-3	Amended	48	04/02/2003	1-2003
6-6-2.5-70	Amended	37	07/01/2003	2-2003
6-6-5-10	Amended	7	07/01/2003	255-2003
6-6-6.5-9	Amended	181	01/01/2004	224-2003
6-6-6.5-12	Amended	280	01/01/2003	224-2003
6-6-6.5-19	Amended	8	07/01/2003	254-2003
6-6-11-12	Amended	1	07/01/2003	233-2003
6-6-11-12.5	Amended	2	07/01/2003	233-2003
6-7-1-17	Amended	1	07/01/2003	252-2003
6-7-1-18	Amended	2	07/01/2003	252-2003
6-7-1-30.5	Amended	119	07/01/2003	224-2003
6-7-2-11	Amended	3	07/01/2003	252-2003
6-8-11-12	Amended	1	07/01/2003	160-2003
6-8.1-3-12	Amended	9	07/01/2003	254-2003
6-8.1-5-2.5	New	10	07/01/2003	254-2003
6-8.1-6-5	Amended	11	07/01/2003	254-2003
6-8.1-7-1	Amended	12	07/01/2003	254-2003
6-8.1-9.5-1	Amended	1	07/01/2003	277-2003

Affected Provisions	Type	SEC	Effective	P.L.
6-8.1-10-11	Repealed	14	07/01/2003	254-2003
6-9-5	Repealed	1	07/01/2003	77-2003
6-9-10-5	Amended	249	05/08/2003	224-2003
6-9-10-6	Amended	250	05/08/2003	224-2003
6-9-10-7	Amended	251	05/08/2003	224-2003
6-9-10-9	New	252	05/08/2003	224-2003
6-9-10-10	New	253	05/08/2003	224-2003
6-9-12-3	Amended	33	01/01/2004	257-2003
6-9-20-4	Amended	34	01/01/2004	257-2003
6-9-21-4	Amended	35	01/01/2004	257-2003
6-9-23-4	Amended	36	01/01/2004	257-2003
6-9-24-4	Amended	37	01/01/2004	257-2003
6-9-25-4	Amended	38	01/01/2004	257-2003
6-9-26-7	Amended	39	01/01/2004	257-2003
6-9-27-4	Amended	40	01/01/2004	257-2003
6-9-33-4	Amended	41	01/01/2004	257-2003
6-9-34	New	13	07/01/2003	254-2003

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7.1-1-1-1	Amended	1	07/01/2003	250-2003
7.1-1-2-2	Amended	2	07/01/2003	250-2003
7.1-1-3-8.5	New	3	07/01/2003	250-2003
7.1-1-3-47.5	New	4	07/01/2003	250-2003
7.1-2-2-5	Amended	6	07/01/2003	250-2003
7.1-2-3-33	Amended	5	07/01/2003	250-2003
7.1-3-1-3	Amended	7	07/01/2003	250-2003
7.1-3-1-3.5	Amended	8	07/01/2003	250-2003
7.1-3-6-3	Amended	9	07/01/2003	250-2003
7.1-3-17.5-1	Amended	61	07/01/2003	92-2003
7.1-3-17.5-6	New	10	07/01/2003	250-2003
7.1-3-18.5	New	11	07/01/2003	250-2003
7.1-3-18.5-7	Amended	4	07/01/2003	252-2003
7.1-3-23-15	Repealed	18	05/08/2003	250-2003
7.1-3-23-16	Amended	12	07/01/2003	250-2003
7.1-4-4.1-2	Amended	13	07/01/2003	250-2003
7.1-4-4.1-3	Amended	14	07/01/2003	250-2003
7.1-4-4.1-18	New	15	07/01/2003	250-2003
7.1-5-5-7	Amended	16	07/01/2003	250-2003
7.1-6-2-6	Amended	5	07/01/2003	252-2003
7.1-6-2-8	Amended	6	07/01/2003	252-2003

Affected Provisions	Type	SEC	Effective	P.L.
Title 8				
8-1-2.6-4	Amended	277	05/08/2003	224-2003
8-1-26-15	Amended	1	07/01/2003	114-2003
8-1-26-15.5	New	2	07/01/2003	114-2003
8-1-26-16	Amended	3	07/01/2003	114-2003
8-1-26-17	Amended	4	07/01/2003	114-2003
8-2.1-24-18	Amended	1	07/01/2003	219-2003
8-2.1-24-18	Amended	1	07/01/2003	75-2003
8-2.1-24-18	Amended	2	07/01/2003	208-2003
8-6-4-1	Amended	1	07/01/2003	137-2003
8-6-15	New	1	07/01/2003	87-2003
8-9-11-4	New	1	07/01/2003	128-2003
8-9-11-5	New	2	07/01/2003	128-2003
8-9-12-5	New	3	07/01/2003	128-2003
8-10-1-1	Amended	1	07/01/2003	271-2003
8-10-1-1	Amended	201	07/01/2003	224-2003
8-10-1-2	Amended	2	07/01/2003	271-2003
8-10-1-2	Amended	202	07/01/2003	224-2003
8-10-1-3	Amended	3	07/01/2003	271-2003
8-10-1-3	Amended	203	07/01/2003	224-2003
8-10-1-4	Amended	4	07/01/2003	271-2003
8-10-1-4	Amended	204	07/01/2003	224-2003
8-10-1-4.5	New	5	07/01/2003	271-2003
8-10-1-4.5	New	205	07/01/2003	224-2003
8-10-1-5	Amended	6	07/01/2003	271-2003
8-10-1-5	Amended	206	07/01/2003	224-2003
8-10-1-7	Amended	7	07/01/2003	271-2003
8-10-1-7	Amended	207	07/01/2003	224-2003
8-10-1-8	Amended	8	07/01/2003	271-2003
8-10-1-8	Amended	208	07/01/2003	224-2003
8-10-1-9	Amended	9	07/01/2003	271-2003
8-10-1-9	Amended	209	07/01/2003	224-2003
8-10-1-10	Amended	10	07/01/2003	271-2003
8-10-1-10	Amended	210	07/01/2003	224-2003
8-10-1-11	Amended	11	07/01/2003	271-2003
8-10-1-11	Amended	211	07/01/2003	224-2003
8-10-1-12	Amended	1	07/01/2003	165-2003
8-10-1-12	Amended	12	07/01/2003	271-2003
8-10-1-12	Amended	212	07/01/2003	224-2003
8-10-1-13	Amended	13	07/01/2003	271-2003
8-10-1-13	Amended	213	07/01/2003	224-2003

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Affected Provisions	Type	SEC	Effective	P.L.
8-10-1-14	Amended	14	07/01/2003	271-2003
8-10-1-14	Amended	214	07/01/2003	224-2003
8-10-1-15	Amended	15	07/01/2003	271-2003
8-10-1-15	Amended	215	07/01/2003	224-2003
8-10-1-16	Amended	16	07/01/2003	271-2003
8-10-1-16	Amended	216	07/01/2003	224-2003
8-10-1-17	Amended	17	07/01/2003	271-2003
8-10-1-17	Amended	217	07/01/2003	224-2003
8-10-1-19	Amended	18	07/01/2003	271-2003
8-10-1-19	Amended	218	07/01/2003	224-2003
8-10-1-20	Amended	19	07/01/2003	271-2003
8-10-1-20	Amended	219	07/01/2003	224-2003
8-10-1-21	Amended	20	07/01/2003	271-2003
8-10-1-21	Amended	220	07/01/2003	224-2003
8-10-1-22	Amended	21	07/01/2003	271-2003
8-10-1-22	Amended	221	07/01/2003	224-2003
8-10-1-25	Amended	22	07/01/2003	271-2003
8-10-1-25	Amended	222	07/01/2003	224-2003
8-10-1-27	Amended	23	07/01/2003	271-2003
8-10-1-27	Amended	223	07/01/2003	224-2003
8-10-1-30	New	24	07/01/2003	271-2003
8-10-1-30	New	224	07/01/2003	224-2003
8-10-2-2	Amended	25	07/01/2003	271-2003
8-10-2-2	Amended	225	07/01/2003	224-2003
8-10-4-1	Amended	26	07/01/2003	271-2003
8-10-4-1	Amended	226	07/01/2003	224-2003
8-10-4-2	Amended	27	07/01/2003	271-2003
8-10-4-2	Amended	227	07/01/2003	224-2003
8-10-4-3	Amended	28	07/01/2003	271-2003
8-10-4-3	Amended	228	07/01/2003	224-2003
8-10-4-4	Amended	29	07/01/2003	271-2003
8-10-4-4	Amended	229	07/01/2003	224-2003
8-10-4-5	Amended	30	07/01/2003	271-2003
8-10-4-5	Amended	230	07/01/2003	224-2003
8-10-4-6	New	31	07/01/2003	271-2003
8-10-4-6	New	231	07/01/2003	224-2003
8-10-5-8.5	Amended	49	04/02/2003	1-2003
8-16-3.5-8	Amended	33	07/01/2003	256-2003
8-17-4.1-5	Amended	10	07/01/2003	173-2003
8-17-4.1-6	Amended	11	07/01/2003	173-2003
8-17-4.1-7	Amended	12	07/01/2003	173-2003
8-22-3-25	Amended	281	07/01/2003	224-2003

Affected Provisions	Type	SEC	Effective	P.L.
8-22-3.5-3	Amended	267	05/08/2003	224-2003
8-22-3.5-5	Amended	2	05/07/2003	165-2003
8-22-3.5-15	Amended	268	05/08/2003	224-2003
8-23-2-4.1	Amended	1	07/01/2003	14-2003
8-23-2-15	Amended	1	05/01/2003	132-2003
8-23-3-8	Amended	13	01/01/2004	173-2003

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9-13-2-5.5	New	1	07/01/2003	268-2003
9-13-2-15	Amended	2	07/01/2003	268-2003
9-13-2-62.5	New	1	07/01/2003	8-2003
9-13-2-69.3	New	1	07/01/2003	236-2003
9-13-2-69.5	New	2	07/01/2003	236-2003
9-13-2-75	Amended	3	07/01/2003	268-2003
9-13-2-79.7	New	1	07/01/2003	265-2003
9-13-2-79.7	New	1	07/01/2003	248-2003
9-13-2-94.4	New	1	01/01/2003	216-2003
9-13-2-94.5	New	1	07/01/2003	21-2003
9-13-2-96	Amended	1	07/01/2003	106-2003
9-13-2-97	Amended	2	07/01/2003	21-2003
9-13-2-105	Amended	2	07/01/2003	248-2003
9-13-2-105	Amended	2	07/01/2003	265-2003
9-13-2-123	Amended	3	07/01/2003	21-2003
9-13-2-144.5	New	2	01/01/2003	216-2003
9-13-2-151.7	New	4	07/01/2003	268-2003
9-13-2-161	Amended	2	07/01/2003	219-2003
9-13-2-170.5	New	3	01/01/2003	216-2003
9-13-2-171	Amended	1	07/01/2003	217-2003
9-13-2-177.5	New	5	07/01/2003	268-2003
9-13-2-181	Amended	2	07/01/2003	217-2003
9-13-2-185	Amended	6	07/01/2003	268-2003
9-14-3-5	Amended	9	07/01/2003	261-2003
9-14-3-5	Amended	1	07/01/2003	34-2003
9-14-3.5-10	Amended	10	05/08/2003	261-2003
9-14-3.5-10.5	New	11	05/08/2003	261-2003
9-14-4-1	Amended	3	07/01/2003	208-2003
9-14-4-2	Amended	4	07/01/2003	208-2003
9-14-4-3	Amended	5	07/01/2003	208-2003
9-14-4-4	Amended	6	07/01/2003	208-2003
9-14-4-5	Amended	7	07/01/2003	208-2003
9-14-4-6	Amended	8	07/01/2003	208-2003

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Affected Provisions	Type	SEC	Effective	P.L.
9-14-4-7	Amended	9	07/01/2003	208-2003
9-17-1-1	Amended	4	07/01/2003	21-2003
9-17-3-0.5	New	7	07/01/2003	268-2003
9-17-3-3	Amended	8	07/01/2003	268-2003
9-17-3-3.1	Amended	9	07/01/2003	268-2003
9-17-4-0.3	New	10	07/01/2003	268-2003
9-17-4-0.5	New	11	07/01/2003	268-2003
9-17-4-1	Amended	12	07/01/2003	268-2003
9-17-4-2	Amended	13	07/01/2003	268-2003
9-17-4-4	Amended	14	07/01/2003	268-2003
9-17-4-5	Repealed	33	07/01/2003	268-2003
9-17-4-6	Amended	15	07/01/2003	268-2003
9-17-5-1	Amended	16	07/01/2003	268-2003
9-17-6-15.1	New	2	07/01/2003	106-2003
9-17-6-15.3	New	3	07/01/2003	106-2003
9-17-6-15.5	New	4	07/01/2003	106-2003
9-17-8-3	Amended	5	07/01/2003	21-2003
9-17-8-4	Amended	17	07/01/2003	268-2003
9-17-8-8	Amended	18	07/01/2003	268-2003
9-18-8-1	Amended	19	07/01/2003	268-2003
9-18-8-5	Amended	20	07/01/2003	268-2003
9-18-8-9	Amended	21	07/01/2003	268-2003
9-18-8-10	Amended	22	07/01/2003	268-2003
9-18-8-16	Amended	23	07/01/2003	268-2003
9-18-15-1	Amended	4	07/01/2003	216-2003
9-18-30-1	Amended	5	07/01/2003	216-2003
9-18-30-2	Amended	6	07/01/2003	216-2003
9-18-30-3	Amended	7	07/01/2003	216-2003
9-18-30-4	Amended	8	07/01/2003	216-2003
9-18-30-5	Amended	9	07/01/2003	216-2003
9-18-30-6	Amended	10	07/01/2003	216-2003
9-18-45-3	Amended	38	07/01/2003	2-2003
9-19-10.5	New	3	07/01/2003	265-2003
9-19-10.5	New	3	07/01/2003	248-2003
9-19-14.5-1	Amended	3	07/01/2003	236-2003
9-19-14.5-1	Amended	2	07/01/2003	205-2003
9-19-14.5-2	Amended	4	07/01/2003	236-2003
9-19-14.5-3	Amended	5	07/01/2003	236-2003
9-19-19-4	Amended	1	07/01/2003	12-2003
9-19-19-7	Amended	2	07/01/2003	12-2003
9-19-19-8	New	3	07/01/2003	12-2003
9-20-6-4	Amended	39	07/01/2003	2-2003

Affected Provisions	Type	SEC	Effective	P.L.
9-20-14-6	New	3	07/01/2003	217-2003
9-20-15-2	Amended	4	07/01/2003	217-2003
9-20-15-6	Amended	5	07/01/2003	217-2003
9-20-15-7	New	6	07/01/2003	217-2003
9-21-1-2	Amended	50	04/02/2003	1-2003
9-21-1-3	Amended	6	07/01/2003	21-2003
9-21-4-7	Amended	7	07/01/2003	21-2003
9-21-5-5	Amended	7	07/01/2003	217-2003
9-21-5-8.5	New	8	07/01/2003	21-2003
9-21-9-0.5	Amended	9	07/01/2003	21-2003
9-21-12-5	Amended	2	07/01/2003	87-2003
9-21-13-0.3	New	6	07/01/2003	236-2003
9-21-13-0.5	New	7	07/01/2003	236-2003
9-21-13-1	Amended	8	07/01/2003	236-2003
9-21-13-3	Amended	9	07/01/2003	236-2003
9-21-13-4	Amended	10	07/01/2003	236-2003
9-21-13-4.5	New	11	07/01/2003	236-2003
9-21-13-5	Amended	12	07/01/2003	236-2003
9-21-16-5.5	Amended	2	07/01/2003	8-2003
9-21-16-5.7	New	3	07/01/2003	8-2003
9-22-1-19	Amended	1	04/29/2003	78-2003
9-22-3-11	Amended	24	07/01/2003	268-2003
9-23-2-1	Amended	25	07/01/2003	268-2003
9-23-2-5	Amended	26	07/01/2003	268-2003
9-23-2-7	Amended	27	07/01/2003	268-2003
9-23-3-0.3	New	28	07/01/2003	268-2003
9-23-3-0.5	Amended	51	04/02/2003	1-2003
9-23-3-19	Amended	29	07/01/2003	268-2003
9-23-3-25	New	30	07/01/2003	268-2003
9-24-2.5-12	New	198	05/07/2003	209-2003
9-24-2.5-13	New	199	05/07/2003	209-2003
9-24-6-1	Amended	3	07/01/2003	219-2003
9-24-6-2	Amended	4	07/01/2003	219-2003
9-24-11-5	Amended	2	07/01/2003	34-2003
9-24-11-6	Repealed	4	07/01/2003	34-2003
9-24-11-7	Amended	10	07/01/2003	208-2003
9-24-11-8	Amended	11	07/01/2003	208-2003
9-24-11-10	New	12	07/01/2003	208-2003
9-24-11-11	New	13	07/01/2003	208-2003
9-24-13-2	Repealed	4	07/01/2003	34-2003
9-24-15-1	Amended	5	07/01/2003	219-2003
9-24-15-1	Amended	14	07/01/2003	208-2003

Table of Citations Affected

Affected Provisions	Type	SEC	Effective	P.L.
9-24-15-3	Amended	6	07/01/2003	219-2003
9-24-15-4	Amended	1	04/24/2003	54-2003
9-24-15-5	Amended	2	04/24/2003	54-2003
9-24-15-10	Amended	12	07/01/2003	219-2003
9-24-16-3	Amended	3	07/01/2003	34-2003
9-25-5-5	Amended	2	07/01/2003	178-2003
9-25-6-3	Amended	31	07/01/2003	268-2003
9-25-7-1	Amended	1	07/01/2003	157-2003
9-25-8-2	Amended	2	07/01/2003	157-2003
9-26-1-2	Amended	3	07/01/2003	157-2003
9-26-2-1	Amended	4	07/01/2003	157-2003
9-26-2-4	Amended	5	07/01/2003	157-2003
9-29-3-4	Amended	51	07/01/2003	224-2003
9-29-3-6	Amended	52	07/01/2003	224-2003
9-29-3-7	Amended	53	07/01/2003	224-2003
9-29-3-8	Amended	54	07/01/2003	224-2003
9-29-3-9	Amended	55	07/01/2003	224-2003
9-29-3-10	Amended	56	07/01/2003	224-2003
9-29-3-11	Amended	57	07/01/2003	224-2003
9-29-3-12	Amended	58	07/01/2003	224-2003
9-29-3-14	Amended	59	07/01/2003	224-2003
9-29-3-18	Amended	60	07/01/2003	224-2003
9-29-3-19	Amended	11	01/01/2003	216-2003
9-29-4-5.5	New	5	07/01/2003	106-2003
9-29-4-7	Amended	6	07/01/2003	106-2003
9-29-6-7	Amended	8	07/01/2003	217-2003
9-29-6-9	Amended	9	07/01/2003	217-2003
9-29-8-4	Amended	32	07/01/2003	268-2003
9-29-15-1	Amended	61	07/01/2003	224-2003
9-29-15-4	Amended	62	07/01/2003	224-2003
9-29-16-5	Amended	63	07/01/2003	224-2003
9-30-3-16	Amended	1	07/01/2003	146-2003
9-30-5-9.5	New	7	07/01/2003	219-2003
9-30-6-6	Amended	3	07/01/2003	205-2003
9-30-9-0.5	New	8	07/01/2003	219-2003
9-30-10-9	Amended	9	07/01/2003	219-2003

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10-1	Repealed	102	07/01/2003	2-2003
10-1-2.5-9	Amended	1	07/01/2003	115-2003
10-2	Repealed	102	07/01/2003	2-2003

Affected Provisions	Type	SEC	Effective	P.L.
10-2-1-2	Amended	2	07/01/2003	115-2003
10-2-3-1	Amended	3	07/01/2003	115-2003
10-2-4-5	Amended	4	07/01/2003	115-2003
10-2-5-3	Amended	5	07/01/2003	115-2003
10-3	Repealed	102	07/01/2003	2-2003
10-4	Repealed	102	07/01/2003	2-2003
10-4-1-5	Amended	4	05/07/2003	205-2003
10-4-1-5.5	Repealed	46	05/07/2003	205-2003
10-4-1-9	Amended	6	07/01/2003	115-2003
10-4-1-10	Amended	7	07/01/2003	115-2003
10-4-1-21	Amended	8	07/01/2003	115-2003
10-4-3	Repealed	20	07/01/2003	115-2003
10-5	Repealed	102	07/01/2003	2-2003
10-5-3-1	Amended	1	07/01/2003	194-2003
10-5-8-1	Amended	1	07/01/2003	260-2003
10-5-9-1	Amended	2	07/01/2003	260-2003
10-6	Repealed	102	07/01/2003	2-2003
10-7	Repealed	102	07/01/2003	2-2003
10-8	Repealed	102	07/01/2003	2-2003
10-8-3-3	Amended	1	07/01/2003	148-2003
10-9	Repealed	102	07/01/2003	2-2003
10-9-2-3	Amended	9	07/01/2003	115-2003
10-10	New	1	07/01/2003	2-2003
10-11	New	2	07/01/2003	2-2003
10-11-8	New	1	07/01/2003	229-2003
10-12	New	3	07/01/2003	2-2003
10-13	New	4	07/01/2003	2-2003
10-13-2-12	Amended	10	07/01/2003	115-2003
10-13-3-18	Amended	4	07/01/2003	156-2003
10-13-3-30	Amended	5	07/01/2003	156-2003
10-13-3-36	Amended	12	07/01/2003	261-2003
10-13-3-36	Amended	1	07/01/2003	158-2003
10-13-3-36	Amended	2	07/01/2003	138-2003
10-13-3-38.5	New	13	05/08/2003	261-2003
10-13-5-8.5	New	1	05/01/2003	131-2003
10-14	New	5	07/01/2003	2-2003
10-14-2-5	New	1	07/01/2003	142-2003
10-14-3-9	Amended	5	07/01/2003	205-2003
10-14-3-10	Repealed	44	07/01/2003	205-2003
10-14-3-10.6	New	6	05/07/2003	205-2003
10-14-3-10.7	New	7	05/07/2003	205-2003
10-14-3-16	Amended	11	07/01/2003	115-2003

Affected Provisions	Type	SEC	Effective	P.L.
10-14-3-17	Amended	12	07/01/2003	115-2003
10-14-3-34	Amended	13	07/01/2003	115-2003
10-14-4-12	Amended	14	07/01/2003	115-2003
10-14-7	Repealed	20	07/01/2003	115-2003
10-14-8-3	Amended	2	07/01/2003	148-2003
10-14-8-3.1	New	3	07/01/2003	148-2003
10-14-8-6	Amended	4	07/01/2003	148-2003
10-14-8-9	New	5	07/01/2003	148-2003
10-15	New	6	07/01/2003	2-2003
10-15-2-3	Amended	15	07/01/2003	115-2003
10-16	New	7	07/01/2003	2-2003
10-16-1-2.5	New	16	07/01/2003	115-2003
10-16-6-1	Amended	17	07/01/2003	115-2003
10-16-7-8	Amended	18	07/01/2003	115-2003
10-16-7-23	New	1	01/01/2003	113-2003
10-16-9-3	Amended	19	07/01/2003	115-2003
10-17	New	8	07/01/2003	2-2003
10-17-4-1	Amended	3	07/01/2003	260-2003
10-17-4-4	Amended	4	07/01/2003	260-2003
10-18	New	9	07/01/2003	2-2003

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11-8-2-5	Amended	200	07/01/2003	209-2003
11-12-1-2.5	Amended	122	07/01/2003	224-2003
11-12-2-3	Amended	123	07/01/2003	224-2003
11-12-3.5	New	124	07/01/2003	224-2003
11-13-1-1	Amended	2	07/01/2003	277-2003
11-13-4-3	Amended	1	07/01/2003	110-2003
11-13-4.5	New	2	07/01/2003	110-2003

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12-7-2-1.3	Amended	1	07/01/2003	274-2003
12-7-2-1.5	Amended	2	07/01/2003	184-2003
12-7-2-12	Amended	1	07/01/2003	80-2003
12-7-2-24	Amended	1	07/01/2003	243-2003
12-7-2-24.6	New	1	07/01/2003	18-2003
12-7-2-24.7	Repealed	55	07/01/2003	255-2003
12-7-2-24.8	New	2	07/01/2003	274-2003
12-7-2-28.9	New	2	07/01/2003	18-2003
12-7-2-33.6	New	1	07/01/2003	181-2003

Affected Provisions	Type	SEC	Effective	P.L.
12-7-2-52.2	Amended	8	07/01/2003	255-2003
12-7-2-69	Amended	2	07/01/2003	243-2003
12-7-2-69	Amended	9	07/01/2003	255-2003
12-7-2-69.5	New	2	07/01/2003	181-2003
12-7-2-76.5	Amended	10	07/01/2003	255-2003
12-7-2-76.8	New	3	07/01/2003	18-2003
12-7-2-82.2	New	3	07/01/2003	181-2003
12-7-2-85.2	New	4	07/01/2003	181-2003
12-7-2-91	Amended	1	04/14/2003	11-2003
12-7-2-110	Amended	11	07/01/2003	255-2003
12-7-2-118.8	New	3	07/01/2003	274-2003
12-7-2-124.7	New	5	07/01/2003	181-2003
12-7-2-131	Amended	1	07/01/2003	25-2003
12-7-2-134	Amended	12	07/01/2003	255-2003
12-7-2-146	Amended	13	07/01/2003	255-2003
12-7-2-149	Amended	1	07/01/2003	19-2003
12-7-2-149	Repealed	21	07/01/2003	241-2003
12-7-2-149	Amended	14	07/01/2003	255-2003
12-7-2-149	Amended	4	07/01/2003	18-2003
12-7-2-149.1	New	2	07/01/2003	241-2003
12-7-2-164	Amended	15	07/01/2003	255-2003
12-7-2-180.1	New	4	07/01/2003	274-2003
12-7-2-199.2	New	5	07/01/2003	18-2003
12-7-2-199.3	Repealed	34	07/01/2003	18-2003
12-7-2-200.5	Amended	1	07/01/2003	262-2003
12-8-1-10	Amended	3	07/01/2003	243-2003
12-8-2-12	Amended	4	07/01/2003	243-2003
12-8-3-7	New	5	05/08/2003	243-2003
12-8-6-10	Amended	6	07/01/2003	243-2003
12-8-8-8	Amended	7	07/01/2003	243-2003
12-9-1-3	Amended	8	07/01/2003	243-2003
12-9-5-3	Amended	9	07/01/2003	243-2003
12-10-1-3	Amended	10	07/01/2003	243-2003
12-10-6-2	Repealed	104	07/01/2002	1-2003
12-10-6-2.1	New	52	07/01/2001	1-2003
12-10-11.5	New	5	07/01/2003	274-2003
12-10-15-1.5	New	3	07/01/2003	184-2003
12-10-15-14	Amended	4	07/01/2003	184-2003
12-10-15-15	New	5	07/01/2003	184-2003
12-10-17-12	Amended	40	07/01/2003	2-2003
12-10.5	New	6	07/01/2003	274-2003
12-11-1.1-1	Amended	11	07/01/2003	243-2003

Affected Provisions	Type	SEC	Effective	P.L.
12-11-1.1-10	New	1	07/01/2003	259-2003
12-12-9	New	1	07/01/2003	104-2003
12-12.5	New	12	07/01/2003	243-2003
12-13-8-4	Amended	53	04/02/2003	1-2003
12-13-12-12	Repealed	2	06/30/2003	93-2003
12-13-12-13	New	1	07/01/2003	93-2003
12-14-15-1	Amended	1	07/01/2003	218-2003
12-15-1-16	Amended	64	07/01/2003	224-2003
12-15-2-6	Amended	2	07/01/2003	218-2003
12-15-2-20	Amended	3	07/01/2003	241-2003
12-15-4-1	Amended	6	07/01/2003	184-2003
12-15-7-6	Amended	1	07/01/2003	26-2003
12-15-8-8	Amended	81	07/01/2003	224-2003
12-15-8.5-2	Amended	71	07/01/2003	224-2003
12-15-8.5-3	Amended	72	07/01/2003	224-2003
12-15-8.5-6	Amended	73	07/01/2003	224-2003
12-15-8.5-7	Amended	74	07/01/2003	224-2003
12-15-8.5-8	Amended	75	07/01/2003	224-2003
12-15-8.5-9	Amended	76	07/01/2003	224-2003
12-15-8.5-10	Repealed	80	07/01/2003	224-2003
12-15-8.5-11	Repealed	80	07/01/2003	224-2003
12-15-8.5-12	New	77	07/01/2003	224-2003
12-15-9-0.5	Amended	78	07/01/2003	224-2003
12-15-9-0.6	Amended	54	04/02/2003	1-2003
12-15-9-0.7	Amended	79	07/01/2003	224-2003
12-15-12-14	Amended	55	04/02/2003	1-2003
12-15-12-19	Amended	1	05/07/2003	212-2003
12-15-14.5	New	83	07/01/2003	224-2003
12-15-15-1.1	Amended	16	07/01/2003	255-2003
12-15-15-1.1	Amended	56	04/02/2003	1-2003
12-15-15-1.3	Amended	17	07/01/2003	255-2003
12-15-15-1.5	New	18	07/01/2003	255-2003
12-15-15-4.5	New	2	07/01/2003	237-2003
12-15-15-9	Amended	57	04/02/2003	1-2003
12-15-15-9	Amended	19	07/01/2003	255-2003
12-15-15-9.5	New	20	07/01/2003	255-2003
12-15-15-9.6	New	21	07/01/2003	255-2003
12-15-20-2	Amended	22	07/01/2003	255-2003
12-15-20.7	New	23	07/01/2003	255-2003
12-15-23-6	Amended	3	07/01/2003	73-2003
12-15-23-8	Amended	4	07/01/2003	73-2003
12-15-32-6.5	Amended	2	07/01/2003	26-2003

Affected Provisions	Type	SEC	Effective	P.L.
12-15-35-28	Amended	2	07/01/2003	193-2003
12-15-35-28	Amended	7	05/07/2003	184-2003
12-15-35-28.7	Amended	8	05/07/2003	184-2003
12-15-35-35	Amended	58	04/02/2003	1-2003
12-15-35-43.5	Amended	9	05/07/2003	184-2003
12-15-35.5-2.5	Amended	10	05/07/2003	184-2003
12-15-35.5-7	Amended	11	05/07/2003	184-2003
12-15-37-7	New	82	07/01/2003	224-2003
12-15-41-9	Amended	3	07/01/2003	26-2003
12-15-43	New	1	07/01/2003	20-2003
12-16-2.5-2	Amended	24	07/01/2003	255-2003
12-16-2.5-6	Repealed	55	07/01/2003	255-2003
12-16-3.5-5	Repealed	55	07/01/2003	255-2003
12-16-4.5-1	Amended	25	07/01/2003	255-2003
12-16-4.5-2	Amended	26	07/01/2003	255-2003
12-16-4.5-8	Amended	27	07/01/2003	255-2003
12-16-4.5-9	Repealed	55	07/01/2003	255-2003
12-16-5.5-1	Amended	28	07/01/2003	255-2003
12-16-5.5-3	Amended	29	07/01/2003	255-2003
12-16-5.5-4	Amended	30	07/01/2003	255-2003
12-16-5.5-5	Repealed	55	07/01/2003	255-2003
12-16-6.5-1	Amended	31	07/01/2003	255-2003
12-16-6.5-2	Amended	32	07/01/2003	255-2003
12-16-6.5-4	Amended	33	07/01/2003	255-2003
12-16-6.5-5	Amended	34	07/01/2003	255-2003
12-16-6.5-8	Repealed	55	07/01/2003	255-2003
12-16-7.5-1	Amended	35	07/01/2003	255-2003
12-16-7.5-2	Repealed	55	07/01/2003	255-2003
12-16-7.5-2.5	New	36	07/01/2003	255-2003
12-16-7.5-3	Amended	37	07/01/2003	255-2003
12-16-7.5-4	Repealed	55	07/01/2003	255-2003
12-16-7.5-4.5	New	38	07/01/2003	255-2003
12-16-7.5-5	Amended	39	07/01/2003	255-2003
12-16-7.5-6	Repealed	55	07/01/2003	255-2003
12-16-7.5-7	Amended	40	07/01/2003	255-2003
12-16-7.5-8	Amended	41	07/01/2003	255-2003
12-16-7.5-11	Repealed	55	07/01/2003	255-2003
12-16-7.5-13	Repealed	55	07/01/2003	255-2003
12-16-8.5-6	Repealed	55	07/01/2003	255-2003
12-16-9.5-1	Amended	42	07/01/2003	255-2003
12-16-9.5-2	Repealed	55	07/01/2003	255-2003
12-16-10.5-6	Repealed	55	07/01/2003	255-2003

Affected Provisions	Type	SEC	Effective	P.L.
12-16-11.5-3	Repealed	55	07/01/2003	255-2003
12-16-12.5-3	Amended	43	07/01/2003	255-2003
12-16-12.5-6	Repealed	55	07/01/2003	255-2003
12-16-13.5-3	Repealed	55	07/01/2003	255-2003
12-16-14-3	Amended	44	07/01/2003	255-2003
12-16-14-3.4	Repealed	55	07/01/2003	255-2003
12-16-14-3.7	Repealed	55	07/01/2003	255-2003
12-16-14.1	Repealed	55	07/01/2003	255-2003
12-16-15.5-7	Repealed	55	07/01/2003	255-2003
12-16-16.5-4	Repealed	55	07/01/2003	255-2003
12-16.1	Repealed	55	07/01/2003	255-2003
12-17-16-1	Amended	12	07/01/2003	216-2003
12-17-16-2	Amended	13	07/01/2003	216-2003
12-17-16-3	Amended	14	07/01/2003	216-2003
12-17-16-5	Amended	15	07/01/2003	216-2003
12-17-16-11	Amended	16	07/01/2003	216-2003
12-17-16-12	Amended	17	07/01/2003	216-2003
12-17.2-2-1	Amended	5	07/01/2003	241-2003
12-17.2-2-1.5	Amended	41	07/01/2003	2-2003
12-17.2-2-5.5	New	2	07/01/2003	19-2003
12-17.2-2-5.5	Amended	4	07/01/2003	241-2003
12-17.2-3.1-2	Amended	6	07/01/2003	18-2003
12-17.2-3.1-12	Amended	7	07/01/2003	18-2003
12-17.2-3.5-1	Amended	8	07/01/2003	18-2003
12-17.2-3.5-1.2	New	9	07/01/2003	18-2003
12-17.2-3.5-1.3	New	10	07/01/2003	18-2003
12-17.2-3.5-1.7	New	11	07/01/2003	18-2003
12-17.2-3.5-2	Repealed	34	07/01/2003	18-2003
12-17.2-3.5-4	Amended	12	07/01/2003	18-2003
12-17.2-3.5-4.1	Amended	13	07/01/2003	18-2003
12-17.2-3.5-5	Amended	14	07/01/2003	18-2003
12-17.2-3.5-5.5	New	15	07/01/2003	18-2003
12-17.2-3.5-6	Amended	16	07/01/2003	18-2003
12-17.2-3.5-7	Amended	17	07/01/2003	18-2003
12-17.2-3.5-8	Amended	18	07/01/2003	18-2003
12-17.2-3.5-9	Amended	19	07/01/2003	18-2003
12-17.2-3.5-10	Amended	20	07/01/2003	18-2003
12-17.2-3.5-11.1	Amended	21	07/01/2003	18-2003
12-17.2-3.5-12	Amended	22	07/01/2003	18-2003
12-17.2-3.5-12.1	Amended	23	07/01/2003	18-2003
12-17.2-3.5-15	New	24	07/01/2003	18-2003
12-17.2-4-2	Amended	25	07/01/2003	18-2003

Affected Provisions	Type	SEC	Effective	P.L.
12-17.2-4-3	Amended	6	07/01/2003	241-2003
12-17.2-4-3.5	New	26	07/01/2003	18-2003
12-17.2-4-12	Amended	7	07/01/2003	241-2003
12-17.2-4-14	Amended	8	07/01/2003	241-2003
12-17.2-4-17.5	New	27	07/01/2003	18-2003
12-17.2-4-18.1	Amended	28	07/01/2003	18-2003
12-17.2-4-18.7	New	9	07/01/2003	241-2003
12-17.2-4-19	Amended	10	07/01/2003	241-2003
12-17.2-4-20	Amended	11	07/01/2003	241-2003
12-17.2-4-27	Amended	12	07/01/2003	241-2003
12-17.2-5-3	Amended	13	07/01/2003	241-2003
12-17.2-5-3.5	New	29	07/01/2003	18-2003
12-17.2-5-12	Amended	14	07/01/2003	241-2003
12-17.2-5-14	Amended	15	07/01/2003	241-2003
12-17.2-5-17.5	New	30	07/01/2003	18-2003
12-17.2-5-18.1	Amended	31	07/01/2003	18-2003
12-17.2-5-18.2	New	32	07/01/2003	18-2003
12-17.2-5-18.7	New	16	07/01/2003	241-2003
12-17.2-5-19	Amended	17	07/01/2003	241-2003
12-17.2-5-20	Amended	18	07/01/2003	241-2003
12-17.2-5-27	Amended	19	07/01/2003	241-2003
12-17.6-1-6	Amended	20	07/01/2003	241-2003
12-17.6-4-5	Amended	3	07/01/2003	178-2003
12-17.7	Repealed	55	07/01/2003	255-2003
12-17.8	Repealed	55	07/01/2003	255-2003
12-18-5-7	Amended	18	07/01/2003	216-2003
12-18-8	New	6	07/01/2003	181-2003
12-19-5-1	Amended	90	07/01/2003	224-2003
12-19-5-9	Amended	91	07/01/2003	224-2003
12-19-7.5	New	92	07/01/2003	224-2003
12-20-6-6	Repealed	9	07/01/2003	262-2003
12-20-15-3	Amended	2	07/01/2003	262-2003
12-20-15-4	Amended	3	07/01/2003	262-2003
12-20-16-2	Amended	4	07/01/2003	262-2003
12-20-16-14	Amended	5	07/01/2003	262-2003
12-20-21-4	Amended	6	07/01/2003	262-2003
12-20-21-5	Repealed	9	07/01/2003	262-2003
12-20-28-3	Amended	7	07/01/2003	262-2003
12-21-2-5	Amended	2	07/01/2003	25-2003
12-21-2-5	Amended	12	07/01/2003	184-2003
12-23-2-7	Amended	4	07/01/2003	143-2003
12-23-5-0.5	New	10	07/01/2003	219-2003

Affected Provisions	Type	SEC	Effective	P.L.
12-23-5-1	Amended	125	07/01/2003	224-2003
12-23-14.5-3	Amended	1	05/01/2003	133-2003
12-23-14.5-9	Amended	2	07/01/2002	133-2003
12-23-14.5-15	Amended	3	05/01/2003	133-2003
12-23-18	New	2	04/14/2003	11-2003
12-24-1-10	Amended	96	07/01/2003	224-2003
12-28-1-7	Amended	1	07/01/2003	46-2003
12-28-1-12	Amended	201	07/01/2003	209-2003
12-30-2-15	New	1	05/08/2003	246-2003

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13-11-2-15.5	New	3	01/01/2004	215-2003
13-11-2-19.3	Amended	1	07/01/2003	203-2003
13-11-2-35.5	New	128	01/01/2004	224-2003
13-11-2-142.7	New	129	01/01/2004	224-2003
13-11-2-177.3	Amended	130	01/01/2004	224-2003
13-11-2-237.5	Amended	131	01/01/2004	224-2003
13-14-1-11.5	Amended	3	07/01/2003	240-2003
13-14-8-8	Amended	1	07/01/2003	231-2003
13-14-8-9	Amended	2	07/01/2003	231-2003
13-14-9-3	Amended	4	07/01/2003	240-2003
13-14-9-4	Amended	5	07/01/2003	240-2003
13-14-9-4.2	New	6	07/01/2003	240-2003
13-14-9-4.5	Amended	7	07/01/2003	240-2003
13-14-9.5-1.1	Amended	8	07/01/2003	240-2003
13-15-4-1	Amended	9	07/01/2003	240-2003
13-15-4-11	Amended	10	07/01/2003	240-2003
13-15-4-12.1	New	11	07/01/2003	240-2003
13-15-11-1	Amended	132	01/01/2004	224-2003
13-15-11-3	Amended	133	01/01/2004	224-2003
13-17-9-1	Amended	1	07/01/2003	238-2003
13-18-20.5	New	134	01/01/2004	224-2003
13-19-3-3	Amended	4	01/01/2004	215-2003
13-21-3-14	Amended	3	07/01/2003	231-2003
13-26-1-2	Amended	1	07/01/2003	101-2003
13-26-4-1	Amended	2	07/01/2003	101-2003
13-26-4-4	Amended	3	07/01/2003	101-2003
13-26-11-2	Amended	1	07/01/2003	239-2003

Affected Provisions	Type	SEC	Effective	P.L.
Title 14				
14-8-2-16.5	New	27	07/01/2003	186-2003
14-8-2-65	Amended	28	07/01/2003	186-2003
14-8-2-87.7	New	29	07/01/2003	186-2003
14-8-2-107	Amended	30	07/01/2003	186-2003
14-8-2-107	Amended	3	07/01/2003	233-2003
14-8-2-188	Amended	31	07/01/2003	186-2003
14-8-2-190	Amended	32	07/01/2003	186-2003
14-8-2-195	Amended	33	07/01/2003	186-2003
14-9-8-21.5	New	4	07/01/2003	233-2003
14-9-8-28	Amended	42	07/01/2003	2-2003
14-9-9-5	Amended	5	07/01/2003	233-2003
14-10-2-5	Amended	34	07/01/2003	186-2003
14-16-1-1	Amended	35	07/01/2003	186-2003
14-16-1-2	Amended	36	07/01/2003	186-2003
14-16-1-3	Amended	37	07/01/2003	186-2003
14-16-1-5	Amended	38	07/01/2003	186-2003
14-16-1-6	Amended	39	07/01/2003	186-2003
14-16-1-7	Amended	40	07/01/2003	186-2003
14-16-1-8	Amended	41	07/01/2003	186-2003
14-16-1-9	Amended	42	07/01/2003	186-2003
14-16-1-10	Amended	43	07/01/2003	186-2003
14-16-1-11	Amended	44	07/01/2003	186-2003
14-16-1-11.5	New	45	07/01/2003	186-2003
14-16-1-14	Amended	46	07/01/2003	186-2003
14-16-1-15	Amended	47	07/01/2003	186-2003
14-16-1-16	Amended	48	07/01/2003	186-2003
14-16-1-22	Amended	49	07/01/2003	186-2003
14-16-1-23	Amended	50	07/01/2003	186-2003
14-16-1-24	Amended	51	07/01/2003	186-2003
14-16-1-25	Amended	52	07/01/2003	186-2003
14-16-1-26	Amended	53	07/01/2003	186-2003
14-16-1-29	Amended	54	07/01/2003	186-2003
14-16-1-30	New	55	07/01/2003	186-2003
14-16-2	Repealed	81	07/01/2003	186-2003
14-19-4	Repealed	81	07/01/2003	186-2003
14-19-5	Repealed	81	07/01/2003	186-2003
14-19-8	New	56	07/01/2003	186-2003
14-22-3-5	Amended	57	07/01/2003	186-2003
14-22-4-6	Amended	58	07/01/2003	186-2003
14-22-10-1	Amended	59	07/01/2003	186-2003

Table of Citations Affected

Affected Provisions	Type	SEC	Effective	P.L.
14-22-11-1	Amended	60	07/01/2003	186-2003
14-22-11-3	Amended	59	04/02/2003	1-2003
14-22-12-7.5	New	61	07/01/2003	186-2003
14-22-12-8	Amended	62	07/01/2003	186-2003
14-22-12-9	Amended	63	07/01/2005	186-2003
14-22-12-10	Repealed	82	07/01/2005	186-2003
14-22-12-11	Amended	64	07/01/2003	186-2003
14-22-12-12	Repealed	82	07/01/2005	186-2003
14-22-12-13	Repealed	82	07/01/2005	186-2003
14-22-39-2	Amended	65	07/01/2003	186-2003
14-23-3-3	Amended	7	07/01/2003	272-2003
14-24-10-1	Amended	66	07/01/2003	186-2003
14-24-10-4	New	67	07/01/2003	186-2003
14-25-2-4	Amended	68	07/01/2003	186-2003
14-26-2-9	Amended	69	07/01/2003	186-2003
14-26-2-15	Amended	70	07/01/2003	186-2003
14-26-2-16	Amended	71	07/01/2003	186-2003
14-27-7.5-9	Amended	72	07/01/2003	186-2003
14-27-7.5-9	Amended	60	04/02/2003	1-2003
14-27-7.5-10	Amended	73	07/01/2003	186-2003
14-27-7.5-14	Amended	74	07/01/2003	186-2003
14-28-1-22	Amended	75	07/01/2003	186-2003
14-28-1-26.5	Amended	1	07/01/2003	121-2003
14-31-3-8	Amended	76	07/01/2003	186-2003
14-33-2-27	Amended	1	07/01/2003	88-2003
14-33-5-2	Amended	2	07/01/2003	88-2003
14-33-7-4	Amended	13	07/01/2003	264-2003
14-33-14-5	Amended	1	07/01/2003	228-2003
14-33-14-6	Amended	2	07/01/2003	228-2003
14-33-14-8	New	3	07/01/2003	228-2003
14-37-4-6	Amended	77	07/01/2003	186-2003
14-37-4-14	New	78	07/01/2003	186-2003

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15-1.5-2-2	Amended	1	07/01/2003	103-2003
15-1.5-2-13	New	2	07/01/2003	103-2003
15-1.5-8-1	Amended	8	07/01/2003	272-2003
15-1.5-10.5-4	Amended	3	07/01/2003	103-2003
15-1.5-10.5-8.5	New	4	07/01/2003	103-2003
15-4-11-8.3	New	1	07/01/2003	53-2003
15-4-11-8.5	New	2	07/01/2003	53-2003

Affected Provisions	Type	SEC	Effective	P.L.
15-4-11-9	Amended	3	07/01/2003	53-2003
15-4-11-10	Amended	4	07/01/2003	53-2003
15-4-11-14	Amended	5	07/01/2003	53-2003
15-4-11-15	Amended	6	07/01/2003	53-2003
15-4-11-15.5	New	7	07/01/2003	53-2003
15-4-11-19	Repealed	11	07/01/2003	53-2003
15-4-11-20.5	New	8	07/01/2003	53-2003
15-4-11-22.5	New	9	07/01/2003	53-2003
15-4-11-24	New	10	07/01/2003	53-2003
15-4-13-3	Amended	1	07/01/2003	102-2003
15-4-13-10	Repealed	4	07/01/2003	102-2003
15-4-13-11	Amended	61	04/02/2003	1-2003
15-4-13-11	Amended	2	07/01/2003	102-2003
15-4-14	New	3	07/01/2003	102-2003

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16-18-2-6	Repealed	44	07/01/2003	205-2003
16-18-2-7	Amended	43	07/01/2003	2-2003
16-18-2-7	Amended	8	07/01/2003	205-2003
16-18-2-10	Amended	9	07/01/2003	205-2003
16-18-2-23	Amended	3	07/01/2003	237-2003
16-18-2-33.5	Amended	10	07/01/2003	205-2003
16-18-2-55.5	New	2	05/07/2003	212-2003
16-18-2-96	Amended	44	07/01/2003	2-2003
16-18-2-109.1	New	11	07/01/2003	205-2003
16-18-2-109.3	New	12	07/01/2003	205-2003
16-18-2-109.5	New	13	07/01/2003	205-2003
16-18-2-112.5	New	14	07/01/2003	205-2003
16-18-2-112.7	New	15	07/01/2003	205-2003
16-18-2-143	Amended	16	07/01/2003	205-2003
16-18-2-163	Amended	17	07/01/2003	205-2003
16-18-2-168	Amended	45	07/01/2003	255-2003
16-18-2-223.6	New	18	07/01/2003	205-2003
16-18-2-264	Amended	2	07/01/2003	104-2003
16-18-2-290.5	Repealed	18	07/01/2003	237-2003
16-18-2-295	Amended	19	07/01/2003	205-2003
16-18-2-323.1	New	7	07/01/2003	252-2003
16-18-2-323.4	New	8	07/01/2003	252-2003
16-18-2-337	Amended	20	07/01/2003	205-2003
16-18-2-337.8	New	4	07/01/2003	237-2003
16-18-2-353.5	New	1	07/01/2003	179-2003

Affected Provisions	Type	SEC	Effective	P.L.
16-19-3-7	Amended	3	07/01/2003	104-2003
16-19-3-19	Amended	202	07/01/2003	209-2003
16-19-5-1	Amended	4	07/01/2003	104-2003
16-19-10-6	New	14	05/08/2003	261-2003
16-19-10-7	New	15	05/08/2003	261-2003
16-21-2-16	New	4	01/01/2004	178-2003
16-22-5-11	Amended	34	07/01/2003	256-2003
16-22-8-14	Amended	46	07/01/2003	255-2003
16-22-8-15	Amended	47	07/01/2003	255-2003
16-22-8-16	Amended	48	07/01/2003	255-2003
16-22-8-21	Amended	49	07/01/2003	255-2003
16-22-8-27	Amended	50	07/01/2003	255-2003
16-22-8-37	Amended	51	07/01/2003	255-2003
16-22-8-39	Amended	52	07/01/2003	255-2003
16-22-8-43	Amended	62	04/02/2003	1-2003
16-22-8-46	Amended	53	07/01/2003	255-2003
16-25-3-11	New	5	01/01/2004	178-2003
16-25-6-2	Amended	45	07/01/2003	2-2003
16-25-6-3	Amended	46	07/01/2003	2-2003
16-25-6-4	Amended	47	07/01/2003	2-2003
16-27-1-2	Amended	1	04/17/2003	37-2003
16-27-1-17	New	6	01/01/2004	178-2003
16-27-2-4	Amended	48	07/01/2003	2-2003
16-27-2-5	Amended	49	07/01/2003	2-2003
16-27-2-6	Amended	50	07/01/2003	2-2003
16-28-2-7	Amended	1	07/01/2003	227-2003
16-28-2-10	New	7	01/01/2004	178-2003
16-28-13-4	Amended	51	07/01/2003	2-2003
16-28-13-6	Amended	52	07/01/2003	2-2003
16-31-2-9	Amended	21	07/01/2003	205-2003
16-31-2-11	Amended	22	07/01/2003	205-2003
16-31-3-5	Amended	23	07/01/2003	205-2003
16-31-3-10	Amended	24	07/01/2003	205-2003
16-31-3-14	Amended	25	07/01/2003	205-2003
16-31-3-14.5	Amended	26	07/01/2003	205-2003
16-31-3-15	Repealed	44	07/01/2003	205-2003
16-31-3-17	Amended	27	07/01/2003	205-2003
16-31-3-19	Amended	28	07/01/2003	205-2003
16-31-3-20	Amended	29	07/01/2003	205-2003
16-31-3-21	Amended	30	07/01/2003	205-2003
16-31-3-23	Amended	31	07/01/2003	205-2003
16-31-3.5	New	32	07/01/2003	205-2003

Affected Provisions	Type	SEC	Effective	P.L.
16-31-6-1	Amended	33	07/01/2003	205-2003
16-31-6-3	Amended	34	07/01/2003	205-2003
16-31-6-4	Amended	53	07/01/2003	2-2003
16-31-6-4	Amended	35	07/01/2003	205-2003
16-31-6.5-1	Repealed	44	07/01/2003	205-2003
16-31-8.5	New	36	07/01/2003	205-2003
16-35-6	New	1	07/01/2003	125-2003
16-37-1-2	Amended	54	07/01/2003	2-2003
16-37-1-8	Amended	55	07/01/2003	2-2003
16-37-1-11	Amended	1	07/01/2003	168-2003
16-38-5-1	Amended	1	07/01/2003	135-2003
16-38-5-2	Amended	2	07/01/2003	135-2003
16-38-5-3	Amended	3	07/01/2003	135-2003
16-38-5-4	New	4	07/01/2003	135-2003
16-38-6	New	3	05/07/2003	212-2003
16-39-7.1-1.5	New	2	07/01/2003	179-2003
16-39-7.1-3	Amended	3	07/01/2003	179-2003
16-39-7.1-6	Amended	4	07/01/2003	179-2003
16-40-1-2	Amended	5	07/01/2003	104-2003
16-40-2	Repealed	10	07/01/2003	104-2003
16-41-6-0.5	New	5	07/01/2003	237-2003
16-41-6-1	Amended	4	07/01/2003	212-2003
16-41-6-1	Amended	6	07/01/2003	237-2003
16-41-6-2.5	Repealed	18	07/01/2003	237-2003
16-41-6-4	Amended	7	07/01/2003	237-2003
16-41-6-5	New	8	07/01/2003	237-2003
16-41-6-6	New	9	07/01/2003	237-2003
16-41-6-7	New	10	07/01/2003	237-2003
16-41-6-8	New	11	07/01/2003	237-2003
16-41-6-9	New	12	07/01/2003	237-2003
16-41-6-10	New	13	05/08/2003	237-2003
16-41-6-11	New	14	07/01/2003	237-2003
16-41-6-12	New	15	07/01/2003	237-2003
16-41-6-13	New	16	05/08/2003	237-2003
16-41-10-1	Amended	5	07/01/2003	212-2003
16-41-10-2	Amended	6	07/01/2003	212-2003
16-41-10-2.5	New	7	07/01/2003	212-2003
16-41-10-3	Amended	8	07/01/2003	212-2003
16-41-10-3.5	New	9	07/01/2003	212-2003
16-41-10-4	Amended	10	07/01/2003	212-2003
16-41-10-5	Amended	11	07/01/2003	212-2003
16-41-19-4	Amended	8	07/01/2003	262-2003

Affected Provisions	Type	SEC	Effective	P.L.
16-41-21-7	Repealed	10	07/01/2003	104-2003
16-41-21-16	Repealed	10	07/01/2003	104-2003
16-41-21-17	Repealed	10	07/01/2003	104-2003
16-41-27-24	Amended	2	07/01/2003	168-2003
16-41-35-29	Amended	6	07/01/2003	104-2003
16-41-35-29	Amended	3	07/01/2003	168-2003
16-41-37-2.3	New	9	07/01/2003	252-2003
16-41-37-2.7	New	10	07/01/2003	252-2003
16-41-37-4	Amended	11	07/01/2003	252-2003
16-41-39.4-2	Amended	1	07/01/2003	59-2003
16-41-39.4-3	Amended	2	07/01/2003	59-2003
16-41-39.4-4	Amended	63	04/02/2003	1-2003
16-42-5-24	Amended	7	07/01/2003	104-2003
16-42-5-25	Amended	8	07/01/2003	104-2003
16-42-5.2-3	Amended	9	07/01/2003	104-2003
16-42-7	Repealed	10	07/01/2003	104-2003
16-44-3-9	Amended	4	07/01/2003	168-2003
16-46-6-2	Amended	1	07/01/2003	242-2003
16-46-6-4	Amended	2	07/01/2003	242-2003
16-46-6-8	Amended	3	07/01/2003	242-2003
16-46-6-10	Amended	4	07/01/2003	242-2003
16-46-11-1	Amended	5	07/01/2003	242-2003

Title 20

20-1-1-6.5	Amended	135	07/01/2003	224-2003
20-1-20.5-8	Amended	270	07/01/2003	224-2003
20-1-21-4	Amended	1	07/01/2003	81-2003
20-1-21-7	Amended	2	07/01/2003	81-2003
20-1-21-8	Amended	3	07/01/2003	81-2003
20-1-21-9	Amended	4	07/01/2003	81-2003
20-3-11-3.1	Amended	1	07/01/2003	38-2003
20-4-1-26.10	New	2	07/01/2003	38-2003
20-4-1-27.2	New	3	07/01/2003	38-2003
20-4-8-18.5	New	4	07/01/2003	38-2003
20-5-2-7	Amended	1	07/01/2003	161-2003
20-5-2-7	Amended	56	07/01/2003	2-2003
20-5-4-1.7	Repealed	3	12/31/2004	10-2003
20-5-4-1.7	Amended	1	04/14/2003	10-2003
20-5.5-1-1.3	New	3	01/01/2002	276-2003
20-5.5-1-1.5	New	4	01/01/2002	276-2003
20-5.5-1-5.5	New	5	01/01/2002	276-2003

Affected Provisions	Type	SEC	Effective	P.L.
20-5.5-1-15	Amended	64	04/02/2003	1-2003
20-5.5-3-13	Amended	6	05/08/2003	276-2003
20-5.5-3-14	Amended	7	01/01/2003	276-2003
20-5.5-6-1	Amended	8	07/01/2003	276-2003
20-5.5-7-2	Repealed	35	01/01/2002	276-2003
20-5.5-7-3	Amended	9	01/01/2003	276-2003
20-5.5-7-3.5	New	10	01/01/2003	276-2003
20-5.5-7-4	Amended	11	01/01/2003	276-2003
20-5.5-7-5	Amended	12	01/01/2003	276-2003
20-5.5-7-9	New	13	01/01/2003	276-2003
20-5.5-7.5	New	14	01/01/2003	276-2003
20-5.5-8-5	Amended	15	01/01/2002	276-2003
20-6.1-3-7	Amended	2	07/01/2003	161-2003
20-6.1-3-7.1	Amended	57	07/01/2003	2-2003
20-6.1-3-12	New	1	07/01/2003	206-2003
20-6.1-4-8	Amended	2	07/01/2003	206-2003
20-6.1-4-10	Amended	3	07/01/2003	161-2003
20-6.1-4-10.5	Amended	4	07/01/2003	161-2003
20-6.1-4-14	Amended	1	07/01/2003	249-2003
20-6.1-4-15	Amended	16	07/01/2003	276-2003
20-8.1-1-1	Amended	17	01/01/2002	276-2003
20-8.1-1-2	Amended	18	01/01/2002	276-2003
20-8.1-3-17.1	Amended	58	07/01/2003	2-2003
20-8.1-4-20.5	Amended	1	05/07/2003	199-2003
20-8.1-4-25.5	New	2	07/01/2003	199-2003
20-8.1-4-31	Amended	3	07/01/2003	199-2003
20-8.1-5.1-23	Amended	1	07/01/2003	202-2003
20-8.1-7-9.5	Amended	1	07/01/2003	244-2003
20-8.1-9-3	Amended	19	01/01/2002	276-2003
20-8.1-15	New	5	07/01/2003	81-2003
20-9.1-2-12	Amended	65	04/02/2003	1-2003
20-9.1-3-2	Amended	66	04/02/2003	1-2003
20-10.1-7-12.5	New	3	07/01/2003	206-2003
20-10.1-22.4-3	Amended	59	07/01/2003	2-2003
20-10.1-30-1	Amended	60	07/01/2003	2-2003
20-12-0.5-1	Amended	1	07/01/2003	24-2003
20-12-0.5-8	Amended	2	07/01/2003	24-2003
20-12-14-2	Amended	139	07/01/2003	224-2003
20-12-19.5-1	Amended	1	07/01/2003	32-2003
20-12-21-3	Amended	1	05/01/2003	130-2003
20-12-21-5.5	Amended	67	04/02/2003	1-2003
20-12-21-5.6	New	2	05/01/2003	130-2003

Affected Provisions	Type	SEC	Effective	P.L.
20-12-21-6	Amended	3	05/01/2003	130-2003
20-14-7-2	Amended	14	07/01/2003	173-2003
20-14-13-9	Amended	35	07/01/2003	256-2003

Title 21

21-1-4-1	Amended	20	07/01/2003	276-2003
21-1-30-0.5	New	21	01/01/2002	276-2003
21-1-30-2	Amended	140	07/01/2003	224-2003
21-1-30-3	Amended	141	07/01/2003	224-2003
21-1-30-10	New	142	07/01/2003	224-2003
21-2-4-7	Amended	143	07/01/2003	224-2003
21-2-4-8	New	144	07/01/2003	224-2003
21-2-11-4	Amended	145	07/01/2003	224-2003
21-2-11.5-5	Amended	146	07/01/2003	224-2003
21-2-11.5-6	New	147	07/01/2003	224-2003
21-2-15-3	Amended	22	01/01/2002	276-2003
21-2-15-4	Amended	148	07/01/2003	224-2003
21-2-15-5	Amended	149	07/01/2003	224-2003
21-2-15-6	Amended	150	07/01/2003	224-2003
21-2-15-8	Amended	36	07/01/2003	256-2003
21-2-15-11	Amended	151	07/01/2003	224-2003
21-2-15-12	Amended	152	07/01/2003	224-2003
21-2-15-13.1	Amended	153	07/01/2003	224-2003
21-2-18-3	Amended	154	07/01/2003	224-2003
21-2-18-4	Amended	155	07/01/2003	224-2003
21-3-1.6-1.1	Amended	23	01/01/2002	276-2003
21-3-1.6-1.1	Amended	156	07/01/2003	224-2003
21-3-1.6-2	Amended	24	01/01/2002	276-2003
21-3-1.7-2	Amended	25	01/01/2002	276-2003
21-3-1.7-3.1	Amended	26	07/01/2003	276-2003
21-3-1.7-3.1	Amended	68	04/02/2003	1-2003
21-3-1.7-3.1	Amended	157	07/01/2003	224-2003
21-3-1.7-4	Amended	158	07/01/2003	224-2003
21-3-1.7-5	Amended	27	01/01/2002	276-2003
21-3-1.7-6.6	Amended	159	07/01/2003	224-2003
21-3-1.7-6.6	Amended	28	01/01/2002	276-2003
21-3-1.7-6.7	Amended	160	07/01/2003	224-2003
21-3-1.7-6.7	Amended	29	07/01/2003	276-2003
21-3-1.7-6.8	Amended	161	07/01/2003	224-2003
21-3-1.7-6.8	Amended	30	07/01/2003	276-2003
21-3-1.7-8	Amended	69	04/02/2003	1-2003

Affected Provisions	Type	SEC	Effective	P.L.
21-3-1.7-8	Repealed	172	07/01/2003	224-2003
21-3-1.7-8.2	New	162	07/01/2003	224-2003
21-3-1.7-8.2	Amended	31	07/01/2003	276-2003
21-3-1.7-9	Amended	163	07/01/2003	224-2003
21-3-1.7-9.5	Amended	164	07/01/2003	224-2003
21-3-1.7-9.5	Amended	32	01/01/2002	276-2003
21-3-1.7-9.7	Amended	165	07/01/2003	224-2003
21-3-1.7-9.8	Amended	166	07/01/2003	224-2003
21-3-1.7-9.9	New	167	07/01/2003	224-2003
21-3-1.7-10	Amended	168	07/01/2003	224-2003
21-3-2.1-7	Amended	169	07/01/2003	224-2003
21-3-2.1-10	Amended	170	07/01/2003	224-2003
21-3-3.1-0.5	New	33	01/01/2002	276-2003
21-3-12-1.5	New	34	01/01/2002	276-2003
21-3-12-12	Amended	171	07/01/2003	224-2003
21-6.1-2-8	Amended	97	07/01/2003	224-2003
21-6.1-3-9	Amended	188	07/01/2003	224-2003
21-6.1-3-13	Amended	2	07/01/2003	72-2003
21-6.1-5-9	Amended	5	07/01/2003	190-2003

Title 22

22-1-1-11	Amended	1	07/01/2003	187-2003
22-2-2-3	Amended	8	07/01/2003	178-2003
22-3-3-13	Amended	9	07/01/2003	178-2003
22-4-4-3	Amended	1	07/01/2003	273-2003
22-4-8-3	Amended	70	04/02/2003	1-2003
22-4-8-3	Amended	10	07/01/2003	178-2003
22-4-10.5-1	Repealed	8	07/01/2003	273-2003
22-4-10.5-7	Amended	2	07/01/2003	273-2003
22-4-11-1	Amended	1	07/01/2003	189-2003
22-4-11-3	Amended	3	07/01/2003	273-2003
22-4-11-3.2	Repealed	8	07/01/2003	273-2003
22-4-11-3.3	Amended	4	07/01/2003	273-2003
22-4-14-3	Amended	2	07/01/2003	189-2003
22-4-15-1	Amended	3	07/01/2003	189-2003
22-4-15-2	Amended	4	07/01/2003	189-2003
22-4-17-2	Amended	5	07/01/2003	189-2003
22-4-17-2	Amended	5	07/01/2003	273-2003
22-4-18-1	Amended	6	07/01/2003	189-2003
22-4-18-4.5	New	7	07/01/2003	189-2003
22-4-19-6	Amended	8	07/01/2003	189-2003

Table of Citations Affected

Affected Provisions	Type	SEC	Effective	P.L.
22-4-24.5-1	Amended	6	07/01/2003	273-2003
22-4-25-1	Amended	7	07/01/2003	273-2003
22-4-26-5	Amended	120	05/08/2003	224-2003
22-8-1.1-43.1	Amended	1	07/01/2003	234-2003
22-9.5-3-4	Amended	1	07/01/2003	89-2003
22-10-1.5-5	Amended	2	07/01/2003	187-2003
22-10-12-16	New	3	07/01/2003	187-2003
22-12-1-4	Amended	2	07/01/2003	141-2003
22-12-1-16	Amended	3	07/01/2003	141-2003
22-12-1-20	Repealed	23	07/01/2003	141-2003
22-12-4.5-4	Amended	4	07/01/2003	141-2003
22-12-4.5-6	Amended	5	07/01/2003	141-2003
22-12-6-3	Amended	6	07/01/2003	141-2003
22-12-6-6	Amended	71	04/02/2003	1-2003
22-12-7-4	Amended	7	07/01/2003	141-2003
22-12-7-7	Amended	8	07/01/2003	141-2003
22-13-2-8	Amended	9	07/01/2003	141-2003
22-13-2-11	Amended	10	07/01/2003	141-2003
22-13-2.5-3	Amended	11	07/01/2003	141-2003
22-13-4-7	New	1	04/30/2003	112-2003
22-13-5-2	Amended	1	07/01/2003	64-2003
22-14-2-4	Amended	1	07/01/2003	63-2003
22-15-4-7	Amended	12	07/01/2003	141-2003
22-15-5-7	Amended	13	05/05/2003	141-2003
22-15-5-8	Amended	72	04/02/2003	1-2003
22-15-5-11	Amended	14	05/05/2003	141-2003
22-15-5-12	Amended	15	05/05/2003	141-2003
22-15-5-13	Amended	61	07/01/2003	2-2003
22-15-6-0.5	New	16	07/01/2003	141-2003
22-15-6-1	Amended	17	07/01/2003	141-2003
22-15-6-2	Amended	18	07/01/2003	141-2003
22-15-6-4	Amended	19	07/01/2003	141-2003
22-15-6-6	Amended	20	07/01/2003	141-2003
22-15-7-2.5	Amended	21	07/01/2003	141-2003
22-15-7-4	Amended	22	07/01/2003	141-2003

Title 23

23-1-29-4.5	New	1	07/01/2003	213-2003
23-1-38.5-13	Amended	2	07/01/2003	213-2003
23-2-1-15	Amended	1	07/01/2003	270-2003
23-2-1-15	Amended	62	07/01/2003	2-2003

Affected Provisions	Type	SEC	Effective	P.L.
23-2-1-16	Amended	2	07/01/2003	270-2003
23-2-2.5-14	Amended	73	04/02/2003	1-2003
23-2-5-10	Amended	3	07/01/2003	270-2003
23-7-8-2	Amended	1	07/01/2003	155-2003
23-7-8-7	Amended	2	07/01/2003	155-2003
23-14-31-27	Amended	1	07/01/2003	169-2003
23-14-31-52	Amended	2	07/01/2003	169-2003

Title 24

24-3-2-2	Amended	12	07/01/2003	252-2003
24-3-2-3	Amended	13	07/01/2003	252-2003
24-3-2-4.7	New	14	07/01/2003	252-2003
24-3-3-13	Amended	15	07/01/2003	252-2003
24-3-5	New	1	07/01/2003	253-2003
24-3-5.2	New	1	07/01/2003	117-2003
24-3-5.4	New	16	07/01/2003	252-2003
24-4-9-13	Amended	1	07/01/2003	70-2003
24-4-9-14	Amended	2	07/01/2003	70-2003
24-4-13	New	1	07/01/2003	97-2003
24-4.5-1-102	Amended	1	07/01/2003	258-2003
24-4.5-6-201	Amended	11	07/01/2003	178-2003
24-4.5-7-401	Amended	2	07/01/2003	258-2003
24-4.5-7-413	Amended	3	07/01/2003	258-2003
24-5-14-12	Amended	63	07/01/2003	2-2003
24-5-22	New	1	07/01/2003	36-2003
24-6-4	Repealed	10	07/01/2003	104-2003
24-6-5-1	Repealed	10	07/01/2003	104-2003
24-6-5-2	Repealed	10	07/01/2003	104-2003
24-6-5-3	Repealed	10	07/01/2003	104-2003
24-6-5-4	Repealed	10	07/01/2003	104-2003
24-6-5-5	Repealed	10	07/01/2003	104-2003
24-6-5-6	Repealed	10	07/01/2003	104-2003
24-6-5-7	Repealed	10	07/01/2003	104-2003
24-6-5-8	Repealed	10	07/01/2003	104-2003
24-6-5-9	Repealed	10	07/01/2003	104-2003
24-6-5-10	Repealed	10	07/01/2003	104-2003
24-6-5-14	Repealed	10	07/01/2003	104-2003

Affected Provisions	Type	SEC	Effective	P.L.
Title 25				
25-1-2-2.1	Amended	1	07/01/2003	145-2003
25-1-2-6	Amended	2	07/01/2003	145-2003
25-1-6-3	Amended	3	07/01/2003	145-2003
25-1-7-1	Amended	4	07/01/2003	145-2003
25-1-8-1	Amended	64	07/01/2003	2-2003
25-1-8-1	Amended	5	07/01/2003	145-2003
25-1-9-7	Amended	2	07/01/2003	158-2003
25-1-9-15	Amended	3	07/01/2003	158-2003
25-1-9-19	New	12	01/01/2004	178-2003
25-1-11-1	Amended	6	07/01/2003	145-2003
25-2.1-3-2	Amended	1	01/01/2004	6-2003
25-2.1-3-3	Amended	2	01/01/2004	6-2003
25-2.1-3-6	Repealed	7	01/01/2004	6-2003
25-2.1-3-7	Amended	3	01/01/2004	6-2003
25-2.1-3-8	Amended	4	01/01/2004	6-2003
25-2.1-3-9	Amended	5	01/01/2004	6-2003
25-2.1-3-10	Amended	6	04/02/2003	6-2003
25-4-1-31	New	1	07/01/2003	23-2003
25-4-2-13	New	2	07/01/2003	23-2003
25-5.2-1-2	Amended	74	04/02/2003	1-2003
25-6.1-3-2	Amended	3	07/01/2003	23-2003
25-6.1-3-3	Amended	4	07/01/2003	23-2003
25-6.1-3-4	Amended	5	07/01/2003	23-2003
25-6.1-3-5	Amended	6	07/01/2003	23-2003
25-6.1-9-1	Amended	7	03/01/2004	23-2003
25-14-1-27.5	New	1	07/01/2003	210-2003
25-20.2	New	7	07/01/2003	145-2003
25-22.5-1-2	Amended	65	07/01/2003	2-2003
25-22.5-1-2	Amended	37	07/01/2003	205-2003
25-22.5-5-4.5	New	13	07/01/2003	184-2003
25-23-1-2	Amended	4	07/01/2003	158-2003
25-23-1-5	Amended	5	07/01/2003	158-2003
25-23-1-7	Amended	6	07/01/2003	158-2003
25-23-1-19.8	New	7	07/01/2003	158-2003
25-23.2-3-5	Amended	75	04/02/2003	1-2003
25-25-2-1	Amended	66	07/01/2003	2-2003
25-26-13-4.5	Amended	1	07/01/2003	182-2003
25-26-13-10	Amended	2	07/01/2003	182-2003
25-26-13-18	Amended	2	07/01/2003	251-2003
25-26-13-23	Amended	3	07/01/2003	182-2003

Affected Provisions	Type	SEC	Effective	P.L.
25-26-13-23	Amended	76	04/02/2003	1-2003
25-26-13-25	Amended	4	05/07/2003	182-2003
25-26-19	New	3	07/01/2003	251-2003
25-29-6-1	Amended	8	07/01/2003	158-2003
25-30-2-1	Amended	67	07/01/2003	2-2003
25-34.1-2-5	Amended	8	07/01/2003	145-2003
25-34.1-2-6	Amended	9	07/01/2003	145-2003
25-34.1-3-9	Amended	10	07/01/2003	145-2003
25-34.1-8-6	Amended	11	07/01/2003	145-2003
25-34.1-8-7.5	New	12	07/01/2003	145-2003
25-34.1-8-15	New	13	07/01/2003	145-2003
25-36.5-1-7	Amended	79	07/01/2003	186-2003
25-36.5-1-15	Amended	80	07/01/2003	186-2003
25-36.5-1-18	Amended	68	07/01/2003	2-2003

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26-1-9.1-102.5	New	1	07/01/2003	192-2003
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Title 27

27-1-2-3	Amended	13	07/01/2003	178-2003
27-1-3-30	New	1	07/01/2003	166-2003
27-1-6-15	Amended	1	07/01/2003	129-2003
27-1-6-16	Amended	2	07/01/2003	129-2003
27-1-6-17	Amended	14	07/01/2003	178-2003
27-1-6.5-5	Amended	15	07/01/2003	178-2003
27-1-12-43	Amended	16	07/01/2003	178-2003
27-1-12.6-5	Amended	17	07/01/2003	178-2003
27-1-12.7	New	18	05/07/2003	178-2003
27-1-13-11	Amended	19	07/01/2003	178-2003
27-1-15.6-4	Amended	3	07/01/2003	129-2003
27-1-15.8-4	Amended	2	07/01/2003	160-2003
27-1-18-5	Amended	3	07/01/2003	160-2003
27-1-20-26	Amended	4	07/01/2003	129-2003
27-1-20-30	Amended	20	07/01/2003	178-2003
27-1-22-2	Amended	5	07/01/2003	129-2003
27-1-22-2.5	Amended	21	07/01/2003	178-2003
27-1-22-4	Amended	22	07/01/2003	178-2003
27-1-22-5	Amended	23	07/01/2003	178-2003
27-1-22-7	Amended	24	07/01/2003	178-2003
27-1-22-18	Amended	25	07/01/2003	178-2003

Affected Provisions	Type	SEC	Effective	P.L.
27-1-22-19	Amended	26	07/01/2003	178-2003
27-1-25-1	Amended	4	07/01/2003	160-2003
27-1-25-1	Amended	27	07/01/2003	178-2003
27-1-25-2	Amended	5	07/01/2003	160-2003
27-1-25-3	Amended	6	07/01/2003	160-2003
27-1-25-4	Amended	7	07/01/2003	160-2003
27-1-25-5	Amended	8	07/01/2003	160-2003
27-1-25-5.5	New	9	07/01/2003	160-2003
27-1-25-6	Amended	10	07/01/2003	160-2003
27-1-25-7	Amended	11	07/01/2003	160-2003
27-1-25-8	Amended	12	07/01/2003	160-2003
27-1-25-9	Amended	13	07/01/2003	160-2003
27-1-25-10	Amended	14	07/01/2003	160-2003
27-1-25-11	Repealed	28	07/01/2003	160-2003
27-1-25-11.1	New	15	07/01/2003	160-2003
27-1-25-12	Repealed	28	07/01/2003	160-2003
27-1-25-12.2	New	16	07/01/2003	160-2003
27-1-25-12.3	New	17	07/01/2003	160-2003
27-1-25-12.4	New	18	07/01/2003	160-2003
27-1-25-13	Amended	19	07/01/2003	160-2003
27-1-25-15	Amended	20	07/01/2003	160-2003
27-1-25-16	New	21	07/01/2003	160-2003
27-1-25.1	New	22	07/01/2003	160-2003
27-1-27-1	Amended	6	07/01/2003	129-2003
27-1-27-1	Amended	28	07/01/2003	178-2003
27-1-27-4	Amended	29	07/01/2003	178-2003
27-1-29-14	Amended	1	07/01/2003	108-2003
27-1-31-3	Amended	23	07/01/2003	160-2003
27-1-34-8	Amended	30	07/01/2003	178-2003
27-1-36-46	Amended	31	07/01/2003	178-2003
27-2-17-3	Amended	32	07/01/2003	178-2003
27-2-17-6	Amended	33	07/01/2003	178-2003
27-2-21	New	1	07/01/2003	201-2003
27-4-1-2	Amended	34	07/01/2003	178-2003
27-4-1-2	Amended	7	07/01/2003	129-2003
27-4-1-4	Amended	35	07/01/2003	178-2003
27-4-1-4	Amended	2	07/01/2003	201-2003
27-4-1-4	Amended	1	07/01/2003	211-2003
27-4-3-1	Amended	36	07/01/2003	178-2003
27-4-3-2	Amended	37	07/01/2003	178-2003
27-4-3-3	Amended	38	07/01/2003	178-2003
27-5	Repealed	15	07/01/2003	129-2003

Affected Provisions	Type	SEC	Effective	P.L.
27-5-3-3	Amended	39	07/01/2003	178-2003
27-5-4-2	Amended	40	07/01/2003	178-2003
27-5.1	New	8	07/01/2003	129-2003
27-6-1.1-6	Amended	9	07/01/2003	129-2003
27-6-2-1	Amended	10	07/01/2003	129-2003
27-6-2-2	Amended	11	07/01/2003	129-2003
27-6-8-4	Amended	12	07/01/2003	129-2003
27-6-8-9	Amended	41	07/01/2003	178-2003
27-6-8-10	Amended	42	07/01/2003	178-2003
27-6-8-19	Amended	43	07/01/2003	178-2003
27-6-9-5	Amended	44	07/01/2003	178-2003
27-7-6-5	Amended	45	07/01/2003	178-2003
27-7-6-6	Amended	46	07/01/2003	178-2003
27-7-6-6	Amended	24	07/01/2003	160-2003
27-7-6-10	Amended	47	07/01/2003	178-2003
27-7-9-9	Amended	48	07/01/2003	178-2003
27-7-10-15	Amended	49	07/01/2003	178-2003
27-7-10-27	Amended	50	07/01/2003	178-2003
27-7-10-28	Amended	51	07/01/2003	178-2003
27-7-10-30	Amended	52	07/01/2003	178-2003
27-7-10-31	Amended	53	07/01/2003	178-2003
27-7-10-32	Amended	54	07/01/2003	178-2003
27-7-12-3	Amended	55	07/01/2003	178-2003
27-7-12-4	Amended	56	07/01/2003	178-2003
27-7-12-9	Amended	57	07/01/2003	178-2003
27-8-1-18	Amended	58	07/01/2003	178-2003
27-8-3-6	Amended	69	07/01/2003	2-2003
27-8-3-25	Amended	59	07/01/2003	178-2003
27-8-3-26	Amended	70	07/01/2003	2-2003
27-8-5-2.5	Amended	2	07/01/2003	211-2003
27-8-5-3	Amended	60	07/01/2003	178-2003
27-8-5-15.6	Amended	1	07/01/2003	226-2003
27-8-5-16.5	Amended	3	07/01/2003	211-2003
27-8-5-19.2	New	4	05/07/2003	211-2003
27-8-5-26	Amended	1	07/01/2003	204-2003
27-8-5.7-9	New	61	05/07/2003	178-2003
27-8-8-2	Amended	13	07/01/2003	129-2003
27-8-8-18	Amended	62	07/01/2003	178-2003
27-8-10-1	Amended	3	07/01/2003	193-2003
27-8-10-2.1	Amended	63	07/01/2003	178-2003
27-8-10-2.1	Amended	4	07/01/2003	193-2003
27-8-10-3.5	New	5	07/01/2003	193-2003

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Affected Provisions	Type	SEC	Effective	P.L.
27-8-10-3.6	New	6	07/01/2003	193-2003
27-8-10-5.1	Amended	7	07/01/2003	193-2003
27-8-10-5.1	Amended	5	07/01/2003	211-2003
27-8-10-6	Amended	8	07/01/2003	193-2003
27-8-10-10	Amended	64	07/01/2003	178-2003
27-8-10-12	New	9	07/01/2003	193-2003
27-8-10-13	New	10	07/01/2003	193-2003
27-8-10-14	New	11	07/01/2003	193-2003
27-8-12-7	Amended	65	07/01/2003	178-2003
27-8-12-14	Amended	66	07/01/2003	178-2003
27-8-12-18	Amended	67	07/01/2003	178-2003
27-8-12-19	Amended	68	07/01/2003	178-2003
27-8-13-2	Amended	69	07/01/2003	178-2003
27-8-13-4	Amended	70	07/01/2003	178-2003
27-8-16-1	Amended	25	07/01/2003	160-2003
27-8-16-1.5	Amended	26	07/01/2003	160-2003
27-8-19.8-8.5	Amended	71	07/01/2003	178-2003
27-8-24-4	Amended	17	07/01/2003	237-2003
27-8-24.1	New	2	01/01/2004	166-2003
27-8-28-17	Amended	72	07/01/2003	178-2003
27-8-29-6	Amended	6	07/01/2003	211-2003
27-8-29-12	Amended	7	07/01/2003	211-2003
27-8-29-13	Amended	8	07/01/2003	211-2003
27-8-29-15	Amended	9	07/01/2003	211-2003
27-8-31.2	New	4	07/01/2003	251-2003
27-9-1-3	Amended	73	07/01/2003	178-2003
27-9-1-5	Amended	74	07/01/2003	178-2003
27-9-3-9	Amended	75	07/01/2003	178-2003
27-9-3-10	Amended	76	07/01/2003	178-2003
27-9-3-11	Amended	77	07/01/2003	178-2003
27-9-3-31	Amended	78	07/01/2003	178-2003
27-9-4-3	Amended	79	07/01/2003	178-2003
27-10-1-2	Amended	80	07/01/2003	178-2003
27-10-3-1	Amended	81	07/01/2003	178-2003
27-10-3-3	Amended	82	07/01/2003	178-2003
27-11-8-9	Amended	83	07/01/2003	178-2003
27-13-1-3	Amended	84	07/01/2003	178-2003
27-13-7-14	Amended	2	07/01/2003	204-2003
27-13-7-14.8	Amended	2	07/01/2003	226-2003
27-13-7-18	New	3	01/01/2004	166-2003
27-13-10-8	Amended	85	07/01/2003	178-2003
27-13-16-1	Amended	1	07/01/2003	83-2003

Affected Provisions	Type	SEC	Effective	P.L.
27-13-21-1	Amended	86	07/01/2003	178-2003
27-13-34-18	Amended	87	07/01/2003	178-2003
27-13-36.2-7	New	88	05/07/2003	178-2003
27-13-37.5	New	5	07/01/2003	251-2003

Title 28

28-1-2-23	Amended	4	07/01/2003	258-2003
28-1-2-39	New	3	07/01/2003	72-2003
28-1-11-2	Amended	89	07/01/2003	178-2003
28-1-11-2.5	Amended	2	07/01/2003	192-2003
28-1-11-2.5	Amended	90	07/01/2003	178-2003
28-1-11-4	Amended	3	07/01/2003	192-2003
28-1-11-12.5	New	5	07/01/2003	258-2003
28-1-15-1	Amended	4	07/01/2003	192-2003
28-1-20-4	Amended	6	07/01/2003	258-2003
28-2-13-26	Amended	7	07/01/2003	258-2003
28-5-1-6.5	Amended	91	07/01/2003	178-2003
28-6.1-6-14	Amended	92	07/01/2003	178-2003
28-6.1-6-22.5	New	5	07/01/2003	192-2003
28-6.1-8-8	Amended	8	07/01/2003	258-2003
28-6.1-20	New	9	07/01/2003	258-2003
28-7-1-9	Amended	10	07/01/2003	258-2003
28-7-1-9.1	Amended	93	07/01/2003	178-2003
28-7-5-2	Amended	11	07/01/2003	258-2003
28-7-5-28	Amended	12	07/01/2003	258-2003
28-7-5-28.5	Amended	13	07/01/2003	258-2003
28-7-5-30	Amended	14	07/01/2003	258-2003
28-7-5-35	Amended	15	07/01/2003	258-2003
28-8-4-1	Amended	16	07/01/2003	258-2003
28-8-4-47	Amended	17	07/01/2003	258-2003
28-10-1-1	Amended	18	07/01/2003	258-2003
28-10-1-1	Amended	6	01/01/2003	192-2003
28-11-4-3	Amended	19	07/01/2003	258-2003
28-11-4-4	Amended	20	07/01/2003	258-2003
28-11-4-5	Amended	21	07/01/2003	258-2003
28-11-4-6	Amended	22	07/01/2003	258-2003
28-11-4-7	Amended	23	07/01/2003	258-2003
28-12-11-1	Amended	24	07/01/2003	258-2003
28-13-4-4	Amended	25	07/01/2003	258-2003
28-13-4-5	Amended	26	07/01/2003	258-2003
28-13-4-6	Amended	27	07/01/2003	258-2003

Affected Provisions	Type	SEC	Effective	P.L.
28-13-4-7	Amended	28	07/01/2003	258-2003
28-13-9-2	Amended	7	05/07/2003	192-2003
28-13-16-4	Amended	29	07/01/2003	258-2003
28-14-3-10	Amended	94	07/01/2003	178-2003
28-14-3-11	Amended	95	07/01/2003	178-2003
28-15-2-1	Amended	30	07/01/2003	258-2003
28-15-2-1.5	New	8	07/01/2003	192-2003
28-15-16	New	31	07/01/2003	258-2003

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29-1-1-3	Amended	2	07/01/2003	176-2003
29-1-2-1	Amended	3	07/01/2003	176-2003
29-1-2-2	Repealed	7	07/01/2003	176-2003
29-1-3-1	Amended	4	07/01/2003	176-2003
29-1-3-7	Amended	5	07/01/2003	176-2003
29-1-5-3	Amended	1	07/01/2003	4-2003
29-1-5-3	Amended	6	07/01/2003	176-2003
29-1-5-3.1	New	2	07/01/2003	4-2003
29-1-5-3.2	New	3	07/01/2003	4-2003
29-1-5-6	Amended	4	07/01/2003	4-2003
29-1-5-9	Amended	5	07/01/2003	4-2003
29-2-5-1	Amended	6	07/01/2003	4-2003

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30-2-8.6	New	1	07/01/2003	3-2003
30-2-15	New	2	07/01/2003	3-2003
30-4-2.1	New	7	07/01/2003	4-2003

Title 31

31-9-2-42	Amended	9	07/01/2003	189-2003
31-9-2-42	Amended	3	07/01/2003	221-2003
31-9-2-76.5	New	1	07/01/2003	152-2003
31-14-6-4	Amended	1	07/01/2003	44-2003
31-14-14-4	Amended	71	07/01/2003	2-2003
31-14-16-1	Amended	4	07/01/2003	221-2003
31-14-21-9	Amended	1	07/01/2003	61-2003
31-15-4-1	Amended	5	07/01/2003	221-2003
31-15-5-1	Amended	6	07/01/2003	221-2003
31-17-4-10	Amended	72	07/01/2003	2-2003

Affected Provisions	Type	SEC	Effective	P.L.
31-19-2-13	New	2	07/01/2003	61-2003
31-19-2-14	New	3	07/01/2003	61-2003
31-19-2.5	New	4	07/01/2003	61-2003
31-19-4-1	Amended	5	07/01/2003	61-2003
31-19-4-2	Amended	6	07/01/2003	61-2003
31-19-4-4	Amended	7	07/01/2003	61-2003
31-19-4-5	Amended	8	07/01/2003	61-2003
31-19-4-8	Amended	9	07/01/2003	61-2003
31-19-4-10	Repealed	22	07/01/2003	61-2003
31-19-4-11	Repealed	22	07/01/2003	61-2003
31-19-4-12	Repealed	22	07/01/2003	61-2003
31-19-4.5	New	10	07/01/2003	61-2003
31-19-9-8	Amended	11	07/01/2003	61-2003
31-19-9-17	Amended	12	07/01/2003	61-2003
31-19-9-18	New	13	07/01/2003	61-2003
31-19-9-19	New	14	07/01/2003	61-2003
31-19-10-1	Amended	15	07/01/2003	61-2003
31-19-10-1.2	New	16	07/01/2003	61-2003
31-19-10-1.4	New	17	07/01/2003	61-2003
31-19-10-3	Amended	18	07/01/2003	61-2003
31-19-10-4.5	Amended	19	07/01/2003	61-2003
31-19-10-7	Amended	20	07/01/2003	61-2003
31-30-1-1	Amended	1	07/01/2003	196-2003
31-31-5-2	Amended	3	07/01/2003	277-2003
31-32-16	New	2	07/01/2003	196-2003
31-33-17-6	Amended	33	07/01/2003	18-2003
31-34-1-8	Amended	73	07/01/2003	2-2003
31-34-2-2	Amended	77	04/02/2003	1-2003
31-34-2-4	Amended	74	07/01/2003	2-2003
31-34-2-5	Amended	75	07/01/2003	2-2003
31-34-2.5-2	Amended	76	07/01/2003	2-2003
31-34-21-4	Amended	2	07/01/2003	152-2003
31-34-21-4.5	Amended	3	07/01/2003	152-2003
31-34-21-4.6	New	4	07/01/2003	152-2003
31-34-21-5.6	Amended	78	04/02/2003	1-2003
31-36-1-3	Amended	77	07/01/2003	2-2003
31-36-2-4	Amended	78	07/01/2003	2-2003
31-37-19-6	Amended	79	04/02/2003	1-2003
31-40-1-1.7	New	4	07/01/2003	277-2003
31-40-2-1	Amended	5	07/01/2003	277-2003
31-40-2-1.5	New	6	07/01/2003	277-2003
31-40-2-2	Amended	7	07/01/2003	277-2003

Affected Provisions	Type	SEC	Effective	P.L.
Title 32				
32-17-7	Repealed	2	07/01/2003	5-2003
32-17.5	New	1	07/01/2003	5-2003
32-18-1-22	Amended	80	04/02/2003	1-2003
32-21-4-1	Amended	81	04/02/2003	1-2003
32-21-4-3	Amended	82	04/02/2003	1-2003
32-21-5-7	Amended	83	04/02/2003	1-2003
32-22-2-2	Repealed	2	07/01/2003	16-2003
32-22-2-3	Repealed	2	07/01/2003	16-2003
32-22-2-4	Repealed	2	07/01/2003	16-2003
32-22-2-5	Amended	1	07/01/2003	16-2003
32-22-2-6	Repealed	2	07/01/2003	16-2003
32-25-4-3	Amended	84	04/02/2003	1-2003
32-26-9-0.5	New	1	07/01/2003	57-2003
32-26-9-6	Amended	2	07/01/2003	57-2003
32-27-3	New	1	07/01/2003	134-2003
32-28-3-1	Amended	1	07/01/2003	151-2003
32-29-1-11	Amended	2	07/01/2003	151-2003
32-29-1-11	Amended	1	07/01/2003	122-2003
32-29-6-17	Amended	1	07/01/2003	79-2003
32-29-6-17	Amended	1	07/01/2003	48-2003
32-30-5-5	Amended	85	04/02/2003	1-2003
32-30-5-7	Amended	1	07/01/2003	177-2003
32-31-1-18	Amended	86	04/02/2003	1-2003
32-31-2-9	New	1	07/01/2003	29-2003
32-31-3-1	Repealed	2	07/01/2003	29-2003
32-33-19-1	Amended	87	04/02/2003	1-2003
32-34-1-1	Amended	1	07/01/2003	107-2003
32-34-1-20	Amended	2	07/01/2003	107-2003
32-34-1-20	Amended	113	07/01/2003	224-2003
32-34-1-26	Amended	3	07/01/2003	107-2003
32-34-1-28	Amended	4	07/01/2003	107-2003
32-34-1-31	Amended	5	07/01/2003	107-2003
32-34-1-32	Amended	6	07/01/2003	107-2003
32-34-1-33	Amended	7	07/01/2003	107-2003
32-34-1-36	Amended	8	07/01/2003	107-2003
32-34-1-36.5	New	9	07/01/2003	107-2003

Affected Provisions	Type	SEC	Effective	P.L.
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Title 33

33-1-15-8	Amended	1	06/15/2003	17-2003
33-1-18	New	2	01/01/2003	113-2003
33-4-3-7	Amended	1	07/01/2005	167-2003
33-4-5-7	Amended	2	07/01/2003	195-2003
33-4-5-7	Amended	79	07/01/2003	2-2003
33-4-8-3	Amended	1	07/01/2003	94-2003
33-4-8-5	Amended	1	07/01/2003	139-2003
33-4-13	New	2	07/01/2003	94-2003
33-5-2-4	Amended	2	07/01/2005	167-2003
33-10.1-5-7	Amended	4	05/01/2003	133-2003
33-10.1-6-10	Amended	3	07/01/2005	167-2003
33-10.5-7-1	Amended	4	07/01/2005	167-2003
33-11.6-4-2	Amended	5	07/01/2005	167-2003
33-11.6-4-3	Amended	6	07/01/2005	167-2003
33-13-8-27	New	2	07/01/2003	139-2003
33-14-1-7	Amended	11	07/01/2003	219-2003
33-17-1-4.1	New	1	07/01/2003	15-2003
33-19-5-5	Amended	7	07/01/2005	167-2003
33-19-6.5	New	15	07/01/2003	173-2003
33-19-6.5	New	8	07/01/2003	277-2003
33-19-7-1	Amended	8	07/01/2005	167-2003
33-19-7-2	Amended	9	07/01/2005	167-2003
33-19-7-3	Amended	10	07/01/2005	167-2003
33-19-7-4	Amended	11	07/01/2005	167-2003
33-19-9-4	Amended	80	07/01/2003	2-2003

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34-6-2-4	Repealed	44	07/01/2003	205-2003
34-6-2-11	Amended	81	07/01/2003	2-2003
34-6-2-21.2	Repealed	105	04/02/2003	1-2003
34-6-2-34.5	Amended	7	07/01/2003	221-2003
34-6-2-37.2	New	38	07/01/2003	205-2003
34-6-2-37.4	New	39	07/01/2003	205-2003
34-6-2-38	Amended	88	04/02/2003	1-2003
34-6-2-48.3	New	1	07/01/2003	40-2003
34-6-2-54	Amended	1	05/01/2003	136-2003
34-6-2-60	Amended	54	07/01/2003	255-2003
34-6-2-103	Amended	89	04/02/2003	1-2003
34-6-2-130.7	Amended	90	04/02/2003	1-2003

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Affected Provisions	Type	SEC	Effective	P.L.
34-13-3-3	Amended	5	07/01/2003	161-2003
34-13-3-4	Amended	2	07/01/2003	108-2003
34-13-3-4	Amended	6	07/01/2003	161-2003
34-13-3-5	Amended	7	07/01/2003	161-2003
34-13-4-1	Amended	8	07/01/2003	161-2003
34-18-2-3	Repealed	44	07/01/2003	205-2003
34-18-2-4	Amended	40	07/01/2003	205-2003
34-18-2-12.1	New	41	07/01/2003	205-2003
34-18-2-12.2	New	42	07/01/2003	205-2003
34-18-2-14	Amended	43	07/01/2003	205-2003
34-18-5-3	Amended	96	07/01/2003	178-2003
34-24-1-1	Amended	2	07/01/2003	253-2003
34-24-1-1	Amended	2	07/01/2003	117-2003
34-26-5-3	Amended	1	07/01/2003	39-2003
34-26-5-3	Amended	8	07/01/2003	221-2003
34-26-5-6	Amended	9	07/01/2003	221-2003
34-26-5-7	Amended	10	07/01/2003	221-2003
34-26-6-0.5	New	11	07/01/2003	221-2003
34-26-6-3	Amended	12	07/01/2003	221-2003
34-26-6-4	Amended	13	07/01/2003	221-2003
34-26-6-14	Amended	14	07/01/2003	221-2003
34-29-1-2	Amended	82	07/01/2003	2-2003
34-30-2-27	Amended	15	07/01/2003	208-2003
34-30-2-35	Amended	83	07/01/2003	2-2003
34-30-2-35.5	New	2	07/01/2003	229-2003
34-30-2-35.7	New	2	05/01/2003	131-2003
34-30-2-36	Amended	84	07/01/2003	2-2003
34-30-2-37	Amended	85	07/01/2003	2-2003
34-30-2-37.2	Amended	86	07/01/2003	2-2003
34-30-2-38	Amended	87	07/01/2003	2-2003
34-30-2-38.3	Amended	88	07/01/2003	2-2003
34-30-2-38.3	Repealed	20	07/01/2003	115-2003
34-30-2-39	Amended	89	07/01/2003	2-2003
34-30-2-45.8	New	7	07/01/2003	181-2003
34-30-2-77.2	New	5	07/01/2003	135-2003
34-30-2-77.4	New	12	05/07/2003	212-2003
34-30-2-81.5	New	13	07/01/2003	212-2003
34-30-2-84.5	New	9	07/01/2003	161-2003
34-30-2-96.5	New	2	07/01/2003	36-2003
34-30-2-98.8	New	14	07/01/2003	145-2003
34-30-2-99.4	New	9	07/01/2003	158-2003
34-30-2-129.8	New	3	07/01/2003	3-2003

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34-30-8-1	Amended	90	07/01/2003	2-2003
34-30-12-1	Amended	1	07/01/2003	91-2003
34-30-12-1	Amended	1	07/01/2003	84-2003
34-30-12.5	New	2	05/01/2003	136-2003
34-30-17-1	Amended	14	07/01/2003	129-2003
34-54-11	New	2	07/01/2003	40-2003

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35-33-1-1	Amended	15	07/01/2003	221-2003
35-33-8-3.2	Amended	91	04/02/2003	1-2003
35-33-8-9	New	16	07/01/2003	173-2003
35-33-8-9	New	9	07/01/2003	277-2003
35-33-9-7	New	17	07/01/2003	173-2003
35-33-9-7	New	10	07/01/2003	277-2003
35-35-1-2	Amended	3	07/01/2003	195-2003
35-38-1-1	Amended	1	07/01/2003	98-2003
35-38-1-1.5	New	2	07/01/2003	98-2003
35-38-1-2.5	New	3	07/01/2003	22-2003
35-38-1-7.1	Amended	16	07/01/2003	221-2003
35-38-1-7.7	New	4	07/01/2003	195-2003
35-38-2-1	Amended	11	07/01/2003	277-2003
35-38-2-1.5	New	12	07/01/2003	277-2003
35-38-2-1.7	New	13	07/01/2003	277-2003
35-38-2-2.3	Amended	91	07/01/2003	2-2003
35-38-2.5-4.7	Amended	2	07/01/2003	55-2003
35-38-2.5-7	Amended	3	07/01/2003	55-2003
35-38-5-5	Amended	92	07/01/2003	2-2003
35-38-7-5	Amended	93	07/01/2003	2-2003
35-38-7-12	Amended	94	07/01/2003	2-2003
35-38-7-18	Amended	95	07/01/2003	2-2003
35-41-1-4.7	New	1	07/01/2003	175-2003
35-41-1-6.3	New	5	07/01/2003	195-2003
35-41-1-10.6	New	17	07/01/2003	221-2003
35-41-1-10.6	New	92	07/01/2002	1-2003
35-41-1-10.7	Repealed	106	07/01/2002	1-2003
35-41-1-10.8	New	93	07/01/2002	1-2003
35-42-2-1	Amended	2	07/01/2003	175-2003
35-42-2-1.3	Amended	18	07/01/2003	221-2003
35-42-2-2	Amended	94	04/02/2003	1-2003
35-42-4-5	Amended	1	07/01/2003	123-2003
35-42-4-7	Amended	10	07/01/2003	161-2003

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35-42-4-9	Amended	1	07/01/2003	266-2003
35-43-1-2	Amended	95	04/02/2003	1-2003
35-43-5-1	Amended	27	07/01/2003	160-2003
35-43-5-1	Amended	1	07/01/2003	22-2003
35-43-5-3.5	Amended	2	07/01/2003	22-2003
35-43-5-5	Amended	1	07/01/2003	85-2003
35-43-5-7.3	Repealed	55	07/01/2003	255-2003
35-43-9-4	Amended	97	07/01/2003	178-2003
35-44-2-2	Amended	1	07/01/2003	232-2003
35-44-2-2	Amended	96	07/01/2003	2-2003
35-45-2-1	Amended	3	07/01/2003	175-2003
35-45-4-1	Amended	2	07/01/2003	123-2003
35-45-4-1.5	New	3	07/01/2003	123-2003
35-46-1-9.5	Amended	21	07/01/2003	61-2003
35-46-1-10	Amended	17	07/01/2003	252-2003
35-46-1-10.2	Amended	17	07/01/2003	250-2003
35-46-1-10.2	Amended	18	07/01/2003	252-2003
35-46-1-11.3	Amended	19	07/01/2003	252-2003
35-46-1-11.3	Repealed	19	07/01/2003	250-2003
35-46-1-11.5	Amended	20	07/01/2003	252-2003
35-46-1-11.7	Amended	21	07/01/2003	252-2003
35-46-3-4.5	Amended	1	07/01/2003	9-2003
35-46-3-11	Amended	2	07/01/2003	9-2003
35-46-3-11.3	New	3	07/01/2003	9-2003
35-46-3-11.5	Amended	4	07/01/2003	9-2003
35-46-4-1.5	Amended	96	04/02/2003	1-2003
35-47-2-1	Amended	6	07/01/2003	195-2003
35-47-2.5-9	Amended	97	07/01/2003	2-2003
35-47-4-6	New	7	07/01/2003	195-2003
35-47-4.5-4	Amended	2	07/01/2003	232-2003
35-47-7-6	New	1	04/30/2003	96-2003
35-47-11-3	Amended	98	07/01/2003	2-2003
35-48-1-9.3	New	1	07/01/2003	225-2003
35-48-4-0.5	New	2	07/01/2003	225-2003
35-48-4-4.6	Amended	3	07/01/2003	225-2003
35-48-4-8.3	Amended	1	07/01/2003	58-2003
35-48-4-8.5	Amended	2	07/01/2003	58-2003
35-48-4-13.3	New	4	07/01/2003	225-2003
35-48-4-14.5	Amended	5	07/01/2003	225-2003
35-48-4-17	New	6	07/01/2003	225-2003
35-48-7-2	Amended	5	07/01/2003	182-2003
35-48-7-8	Amended	6	07/01/2003	182-2003

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35-48-7-9	Amended	7	07/01/2003	182-2003
35-48-7-10	Amended	8	07/01/2003	182-2003
35-48-7-13	Amended	9	07/01/2003	182-2003
35-50-1-2	Amended	2	07/01/2003	266-2003
35-50-2-2	Amended	126	07/01/2003	224-2003
35-50-2-7	Amended	3	07/01/2003	98-2003
35-50-2-9	Amended	97	07/01/2002	1-2003
35-50-2-9	Amended	1	07/01/2003	147-2003
35-50-6-3.3	Amended	1	07/01/2003	164-2003

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36-1-4-19	Amended	1	04/15/2003	33-2003
36-1-6-2	Amended	2	07/01/2003	177-2003
36-1-6-2	Amended	1	07/01/2003	144-2003
36-1-7-3	Amended	99	07/01/2003	2-2003
36-1-7-7	Amended	100	07/01/2003	2-2003
36-1-8-5	Amended	18	07/01/2003	173-2003
36-1-8-5.1	Amended	15	07/01/2003	267-2003
36-1-8-5.1	Amended	19	07/01/2003	173-2003
36-1-8-11	Amended	20	07/01/2003	173-2003
36-1-11-5	Amended	17	07/01/2003	170-2003
36-1-12-14	Amended	1	07/01/2003	43-2003
36-1-12.7	New	3	07/01/2003	159-2003
36-2-4-8	Amended	1	07/01/2003	100-2003
36-2-7-9	Amended	21	07/01/2003	173-2003
36-2-7-10	Amended	101	07/01/2003	2-2003
36-2-9-18	Amended	1	07/01/2003	207-2003
36-2-9-20	Amended	34	07/01/2003	245-2003
36-2-11-14	Amended	7	07/01/2003	106-2003
36-2-12-13	Amended	1	07/01/2003	90-2003
36-2-13-5.5	Amended	2	07/01/2003	154-2003
36-2-14-6	Amended	5	07/01/2003	179-2003
36-2-14-10	Amended	6	07/01/2003	179-2003
36-2-14-18	Amended	13	07/01/2003	243-2003
36-2-14-20	Amended	1	07/01/2003	67-2003
36-2-16.5	New	14	07/01/2003	277-2003
36-3-2-11	Amended	98	04/02/2003	1-2003
36-4-1-4	Amended	1	07/01/2003	68-2003
36-4-1-4.1	New	2	07/01/2003	68-2003
36-4-3-5	Amended	22	07/01/2003	173-2003
36-4-3-11	Amended	23	07/01/2003	173-2003

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36-4-3-13	Amended	24	07/01/2003	173-2003
36-4-3-16	Amended	25	07/01/2003	173-2003
36-4-6-14	Amended	2	07/01/2003	100-2003
36-4-6-19	Amended	26	07/01/2003	173-2003
36-4-10-6	Repealed	41	07/01/2003	173-2003
36-5-2-10	Amended	3	07/01/2003	100-2003
36-6-4-14	Amended	27	07/01/2003	173-2003
36-6-6-14.5	Amended	37	07/01/2003	256-2003
36-6-7-3	Amended	28	07/01/2003	173-2003
36-6-8-11	Amended	29	07/01/2003	173-2003
36-7-3-2	Amended	1	07/01/2003	153-2003
36-7-4-208	Amended	30	07/01/2003	173-2003
36-7-4-311	Amended	3	07/01/2003	165-2003
36-7-4-1003	Amended	1	07/01/2003	150-2003
36-7-4-1005	Amended	2	07/01/2003	150-2003
36-7-4-1006	Amended	3	07/01/2003	150-2003
36-7-4-1210.6	New	4	07/01/2003	150-2003
36-7-5.2	New	1	07/01/2003	109-2003
36-7-7-4	Amended	4	07/01/2003	165-2003
36-7-7-4.1	Repealed	7	07/01/2003	165-2003
36-7-7-12	Amended	5	07/01/2003	165-2003
36-7-7.6	New	6	07/01/2003	165-2003
36-7-9-2	Amended	3	07/01/2003	177-2003
36-7-9-5	Amended	4	07/01/2003	177-2003
36-7-9-7	Amended	5	07/01/2003	177-2003
36-7-9-10	Amended	6	07/01/2003	177-2003
36-7-9-17	Amended	7	07/01/2003	177-2003
36-7-9-20	Amended	8	07/01/2003	177-2003
36-7-9-26	Amended	9	07/01/2003	177-2003
36-7-11.5	New	62	07/01/2003	92-2003
36-7-13-1.6	Amended	232	07/01/2003	224-2003
36-7-13-2.6	Amended	233	07/01/2003	224-2003
36-7-13-3	Amended	234	07/01/2003	224-2003
36-7-13-3.4	Amended	235	07/01/2003	224-2003
36-7-13-10.1	New	236	07/01/2003	224-2003
36-7-13-11	Amended	237	07/01/2003	224-2003
36-7-13-12	Amended	238	07/01/2003	224-2003
36-7-13-12.1	New	239	07/01/2003	224-2003
36-7-13-13	Amended	240	07/01/2003	224-2003
36-7-13-15	Amended	241	07/01/2003	224-2003
36-7-13-16	Amended	242	07/01/2003	224-2003
36-7-14-22.2	Amended	99	04/02/2003	1-2003

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36-7-14-25.1	Amended	269	05/08/2003	224-2003
36-7-15.1-15.1	Amended	10	07/01/2003	177-2003
36-7-17-2	Amended	11	07/01/2003	177-2003
36-7-17-5	Amended	12	07/01/2003	177-2003
36-7-17-6	Amended	13	07/01/2003	177-2003
36-7-17-7	Amended	14	07/01/2003	177-2003
36-7-17-9	Amended	15	07/01/2003	177-2003
36-7-18-41	Amended	1	07/01/2003	52-2003
36-8-3-3	Amended	31	07/01/2003	173-2003
36-8-3.5-1	Amended	100	04/02/2003	1-2003
36-8-4-10	Amended	1	07/01/2003	95-2003
36-8-6-2	Amended	32	07/01/2003	173-2003
36-8-6-3	Amended	33	07/01/2003	173-2003
36-8-6-9.7	Amended	2	07/01/2003	86-2003
36-8-6-10.1	Amended	3	07/01/2003	86-2003
36-8-7-10	Amended	34	07/01/2003	173-2003
36-8-7-12.3	Amended	4	07/01/2003	86-2003
36-8-7-12.4	Amended	5	07/01/2003	86-2003
36-8-7-20	Amended	35	07/01/2003	173-2003
36-8-7-23	Amended	36	07/01/2003	173-2003
36-8-7.5-10	Amended	101	04/02/2003	1-2003
36-8-7.5-13.7	Amended	6	07/01/2003	86-2003
36-8-7.5-14.1	Amended	7	07/01/2003	86-2003
36-8-8-13.9	Amended	8	07/01/2003	86-2003
36-8-8-14.1	Amended	9	07/01/2003	86-2003
36-8-8-17	Amended	2	07/01/2003	183-2003
36-8-8-17.2	New	3	07/01/2003	183-2003
36-8-10-10.4	New	2	07/01/2003	95-2003
36-8-10-16.5	New	10	07/01/2003	86-2003
36-8-10.5-7	Amended	1	07/01/2003	62-2003
36-8-12-2	Amended	1	07/01/2003	119-2003
36-8-12.2-8	Amended	37	07/01/2003	173-2003
36-8-12.2-8.1	New	38	07/01/2003	173-2003
36-8-13-3	Amended	3	07/01/2003	95-2003
36-8-13-6.5	Amended	38	07/01/2003	256-2003
36-8-16.5-22	Amended	1	07/01/2003	60-2003
36-8-16.5-23	Amended	2	07/01/2003	60-2003
36-8-16.5-25	Repealed	6	07/01/2003	60-2003
36-8-16.5-25.5	New	3	07/01/2003	60-2003
36-8-16.5-26	Amended	4	07/01/2003	60-2003
36-8-16.5-30	Repealed	6	07/01/2003	60-2003
36-8-16.5-30.5	New	5	07/01/2003	60-2003

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36-8-16.5-39	Amended	102	04/02/2003	1-2003
36-8-19-8.5	Amended	39	07/01/2003	256-2003
36-9-13-30	Amended	39	05/07/2003	173-2003
36-9-16-4	Amended	40	07/01/2003	256-2003
36-9-23-33	Amended	1	07/01/2003	174-2003
36-9-27-20.5	New	1	07/01/2003	111-2003
36-9-27-20.6	New	2	07/01/2003	111-2003
36-10-3-23	Amended	18	07/01/2003	170-2003
36-10-4-16	Amended	40	07/01/2003	173-2003
36-11-6-1	Amended	103	04/02/2003	1-2003

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