January 14, 1999

SENATE BILL No. 40

DIGEST OF SB40 (Updated January 13, 1999 10:20 am - DI 51)

Citations Affected: Numerous provisions throughout the Indiana Code.

Synopsis: Technical corrections. Makes numerous technical corrections throughout the Indiana Code. Reconciles conflicting sections amended during the 1998 legislative session. (The introduced version of this bill was prepared by the Code Revision Commission.)

Effective: Upon passage; January 1, 2000; March 1, 2001; January 1, 2002.

Kenley

January 6, 1999, read first time and referred to Committee on Judiciary.
January 13, 1999, reported favorably — Do Pass.

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January 14, 1999

First Regular Session 111th General Assembly (1999)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 40

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

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

SECTION 1. IC 3-11-1.5-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) This section applies to a county that has a precinct that crosses a boundary in violation of section 4(5), 4(6), or 4(7) of this chapter.

(b) Notwithstanding section 25 of this chapter, if the county does not issue a precinct establishment order that establishes precincts in compliance with section 4(5), 4(6), and 4(7) of this chapter by the January 31 following the last effective date described in section 25(3) of this chapter, the commission may issue an order establishing precincts as provided under subsection (c).

(c) An order issued by the commission under this section must:

(1) comply with section 4(5), 4(6), and 4(7) of this chapter; and

(2) be issued after January 31 and before February 16 of the year following the last effective date described in section ~~25(3)~~ **25(4)** of this chapter.

SECTION 2. IC 4-2-1-4 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 3. IC 4-13.6-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Any person whose application is denied or is not acted upon within the time specified under section 3 of this chapter may request a hearing before the board under **IC** 4-21.5-3.

(b) The board shall conduct proceedings for the revocation of a certificate under IC 4-21.5-3.

(c) Judicial review of an adverse decision in any hearing held under this chapter shall be in accordance with IC 4-21.5-5.

SECTION 4. IC 4-15-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An employee may not be disciplined for absence from work if:

(1) the employee is a member of a volunteer fire ~~company~~ **department** under IC 36-8-12;

(2) the employee has notified his immediate supervisor in writing that he is a member of a volunteer fire department;

(3) the employee presents a written statement to his immediate supervisor from the chief or other officer in charge of the volunteer fire ~~company~~ **department** that the employee was engaged in emergency firefighting activity at the time of his absence from work; and

(4) the employee secures authorization from his supervisor to leave his duty station if the employee has already reported for work.

SECTION 5. IC 5-2-12-8.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.6. (a) An offender who is required to register under this chapter may not petition for a change of name under ~~IC 34-4-6.~~ **IC 34-28-2.**

(b) If an offender who is required to register under this chapter changes the offender's name due to marriage, the offender must notify the criminal justice institute not more than thirty (30) days after the name change.

SECTION 6. IC 5-14-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

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(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in ~~IC 16-18-2-272(c).~~ **IC 16-18-2-272(d).**

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family

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background of children who may need assistance.

"Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the state board of tax commissioners or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcoholic beverage commission, conservation officers of the department of natural resources, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

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(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

SECTION 7. IC 5-15-5.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Commission" means the commission on public records created by this chapter.

"Record" means all documentation of the informational, communicative or decisionmaking processes of state government, its agencies and subdivisions made or received by any agency of state government or its employees in connection with the transaction of public business or government functions, which documentation is created, received, retained, maintained, or filed by that agency or its successors as evidence of its activities or because of the informational value of the data in the documentation, and which is generated on:

(1) paper or paper substitutes;

(2) photographic or chemically based media;

(3) magnetic or machine readable media; or

(4) any other materials, regardless of form or characteristics.

"Nonrecord materials" means all identical copies of forms, records,

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reference books, and exhibit materials which are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication and which are not included within the definition of record.

"Personal records" means:

(1) all documentary materials of a private or nonpublic character which do not relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of a public official, including: diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting government business; or

(2) materials relating to private political associations, and having no relation to or effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of a public official and are not deemed public records.

"Form" means every piece of paper, transparent plate, or film containing information, printed, generated, or reproduced by whatever means, with blank spaces left for the entry of additional information to be used in any transaction involving the state.

"Agency" means any state office, department, division, board, bureau, commission, authority, or other separate unit of state government established by the constitution, law, or by executive or legislative order.

"Public official" means an individual holding a state office created by the Constitution of Indiana, by act or resolution of the general assembly, or by the governor; all officers of the executive and administrative branch of state government; and all other officers, heads, presidents, or chairmen of agencies of state government.

"Indiana state archives" means the program maintained by the commission for the preservation of those records and other government papers that have been determined by the commission to have sufficient permanent values to warrant their continued preservation by the state.

"Forms management" means the program maintained by the commission to provide continuity of forms design procedures from the form's origin up to its completion as a record by determining the form's size, style and size of type; format; type of construction; number of ~~plys;~~ **plies;** quality, weight and type of paper and carbon; and by determining the use of the form for data entry as well as the distribution.

"Information management" means the program maintained by the commission for the application of management techniques to the

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purchase, creation, utilization, maintenance, retention, preservation, and disposal of forms and records undertaken to improve efficiency and reduce costs of recordkeeping; including management of filing and microfilming equipment and supplies, filing and information retrieval systems, files, correspondence, reports and forms management, historical documentation, micrographic retention programming, and critical records protection.

"Records center" means a program maintained by the commission primarily for the storage, processing, retrieving, servicing, and security of government records that must be retained for varying periods of time but should not be maintained in an agency's office equipment or space.

"Critical records" means records necessary to resume or continue governmental operations, the reestablishing of the legal and financial responsibilities of government in the state, or to protect and fulfill governmental obligations to the citizens of the state.

"Retention schedule" means a set of instructions prescribing how long, where, and in what form a record series shall be kept.

"Records series" means documents or records that are filed in a unified arrangement, and having similar physical characteristics or relating to a similar function or activity.

"Records coordinator" means a person designated by an agency to serve as an information liaison person between the agency and the commission.

SECTION 8. IC 5-22-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to the following surplus property:

(1) Fire trucks.

(2) Emergency service vehicles.

(3) Firefighting or emergency services equipment.

(b) As used in this section, "volunteer fire ~~company~~ **department**" has the meaning set forth in IC 36-8-12-2.

(c) Notwithstanding section 4 or 5 of this chapter, a governmental body may transfer title of surplus property to a volunteer fire ~~company~~ **department** for the volunteer fire ~~company's~~ **department's** use in providing fire protection or emergency services.

(d) A volunteer fire ~~company~~ **department** located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property that is refused by the volunteer fire ~~companies~~ **departments** located in the same county as the governmental body may be transferred to any volunteer fire ~~company~~ **department** in Indiana.

(e) A governmental body may transfer title of surplus property to a

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volunteer fire ~~company~~ **department** under this section by:

(1) sale;

(2) gift; or

(3) another arrangement acceptable to the governmental body and the volunteer fire ~~company.~~ **department.**

SECTION 9. IC 6-1.1-24-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. (a) Except as provided in subsection (c), a tract or an item of real property may not be removed from the list certified under section 1 of this chapter before the tax sale unless all delinquent taxes, special assessments, penalties due on the delinquency, interest, and costs directly attributable to the tax sale have been paid in full.

(b) A county treasurer may accept partial payments of delinquent property taxes, assessments, penalties, interest, or costs under subsection (a) after the list of real property is certified under section 1 of this chapter.

(c) The county auditor in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) may remove a tract or an item of real property from the list certified under section 1 of this chapter before the tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes.

(d) The county treasurer may remove the tract or item from the list certified under section 1 of this chapter if the arrangement described in subsection (c):

(1) is in writing;

(2) is signed by the taxpayer; and

(3) requires the taxpayer to pay the delinquent taxes in full within one (1) year of the date the agreement is signed.

(e) If the taxpayer fails to make a payment under the arrangement described in subsection (c), the county auditor shall immediately place the tract or item of real property on the list of real property eligible for sale at a tax sale.

(f) If the tract or item of real property subject to a payment arrangement is within the jurisdiction of a:

(1) city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000);

(2) city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000) **located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred**

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thousand (700,000); or

(3) city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000);

the county auditor shall notify the mayor of the city of the arrangement.

SECTION 10. IC 6-1.1-24-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) This section applies to:

(1) a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000);

(2) a city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000) **located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);** and

(3) a city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(b) If:

(1) a tract or an item of real property within the jurisdiction of the city is offered for sale under sections 1 through 5 of this chapter; and

(2) an amount is not received that is at least equal to the minimum sale price required under section 5(e) of this chapter;

the tract or an item of real property may be offered for sale a second time consistent with the provisions of sections 1 through 5 of this chapter or subsection (c).

(c) Notwithstanding any other law, if:

(1) a tract or an item of real property within the jurisdiction of the city is offered for sale under sections 1 through 5 of this chapter;

(2) an amount is not received that is at least equal to the minimum sale price required under section 5(e) of this chapter; and

(3) the county auditor and the mayor of the city jointly agree to an expedited tax sale under this subsection;

the city may offer the tract or item of real property for sale a second time on a date that is on or after January 1 and before March 31 of the year immediately following the year in which the property was initially offered for sale and at least ninety (90) days after the date of the initial sale.

(d) All notice and judgment requirements set forth in this chapter and IC 6-1.1-25 are applicable to the second expedited tax sale under subsection (c).

(e) If the city offers a tract or item of real property for sale at an

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expedited sale under subsection (c), the county may not offer the tract or item of real property for sale under section 5.5 of this chapter.

(f) This section expires June 30, 2001.

SECTION 11. IC 6-1.1-24-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) This section applies to:

(1) a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000);

(2) a city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000) **located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);** and

(3) a city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(b) When a tract or an item of real property is offered for sale under section 5.2 or 5.6 of this chapter and an amount is not received equal to or in excess of the minimum sale price prescribed in section 5(e) of this chapter, the city acquires a lien in the amount of the minimum sale price. This lien attaches on the day after the last date on which the tract or item was offered for sale under section 5.2 or 5.6 of this chapter.

(c) When a city acquires a lien under this section, the county auditor shall issue a tax sale certificate to the city in the manner provided in section 9 of this chapter. The county auditor shall date the certificate the day that the city acquires the lien. When a city acquires a certificate under this section, the city has the same rights as a purchaser. However, the city shall hold the property for the taxing units described in subsection (d).

(d) When a lien is acquired by the city under this section, no money shall be paid by the city. However, each of the taxing units having an interest in the taxes on the tract shall be credited with the full amount of all delinquent taxes due them.

(e) This section expires June 30, 2001.

SECTION 12. IC 6-1.1-25-4.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.2. (a) This section applies to:

(1) a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000);

(2) a city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand

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(35,000) **located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000);** and

(3) a city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(b) If a certificate of sale is issued to a purchaser under IC 6-1.1-24-9 and the real property is not redeemed within one hundred twenty (120) days after the date of sale under IC 6-1.1-24-5.2(b) or IC 6-1.1-24-5.6(b), as extended by compliance with the notice provisions in section 4.5 of this chapter, the county auditor shall, upon receipt of the certificate and subject to the limitations contained in this chapter, execute and deliver a deed for the property to the purchaser.

(c) If a certificate of sale is issued to the city under IC 6-1.1-24-9 and the real property is not redeemed within one hundred twenty (120) days after the date of the sale, the county auditor shall, upon receipt of the certificate and subject to the limitations in this chapter, issue a deed for the property to the city.

(d) The county auditor shall execute deeds issued under this section in the name of the state under the county auditor's name and seal. If a certificate of sale is lost before the execution of a deed, the county auditor shall, subject to the limitations in this chapter, execute and deliver a deed if the court has made a finding that the certificate did exist.

(e) When a deed for real property is executed under this section, the county auditor shall cancel the certificate of sale and file the canceled certificate in the office of the county auditor.

(f) When a deed is issued to the city under this section, the taxes and special assessments for which the real property was offered for sale and all subsequent taxes, special assessments, interest, penalties, and costs of sale shall be removed from the tax duplicate in the same manner that taxes are removed by certificate of error.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale and that are not removed under subsection (f). However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima facie evidence of:

(1) the regularity of the sale of the real property described in the

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deed;

(2) the regularity of all proper proceedings; and

(3) valid title in fee simple in the grantee of the deed.

(h) Notwithstanding the provisions of subsection (c), a county auditor is not required to execute a deed to the city under subsection (c) if the mayor determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation will exceed the fair market value of the property. The city may enter the property to conduct environmental investigations.

(i) This section expires September 30, 2001.

SECTION 13. IC 6-1.1-25-4.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. (a) A county auditor and county treasurer may enter into a mutual agreement for the county auditor to perform the following duties instead of the purchaser:

(1) Notification and title search under section 4.5 of this chapter.

(2) Notification and petition to the court for the tax deed under section 4.6 of this chapter.

(b) If a county auditor and county treasurer enter into an agreement under this section, notice shall be given under ~~IC 6-1.1-24-2(a)(10).~~ **IC 6-1.1-24-2(a)(11)**.

SECTION 14. IC 6-1.1-25-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) This section applies to:

(1) a city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000);

(2) a city having a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000) **located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000)**; and

(3) a city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(b) Whenever a city acquires title to real property under IC 6-1.1-24 and this chapter, the city may dispose of the real property under IC 36-1-11 or subsection (f). The proceeds of a sale under IC 36-1-11 must be applied as follows:

(1) First, to the cost of the sale, including the cost of maintenance, preservation, and administration of the property before sale, including prior unpaid costs of sales, preparation of the property for sale, advertising, and appraisal.

(2) Second, to the payment of the taxes that were removed from

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the tax duplicate under section 4.2(f) of this chapter.

(3) Third, any surplus remaining must be deposited in the city's general fund.

(c) The mayor or the mayor's designee shall file a report with the ~~county~~ board of **county** commissioners before January 31. The report must:

(1) list the real property acquired under IC 6-1.1-24 and this chapter; and

(2) indicate if a person resides or conducts a business on the property.

(d) The city shall mail a notice by certified mail before March 31 of each year to each person listed in subsection (c)(2). The notice must state that the city has acquired title to the tract the person occupies.

(e) If the city determines under IC 36-1-11 that real property acquired under IC 6-1.1-24 or this chapter must be retained by the city, the city may not dispose of the real property. The mayor or the mayor's designee may repair, maintain, equip, alter, and construct buildings upon the real property retained under this section in the same manner prescribed for other city buildings.

(f) The city may transfer title to real property described in subsection (b) to its redevelopment commission at no cost to the commission for sale or grant under IC 36-7-14-22.1.

(g) This section expires December 31, 2001.

SECTION 15. IC 6-2.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) For purposes of this section:

"Hazardous waste" has the meaning set forth in ~~IC~~ IC 13-11-2-99(a) and includes a waste determined to be a hazardous waste under ~~IC~~ IC 13-22-2-3(b).

"Resource recovery system" means tangible property directly used to dispose of solid waste or hazardous waste by converting it into energy or other useful products.

"Solid waste" has the meaning prescribed by ~~IC~~ IC 13-11-2-205(a) but does not include dead animals or any animal solid or semisolid wastes.

(b) If for federal income tax purposes a taxpayer is allowed a depreciation deduction for a particular taxable year with respect to a resource recovery system, and if the resource recovery system processes solid waste or hazardous waste, the taxpayer is entitled to a deduction from his gross income for that same taxable year. The amount of the deduction equals the total depreciation deductions that the taxpayer is allowed, with respect to the system, for that taxable year

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under Sections 167 and 179 of the Internal Revenue Code.

(c) Notwithstanding subsection (b), a taxpayer is not entitled to the deduction provided by this section for a particular taxable year with respect to a resource recovery system that is directly used to dispose of hazardous waste if during that taxable year the taxpayer:

(1) is convicted of any violation under IC 13-7-13-3 (before its repeal), IC 13-7-13-4 (before its repeal), or IC 13-30-6; or

(2) is subject to an order or consent decree based upon a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 16. IC 6-6-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this chapter, "vehicle" means a vehicle subject to annual registration as a condition of its operation on the public highways pursuant to the motor vehicle registration laws of the state.

(b) As used in this chapter, "mobile home" means a nonself-propelled vehicle designed for occupancy as a dwelling or sleeping place.

(c) As used in this chapter, "bureau" means the bureau of motor vehicles.

(d) As used in this chapter, "license branch" means a branch office of the bureau authorized to register motor vehicles pursuant to the laws of the state.

(e) As used in this chapter, "owner" means the person in whose name the vehicle or trailer is registered (as defined in IC 9-13-2).

(f) As used in this chapter, "motor home" means a self-propelled vehicle having been designed and built as an integral part thereof having living and sleeping quarters, including that which is commonly referred to as a recreational vehicle.

(g) As used in this chapter, "last preceding annual excise tax liability" means either:

(1) the amount of excise tax liability to which the vehicle was subject on the owner's last preceding regular annual registration date; or

(2) the amount of excise tax liability to which a vehicle that was registered after the owner's last preceding annual registration date would have been subject if it had been registered on that date.

(h) As used in this chapter, "trailer" means a device having a gross vehicle weight equal to or less than three thousand (3,000) pounds that is pulled behind a vehicle and that is subject to annual registration as a condition of its operation on the public highways pursuant to the

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motor vehicle registration laws of the state. The term includes any utility, boat, or other two (2) wheeled trailer.

(i) This chapter does not apply to the following:

(1) Vehicles owned, or leased and operated, by the United States, the state, or political subdivisions of the state.

(2) Mobile homes and motor homes.

(3) Vehicles assessed under IC 6-1.1-8.

(4) Vehicles subject to registration as trucks under the motor vehicle registration laws of the state, except trucks having a declared gross weight not exceeding eleven thousand (11,000) pounds, trailers, semitrailers, tractors, and buses.

(5) Vehicles owned, or leased and operated, by an institution of higher education (as defined in IC 6-3-3-5(d)).

(6) Vehicles owned, or leased and operated, by a volunteer fire ~~company~~ **department** (as defined in IC 36-8-12-2).

(7) Vehicles owned, or leased and operated, by a volunteer emergency ambulance service that:

(A) meets the requirements of IC 16-31; and

(B) has only members that serve for no compensation or a nominal annual compensation of not more than three thousand five hundred dollars ($3,500).

(8) Vehicles that are exempt from the payment of registration fees under IC 9-18-3-1.

(9) Farm wagons.

SECTION 17. IC 6-7-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. All jeopardy assessments issued for nonpayment of tax shall be considered a secondary lien to the seizure and forfeiture provisions of IC 16-42-20, IC 34-24-1, ~~IC 34-24-1,~~ **IC 34-24-2,** and any federal law.

SECTION 18. IC 7.1-1-2-13 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 19. IC 7.1-2-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13. (a) The alcoholic beverage commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in the commission through the tenth year. The salary ranges that the board assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:**

(1) the base salary in the rank paid to a person with less than one (1) year of service in the commission; and

(2) the highest salary in the rank paid to a person with at least

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ten (10) years of service in the commission.

(b) For purposes of creating the salary matrix prescribed by this section, the alcoholic beverage commission may not approve salary ranges for any rank that are less than the salary ranges effective for that rank on January 1, 1995.

(c) The salary matrix prescribed by this section shall be reviewed and approved by the budget agency before implementation.

(d) The money needed to fund the salaries resulting from the matrix prescribed by this section shall come from the amounts appropriated from the professional and technical equity fund as augmented by the budget agency from the state general fund.

SECTION 20. IC 7.1-5-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Transportation of Untaxed Beverage Prohibited. It is a Class D felony for a person to transport an alcoholic beverage on a public highway, knowing that any of the taxes due the state on it are not paid. This section does not apply to a permittee, or a duly licensed carrier for a permittee, who is lawfully entitled to hold or possess an alcoholic beverage without the payment of the excise tax on it prior to the time that ~~is~~ **it** is withdrawn for sale.

SECTION 21. IC 8-21-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The department shall encourage the development of public use airports (as defined in 49 U.S.C. ~~2202~~ **47102**).

(b) The department shall encourage the utilization and preservation of necessary airport facilities that are included in the National Airport and Airways System Plan and the state airports system plan and that:

(1) have been developed and maintained by private enterprise;

(2) meet the requirements of section 10 of this chapter concerning certification of airports; and

(3) have been established and are used by the public as a municipal purpose airport as described under IC 6-1.1-10-15.

(c) The department may participate and cooperate with the Federal Aviation Agency and with the sponsor (as defined in IC 8-21-8-1) and owner of a public use airport (as defined in 49 U.S.C. ~~2202~~ **47102**) by using airport development funds administered by the department.

(d) The sponsor of any approved airport development project must:

(1) provide the sponsor's share of funds for the project; and

(2) meet any other requirements for participation and operation of the airport.

(e) IC 8-21-8-1 applies to this section.

SECTION 22. IC 8-21-11-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Notwithstanding IC 8-21-1-1, as used in this chapter, "airport" means a public use airport (as defined in 49 U.S.C. ~~2202~~ **47102**).

SECTION 23. IC 8-22-3-25, AS AMENDED BY P.L.91-1997, SECTION 1 (CURRENT VERSION), IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) The board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport, and needed to carry out this chapter.

(b) The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

(1) one cent ($0.01) on each one hundred dollars ($100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly with an eligible entity that is not a city;

(2) four cents ($0.04) on each one hundred dollars ($100) of assessed value of taxable property within the district, if the authority was established under IC 19-6-3 (before its repeal on April 1, 1980); and

(3) for any other district not described in subdivision (1) or (2), the following:

Total Assessed Property Valuation ~~Assessed~~	Rate Per $100 Of **Assessed** Valuation
$100 million or less	$0.05
More than $100 million but not more than $150 million	$0.04
More than $150 million but not more than $200 million	$0.03
More than $200 million but not more than $300 million	$0.02
More than $300 million	$0.01

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general fund but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by section 11 and section 23 of this

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chapter.

SECTION 24. IC 8-22-3-25, AS AMENDED BY P.L.2-1998, SECTION 36 (DELAYED VERSION), IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2001]: Sec. 25. (a) The board may provide a cumulative building fund in compliance with IC 6-1.1-41 to provide for the acquisition of real property, and the construction, enlarging, improving, remodeling, repairing, or equipping of buildings, structures, runways, or other facilities for use in connection with the airport, and needed to carry out this chapter.

(b) The board may levy in compliance with IC 6-1.1-41 a tax not to exceed:

(1) thirty-three hundredths of one cent ($0.0033) on each one hundred dollars ($100) of assessed value of taxable property within the district, if an eligible entity other than a city established the district or if the district was established jointly with an eligible entity that is not a city;

(2) one and thirty-three hundredths cents ($0.0133) on each one hundred dollars ($100) of assessed value of taxable property within the district, if the authority was established under IC 19-6-3 (before its repeal on April 1, 1980); and

(3) for any other district not described in subdivision (1) or (2), the following:

Total Assessed Property Valuation ~~Assessed~~	Rate Per $100 Of **Assessed** Valuation
$300 million or less	$0.0167
More than $300 million but not more than $450 million	$0.0133
More than $450 million but not more than $600 million	$0.01
More than $600 million but not more than $900 million	$0.0067
More than $900 million	$0.0033

As the tax is collected it may be invested in negotiable United States bonds or other securities that the federal government has the direct obligation to pay. Any of the funds collected that are not invested in government obligations shall be deposited in accordance with IC 5-13-6 and shall be withdrawn in the same manner as money is regularly withdrawn from the general fund but without further or additional appropriation. The levy authorized by this section is in addition to the levies authorized by section 11 and section 23 of this chapter.

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SECTION 25. IC 9-18-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A vehicle that is owned or leased and used for official business by the following must be registered on a date selected by the bureau but is exempt from the payment of registration fees:

(1) The state.

(2) A municipal corporation (as defined in IC 36-1-2-10).

(3) A volunteer fire ~~company~~ **department** (as defined in IC 36-8-12-2).

(4) A volunteer emergency ambulance service that:

(A) meets the requirements of IC 16-31; and

(B) has only members that serve for no compensation or a nominal annual compensation of not more than three thousand five hundred dollars ($3,500).

(5) A rehabilitation center funded under IC 12-12.

(6) A community action agency (IC 12-14-23).

(7) An area agency of aging and the aged (IC 12-10-1-6) and a county council on aging that is funded through an area agency.

(8) A community mental health center (IC 12-29-2).

SECTION 26. IC 9-18-15-1, AS AMENDED BY P.L.118-1998, SECTION 3 (DELAYED VERSION), IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) A person who is the registered owner or lessee of a:

(1) passenger motor vehicle;

(2) motorcycle;

(3) recreational vehicle; or

(4) vehicle registered as a truck with a declared gross weight of not more than:

(A) eleven thousand (11,000) pounds;

(B) nine thousand (9,000) pounds; or

(C) seven thousand (7,000) pounds;

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

(1) is the registered owner or lessee of a vehicle described in subsection (a); and

(2) is eligible to receive a license plate for the vehicle under:

(A) IC 9-18-17 (prisoner of war license plates);

(B) IC 9-18-18 (disabled veteran license plates);

(C) IC 9-18-19 (purple heart license plates);

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(D) IC 9-18-20 (Indiana national guard license plates);
(E) IC 9-18-21 (Indiana guard reserve license plates);
(F) IC 9-18-22 (license plates for persons with disabilities);
(G) IC 9-18-23 (amateur radio operator license plates);
(H) IC 9-18-24 (civic event license plates);
(I) IC 9-18-25 (special group recognition license plates);
(J) IC 9-18-29 (environmental license plates);
(K) IC 9-18-30 (children's trust license plates);
(L) IC 9-18-31 (education license plates);
(M) ~~IC 9-18-32.3~~ **IC 9-18-32.2** (drug free Indiana trust license plates);
(N) IC 9-18-33 (Indiana FFA trust license plates);
(O) IC 9-18-34 (Indiana firefighter license plates);
(P) IC 9-18-35 (Indiana food bank trust license plates);
(Q) IC 9-18-36 (Indiana girl scouts trust license plates);
(R) IC 9-18-37 (Indiana boy scouts trust license plates);
(S) IC 9-18-38 (Indiana retired armed forces member license plates);
(T) IC 9-18-39 (Indiana antique car museum trust license plates);
(U) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
(V) IC 9-18-41 (Indiana arts trust license plates);
(W) IC 9-18-42 (Indiana health trust license plates);
(X) IC 9-18-43 (Indiana mental health trust license plates); or
(Y) IC 9-18-44 (Indiana Native American Trust license plates);

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 27. IC 9-18-25-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) This section applies to an organization that receives a special group license plate issued under this chapter before January 1, 1998.

(b) The bureau shall terminate the organization's qualification for the special group license plate program and no further special group recognition license plates shall be issued for the organization if less than two thousand (2,000) of the organization's special group license plates are sold or ~~renwed~~ **renewed** before January 1, ~~2001~~ **2000.** The bureau shall notify the organization's representatives that the organization will be ineligible to participate in the special group license plate in a plate cycle beginning after December 31, 2000.

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(c) If at least two thousand (2,000) but not more than nine thousand nine hundred ninety-nine (9,999) of the organization's special group license plates are sold in the plate cycle between January 1, 1997, and December 31, 2000, the bureau shall redesign the organization's special group license plate under sections 3 and 5 of this chapter for the plate cycle beginning January 1, 2002. The bureau shall confer with the representatives of the organization concerning the design of the emblem prescribed by section 5 of this chapter.

(d) This section expires January 2, 2003.

SECTION 28. IC 9-18-25-15, AS ADDED BY P.L.118-1998, SECTION 9 (DELAYED), IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 15. The bureau shall terminate an organization's qualification for the special group license plate program and no further special group recognition license plates shall be issued for an organization if less than two thousand (2,000) of the organization's special group license plates are sold or ~~renwed~~ **renewed** in the first four (4) years of the five (5) year period beginning the earlier of January 1, 2002, or January 1 of the year in which the organization's special group license plate is first issued. The bureau shall reevaluate the organization's qualification for the special group license plate program every five (5) years thereafter. The bureau shall terminate the organization's qualification for the special group license plate program and no further special group recognition license plates shall be issued for an organization if less than two thousand (2,000) of the organization's special group license plates are sold or renewed in the first four (4) years of a subsequent five (5) year period.

SECTION 29. IC 9-19-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Sections 4 through 5 of this chapter and IC 9-19-4-3, IC 9-19-4-4, and IC 9-19-5-7:

(1) do not apply to:

(A) machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities;

(B) farm drainage machinery;

(C) implements of husbandry when used during farming operations or when so constructed that they can be moved without material damage to the highways; or

(D) firefighting apparatus owned or operated by a political subdivision or a volunteer fire ~~company~~ **department** (as defined in IC 36-8-12-1); and

(2) do not limit the width or height of farm vehicles when loaded

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with farm products.

SECTION 30. IC 9-20-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "farm vehicle loaded with a farm product" includes a truck hauling unprocessed leaf tobacco.

(b) Except for interstate highway travel, this article does not apply to the following:

(1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.

(2) Farm drainage machinery.

(3) Implements of husbandry when used during farming operations or when so constructed that the implements can be moved without material damage to the highways.

(c) This article does not apply to firefighting apparatus owned or operated by a political subdivision or volunteer fire ~~company~~ **department** (as defined in IC 36-8-12-2).

(d) Except for interstate highway travel, this article does not limit the width or height of a farm vehicle loaded with a farm product.

SECTION 31. IC 9-21-8-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 47. The following vehicles must be moved or operated so as to avoid any material damage to the highway or unreasonable interference with other highway traffic:

(1) Machinery or equipment used in highway construction or maintenance by the Indiana department of transportation, counties, or municipalities.

(2) Farm drainage machinery.

(3) Implements of husbandry.

(4) Firefighting apparatus owned or operated by a political subdivision or a volunteer fire ~~company~~ **department** (as defined in IC 36-8-12-2).

(5) Farm vehicles loaded with farm products.

SECTION 32. IC 9-30-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If a court finds that a person:

(1) is a habitual violator under section 4(c) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) operates a vehicle for commercial or business purposes, and the person's mileage for commercial or business purposes:

(A) is substantially in excess of the mileage of an average driver; and

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(B) may have been a factor that contributed to the person's poor driving record; and

(4) does not have:

(A) a judgment for a violation enumerated in section 4(a) of this chapter; or

(B) at least three (3) judgments (singularly or in combination and not arising out of the same incident) of the violations enumerated in section 4(b) of this chapter;

the court may place the person on probation in accordance with subsection (c).

(b) If a court finds that a person:

(1) is a habitual violator under section 4(b) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) does not have a judgment for any violation listed in section 4(a) of this chapter;

(4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and

(5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection (c). However, if the person has any judgments for operation of a vehicle while intoxicated or with at least ten-hundredths percent (0.10%) alcohol by weight in grams in one hundred (100) milliliters of the blood, or two hundred ten (210) liters of the breath, the court, before the court places a person on probation under subsection (c), must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by the division of mental health.

(c) Whenever a court places a habitual violator on probation, the court:

(1) shall record each of the court's findings under this section in writing;

(2) shall obtain the person's driver's license or permit and send the license or permit to the bureau;

(3) shall direct the person to apply to the bureau for a restricted driver's license;

(4) shall order the bureau to issue the person an appropriate license;

(5) shall place the person on probation for a fixed period of not less than three (3) years and not more than ten (10) years;

(6) shall attach restrictions to the person's driving privileges, including restrictions limiting the person's driving to:

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(A) commercial or business purposes or other employment related driving;

(B) specific purposes in exceptional circumstances; and

(C) rehabilitation programs;

(7) shall order the person to file proof of financial responsibility for three (3) years following the date of being placed on probation; and

(8) may impose other appropriate conditions of probation.

(d) If a court finds that a person:

(1) is a habitual violator under section 4(b) or 4(c) of this chapter;

(2) does not have any judgments for violations under section 4(a) of this chapter;

(3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or convictions under section ~~4(b)(3)~~ **4(b)(4)** of this chapter that resulted from driving on a suspended license that was suspended for:

(A) the commission of infractions only; or

(B) previously driving on a suspended license;

(4) has not been previously placed on probation under this section by a court; and

(5) has had the person's driving privileges suspended under this chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years;

the court may place the person on probation under subsection (c).

SECTION 33. IC 10-1-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) This section applies to a person described in subsection (b) or (c).

(b) This section applies to a person convicted of a felony under IC 35-42 (offenses against the person), IC 35-43-2-1 (burglary), **or** IC 35-42-4-6 (child solicitation):

(1) after June 30, 1996, whether or not the person is sentenced to a term of imprisonment; and

(2) before July 1, 1996, if the person is held in jail or prison on or after July 1, 1996.

(c) This section applies to a person convicted of a criminal law in effect before October 1, 1977, that penalized an act substantially similar to a felony described in IC 35-42 or IC 35-43-2-1 or that would have been an included offense of a felony described in IC 35-42 or IC 35-43-2-1, if the felony had been in effect:

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(1) after June 30, 1998, whether or not the person is sentenced to a term of imprisonment; and

(2) before July 1, 1998, if the person is held in jail or prison on or after July 1, 1998.

(d) A person described in subsection (b) or (c) shall provide a DNA sample to the department of correction. A convicted person is not required to submit a blood sample if doing so would present a substantial and an unreasonable risk to the person's health.

SECTION 34. IC 12-10-15-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. An operator shall provide the following information concerning the operator's housing ~~for~~ **with** services establishment to the director with the operator's disclosure document:

(1) The business name, street address, and mailing address of the establishment.

(2) The name and mailing address of the owner or owners of the establishment. If the owner or owners are not natural persons, the operator must provide identification of the type of business entity of the owner or owners, and the name and addresses of the officers and members of the governing body, or comparable persons for other types of business entities of the owner or owners.

(3) The name and mailing address of the managing agent, whether through management agreement or lease arrangement, of the establishment, if different from the owner or owners, and the name of the on-site manager, if any.

(4) The name and address of at least one (1) individual who is responsible for dealing with the director on all matters subject to this chapter.

SECTION 35. IC 13-17-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to section 3 of this chapter, a person may open burn the following for maintenance purposes:

(1) Vegetation from a farm, an orchard, a nursery, a tree farm, a cemetery, or a drainage ditch.

(2) Wood products derived from pruning or clearing a roadside by a county highway department.

(3) Wood products derived from the initial clearing of a public utility right-of-way if the open burn occurs in an unincorporated area.

(4) Undesirable:

(A) wood structures on real property; or

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(B) wood remnants of the demolition of a predominantly wooden structure originally located on real property;

located in an unincorporated area.

(b) A person who is allowed to open burn under subsection (a) is not required to obtain:

(1) a permit; or

(2) any other authorization;

from the department, a unit of local government, or a volunteer fire ~~company~~ **department** before conducting the open burning.

SECTION 36. IC 13-20-13-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) A certificate of registration issued by the department under this chapter may be revoked or modified by the commissioner, or by a designated staff member of the department, after notification in writing is sent by certified mail to the holder of the certificate for:

(1) failure to disclose all relevant facts; ~~or~~

(2) making a misrepresentation ~~made~~ in obtaining the registration; or

~~(2)~~ **(3)** failure to correct, within the time established by the department:

(A) a violation of a condition of the registration; or

(B) a violation of this chapter or a rule adopted by the board under section 11 of this chapter.

(b) A person aggrieved by the revocation or modification of a certificate of registration may appeal the revocation or modification to the office of environmental adjudication under IC 4-21.5-7. Pending the decision resulting from a hearing under IC 4-21.5-3 concerning the revocation or modification, the registration remains in force. However, subsequent to revocation or modification, the commissioner may seek injunctive relief concerning the activity described in the registration.

SECTION 37. IC 13-20-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (d)(2), (d)(3), ~~and~~ (d)(6), **and (d)(7)** the waste tire management fund is established for the following purposes:

(1) Thirty-five percent (35%) of the money deposited in the fund each year shall be used to assist the department:

(A) in the removal and disposal of waste tires from sites where the waste tires have been disposed of improperly;

(B) in operating the waste tire education program under section 15 of this chapter; and

(C) to pay the expenses of administering the programs described in clause (B).

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(2) Sixty-five percent (65%) of the money deposited in the fund each year shall be used to assist the department of commerce:

(A) in providing grants and loans to persons involved in waste tire management activities under section 9 of this chapter; and

(B) to pay the expenses of administering the programs described in clause (A).

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

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

(d) Sources of money for the fund are the following:

(1) Fees paid under section 4(a)(6) of this chapter and IC 13-20-14-5(e).

(2) Fees collected under section 7 of this chapter. All money deposited in the fund under this subdivision may be used by the department for waste reduction, recycling, removal, or remediation projects.

(3) Costs and damages recovered from a person under section 14 of this chapter or IC 13-20-14-8. All money deposited in the fund under this subdivision may be used by the department for removal and remediation projects.

(4) Fees established by the general assembly for the purposes of this chapter.

(5) Appropriations made by the general assembly.

(6) Gifts and donations intended for deposit in the fund. A gift or donation deposited in the fund under this subdivision may be specified to be entirely for the use of the department or the department of commerce.

(7) Civil penalties collected under IC 13-30-4 for violations of:

(A) this chapter;

(B) IC 13-20-14; and

(C) rules adopted under section 11 of this chapter and IC 13-20-14-6.

All money deposited in the fund under this subdivision may be used by the department for waste tire removal and remediation projects.

SECTION 38. IC 13-20-14-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) A certificate of registration issued by the department under this chapter may be revoked or modified by the commissioner, or by a designated staff member of the department, after notification in writing is sent by

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certified mail to the holder of the certificate, for:

(1) failure to ~~(1)~~ disclose all relevant facts, ~~or~~

(2) making a misrepresentation ~~made~~ in obtaining the registration; or

~~(2)~~ **(3) failure to** correct, within the time established by the department, a violation of:

(A) a condition of the registration;

(B) this chapter; or

(C) a rule adopted by the board under section 6 of this chapter.

(b) A person aggrieved by the revocation or modification of a certificate of registration may appeal the revocation or modification to the office of environmental adjudication under IC 4-21.5-7. Pending the decision resulting from a hearing under IC 4-21.5-3 concerning the revocation or modification, the registration remains in force. However, subsequent to revocation or modification, the commissioner may seek injunctive relief concerning the activity described in the registration.

SECTION 39. IC 13-20-22-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Each month the department of state revenue shall deposit the following:

(1) Not less than fifty percent (50%) of the revenue from the fee imposed under section 1(b)(1) of this chapter into the Indiana recycling promotion and assistance fund established in IC 4-23-5.5-14.

(2) Not more than fifty percent (50%) of the revenue from the fee imposed under section 1(b)(1) of this chapter into the fund.

(3) The revenue from the fee imposed under **section** 1(b)(2) of this chapter into the hazardous substance response trust fund established by IC 13-25-4-1.

SECTION 40. IC 13-20-22-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. If:

(1) the:

(A) county executive of the county; or

(B) board of directors of the district;

in which a final disposal facility is located has entered into an agreement concerning solid waste management with a governmental unit that is, or that is located within, a county that is contiguous to Indiana but within another state; and

(2) the agreement provides for solid waste generated in that governmental unit to be disposed of in the final disposal facility;

the fee imposed under this chapter upon the disposal in the final disposal facility of solid waste generated in that governmental unit is

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the fee set forth in **section** 1(b)(1) of this chapter, not the fee set forth in section 1(b)(2) of this chapter.

SECTION 41. IC 14-34-5-8.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.1. For purposes of sections 7 and 8 of this chapter, a proposed revision of a permit is significant if any of the following conditions exists:

(1) The changes may result in an adverse impact beyond that previously considered, affecting cultural resources that are listed on or eligible to be listed on:

(A) the National Register of Historic Places; or

(B) the register of Indiana historic sites and historic structures established under IC 14-21-1.

(2) Blasting will be used in a manner that is likely to cause adverse impacts beyond that previously considered to persons or property outside the permit area.

(3) The changes may result in an adverse impact beyond that previously considered, affecting a water supply to which IC 14-25-4 applies.

(4) The changes:

(A) require the identification, disturbance, or handling of toxic forming or acid forming materials different from those previously considered; and

(B) have the potential for causing an additional impact not previously considered.

(5) The changes may result in an adverse impact on fish, wildlife, and related environmental values beyond that previously considered.

(6) The addition of:

(A) a coal processing facility; or

(B) a permanent support facility;

is proposed, and the addition of the facility will cause an impact not previously considered, except that the addition of a temporary coal processing facility used exclusively for crushing and screening need not be considered a significant revision.

(7) The changes will cause:

(A) a new or an updated probable hydrologic consequences determination; or

(B) a cumulative hydrologic impact analysis to be required under IC 14-34-3-3.

(8) A postmining land use will be changed to any of the following:

(A) A residential land use.

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(B) A commercial or industrial land use.

(C) A recreational land use.

(D) Developed water resources as defined in rules adopted by the commission under IC 14-34-2-1 that ~~meets~~ **meet** the size criteria of 30 CFR 77.216(a).

SECTION 42. IC 15-2.1-23-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) The following definitions apply throughout this section:

(1) "DP" or "daily production" means the amount of milk, measured by hundred weight, produced by the positive producer in one (1) day, measured on the day in which the drug residue violation occurred.

(2) "PR" or "producer reimbursement" means an amount assessed against the positive producer to reimburse others for milk contaminated by the positive producer's contaminated milk, not including the value of the positive producer's contaminated milk for which he or she was not paid.

(3) "Revocation period" means the period after a Grade A producer's permit is revoked under this section that the producer may not apply for a Grade A permit.

(b) A penalty established under this section may not be more severe than the penalty standard for drug residue violations adopted by the National Conference on Interstate Milk Shipments in its Pasteurized Milk Ordinance adopted in accordance with the National Conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration. The penalty imposed may not exceed one thousand dollars ($1,000) for a first offense or two thousand dollars ($2,000) for a subsequent offense.

(c) The board may impose a civil penalty for violations of laws that prohibit drug residues in milk and milk products as described in this section.

(d) Milk shall be screened for drug residue violations as follows:

(1) Except as provided in subdivision (2), milk shall be screened for drug residues under Appendix N of the Pasteurized Milk Ordinance (345 IAC 8-3-1).

(2) Milk from manufacturing grade dairy farms shall be tested for drug residues under 345 IAC 8-2-3.

(3) All milk that tests positive for drug residues must be disposed of in a manner that removes it from the human and animal food chain or that acceptably reconditions the milk under United States Health and Human Services - Food and Drug

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Administration compliance policy guidelines. In all cases of drug residue violations, a producer may not resume shipping milk until a drug test conducted by a certified laboratory shows the producer's milk is negative for drug residues and the test results are reported to the office of the state veterinarian.

(4) All positive drug residue test results must be called into the office of the state veterinarian immediately, and a written report of the test results must be faxed or delivered to the office of the state veterinarian within twenty-four (24) hours of the test. The producer whose milk tested positive must be notified of the positive drug residue test immediately. The company that conducted the test is responsible for the reporting requirements in this subdivision.

(5) A producer whose milk tests positive for drug residues shall pay a civil penalty and participate in drug residue education activities as follows:

(A) The following is imposed on a producer for the first positive test for drug residues within a twelve (12) month period:

(i) The positive producer must pay a civil penalty to the board equal to the result of the following equation: (DP times two (2) days times three dollars ($3)) minus PR.

However, if the result is less than five dollars ($5) then the civil penalty is five dollars ($5).

(ii) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board of animal health - office of the state veterinarian within thirty (30) days of the drug residue violation. Failure to complete the Protocol and submit proof of completion within thirty (30) days will result in action to suspend the producer's permit.

(B) The following is imposed for a second positive test for drug residues within a twelve (12) month period:

(i) The positive producer must pay a civil penalty to the board equal to the result of the following equation: DP times four (4) days times three dollars ($3).

However, if the result is less than five dollars ($5) then the civil penalty is five dollars ($5).

(ii) The positive producer must, in conjunction with the

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producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board of animal health - office of the state veterinarian within thirty (30) days of the drug residue violation. Failure to complete the Protocol and provide proof of completion will result in action to suspend the producer's permit.

(iii) The producer must attend a producer education program or meeting designated by the state veterinarian. The producer is responsible for paying registration and material fees and other costs associated with attending the education program or meeting. The producer must provide proof of attendance to the state veterinarian within ten (10) days of completion of the program or meeting.

(C) The third positive test result for drug residues within a twelve (12) month period shall result in the following:

(i) The board revoking a producer's Grade A permit if the producer has a permit.

(ii) The sanctions for a second offense set forth in clause (B) are imposed.

(iii) The producer must submit to the state veterinarian a set of written procedures that the producer will follow to prevent future drug residue violations. The procedures must be submitted with the proof of completion required in clause (B) and must be specific, practical, and reasonably likely to lessen the possibility of a drug residue violation when followed by the producer.

(iv) After a producer's Grade A permit is revoked for a third offense violation under this statute, the producer may not receive a new Grade A permit for a revocation period of thirty (30) days from the date of the revocation. After the revocation period, the state veterinarian must issue a conditional Grade A permit to a producer that has applied for a permit if the producer has met all of the requirements of this section at the time of application and the producer meets all other requirements of the board for obtaining a Grade A permit. The permit must be issued on the condition that all of the requirements of this section must be completed within the time set forth in this section. A

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permit issued under this item automatically becomes unconditional after the producer fully complies with all of the provisions of this section.

(D) For each drug residue violation in a twelve (12) month period in excess of three (3) the producer is subject to the penalties for a third offense in clause (C), ~~are imposed,~~ but for Grade A producers the revocation period will begin on the date the producer's permit is revoked and run for a period equal to two (2) times the length of the revocation period imposed after the producer's last drug residue violation.

(e) The state veterinarian may, by special permit, allow a producer that objects to the imposition of a civil penalty to dump two (2) days of milk production on a first offense and four (4) days of milk production on the second or third offense instead of paying a civil penalty if payment of a civil penalty would impose undue hardship on a producer. The state veterinarian may set the conditions under which the milk is to be dumped and may require documentation from the producer showing the circumstances under which the milk was dumped.

(f) Civil penalties collected under this section shall be deposited in the dairy drug residue abatement fund established under section 17 of this chapter.

SECTION 43. IC 16-18-2-367 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 367. "Volunteer fire ~~company~~ **department**", for purposes of IC 16-31-3, has the meaning set forth in IC 16-31-3-6(a).

SECTION 44. IC 16-31-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this section, "volunteer fire ~~company~~ **department**" has the meaning set forth in IC 36-8-12-2.

(b) As used in this section, "volunteer firefighter" has the meaning set forth in IC 36-8-12-2.

(c) A certificate is not required for a volunteer fire ~~company~~ **department** or volunteer firefighter to engage in extrication or rescue services.

SECTION 45. IC 16-37-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as provided in subsection (b), the records and files of the division of the state department concerning vital statistics are subject to this article and rules of the state department. Data contained in the records and files may be disclosed only as follows:

(1) The state registrar shall permit inspection of the records or

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issue a certified copy of a certificate or part of a certificate only if the state registrar is satisfied of the following:

(A) That the applicant has a direct interest in the matter recorded.

(B) That the information is necessary for the determination of personal or property rights or for compliance with state or federal law.

The state registrar's decision is subject to review by the state department or a court under this section.

(2) The state department may permit the use of data contained in vital statistical records for research purposes only, but no identifying use may be made of the data.

(3) In any extraordinary case that the state registrar determines is a direct tangible and legitimate public interest.

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(b) The birth record of an adopted child remains subject to the confidentiality provisions of IC 31-19 regarding the release of adoption information.

SECTION 46. IC 16-39-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Without the consent of the patient, the patient's mental health record may only be disclosed as ~~FOLLOWS [EFFECTIVE JULY 1, 1998]~~ **follows**:

(1) To individuals who meet the following conditions:

(A) Are employed by:

(i) the provider at the same facility or agency;

(ii) a managed care provider (as defined in IC 12-7-2-127(b)); or

(iii) a health care provider or mental health care provider, if the mental health records are needed to provide health care or mental health services to the patient.

(B) Are involved in the planning, provision, and monitoring of services.

(2) To the extent necessary to obtain payment for services rendered or other benefits to which the patient may be entitled, as provided in IC 16-39-5-3.

(3) To the patient's court appointed counsel and to the Indiana protection and advocacy services commission.

(4) For research conducted in accordance with IC 16-39-5-3 and the rules of the division of mental health, the rules of the division of disability, aging, and rehabilitative services, or the rules of the provider.

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(5) To the division of mental health for the purpose of data collection, research, and monitoring managed care providers (as defined in IC 12-7-2-127(b)) who are operating under a contract with the division of mental health.

(6) To the extent necessary to make reports or give testimony required by the statutes pertaining to admissions, transfers, discharges, and guardianship proceedings.

(7) To a law enforcement agency if any of the following conditions are met:

(A) A patient escapes from a facility to which the patient is committed under IC 12-26.

(B) The superintendent of the facility determines that failure to provide the information may result in bodily harm to the patient or another individual.

(C) A patient commits or threatens to commit a crime on facility premises or against facility personnel.

(D) A patient is in the custody of a law enforcement officer or agency for any reason and:

(i) the information to be released is limited to medications currently prescribed for the patient or to the patient's history of adverse medication reactions; and

(ii) the provider determines that the release of the medication information will assist in protecting the health, safety, or welfare of the patient.

Mental health records released under this clause must be maintained in confidence by the law enforcement agency receiving them.

(8) To a coroner or medical examiner, in the performance of the individual's duties.

(9) To a school in which the patient is enrolled if the superintendent of the facility determines that the information will assist the school in meeting educational needs of a person with a disability under 20 U.S.C. 1400 et seq.

(10) To the extent necessary to satisfy reporting requirements under the following statutes:

(A) IC 12-10-3-10.

(B) IC 12-17-2-16.

(C) IC 12-24-17-5.

(D) IC 16-41-2-3.

(E) IC 31-33-5-4.

(F) IC 34-30-16-2.

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(G) IC 35-46-1-13.

(11) To the extent necessary to satisfy release of information requirements under the following statutes:

(A) IC 12-24-11-2.

(B) IC 12-24-12-3, IC 12-24-12-4, and IC 12-24-12-6.

(C) IC 12-26-11.

(12) To another health care provider in a health care emergency.

(13) For legitimate business purposes as described in IC 16-39-5-3.

(14) Under a court order under IC 16-39-3.

(15) With respect to records from a mental health or developmental disability facility, to the United States Secret Service if the following conditions are met:

(A) The request does not apply to alcohol or drug abuse records described in 42 U.S.C. 290dd-2 unless authorized by a court order under 42 U.S.C. 290dd-2(b)(2)(c).

(B) The request relates to the United States Secret Service's protective responsibility and investigative authority under 18 U.S.C. 3056, 18 U.S.C. 871, or 18 U.S.C. 879.

(C) The request specifies an individual patient.

(D) The director or superintendent of the facility determines that disclosure of the mental health record may be necessary to protect a person under the protection of the United States Secret Service from serious bodily injury or death.

(E) The United States Secret Service agrees to only use the mental health record information for investigative purposes and not disclose the information publicly.

(F) The mental health record information disclosed to the United States Secret Service includes only:

(i) the patient's name, age, and address;

(ii) the date of the patient's admission to or discharge from the facility; and

(iii) any information that indicates whether or not the patient has a history of violence or presents a danger to the person under protection.

(b) After information is disclosed under subsection (a)(15) and if the patient is evaluated to be dangerous, the records shall be interpreted in consultation with a licensed mental health professional on the staff of the United States Secret Service.

(c) A person who discloses information under subsection (a)(7) or (a)(15) in good faith is immune from civil and criminal liability.

SECTION 47. IC 16-41-7-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as ~~otherwise~~ provided **in IC 35-42-1-9**, a person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

SECTION 48. IC 20-10.1-5.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A governing body may do the following:

(1) Develop and periodically update a local plan to provide appropriate educational experiences to high ability students **in the school corporation in** kindergarten through grade 12. The plan must include the following components:

(A) ~~Establish~~ **The establishment of** a broad-based planning committee that meets periodically to review the LEA plan for high ability students. The committee must have representatives from diverse groups representing the school and community.

(B) Student assessment.

(C) Professional development.

(D) Development and implementation of a local program for high ability students.

(E) Evaluation of the local program for high ability students.

(2) Provide a local program for high ability students in accordance with the plan that the governing body develops under subdivision (1) for the high ability students in the school corporation in kindergarten through grade 12.

SECTION 49. IC 20-12-9.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "obligations" means bonds, notes, or other ~~evidence~~ **evidences** of indebtedness or other ~~obligation~~ **obligations** issued by a corporation.

SECTION 50. IC 20-14-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A person who:

(1) desires to be certified as a librarian in any designated division, grade, or type of public library service; and

(2) possesses the qualifications prescribed in the rules of the board as essential to enable a person to apply for a certificate;

may apply to the board for a certificate in any grade or grades of public library service.

(b) The application must be:

(1) made on a ~~blank~~ form prescribed and supplied by the board; and

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(2) accompanied by the fee set by the board under section 11 of this chapter.

(c) If the application is found to be satisfactory, the applicant is entitled to a certificate in the grade or grades of public library service for which applied.

SECTION 51. IC 21-3-1.7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE: Determine the greater of the following:

(A) The product of:

(i) the school corporation's target revenue per ADM; multiplied by

~~(B)~~ (ii) the school corporation's adjusted current ADM.

(B) The product of:

(i) the school corporation's previous year revenue; multiplied by

(ii) one and three-hundredths (1.03).

STEP TWO: Determine the remainder of:

(A) the STEP ONE amount; minus

(B) the sum of:

(i) the school corporation's tuition support levy; plus

(ii) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year.

If the state tuition support determined for a school corporation under this section is negative, the school corporation is not entitled to any state tuition support. In addition, the school corporation's maximum general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount of the negative result.

SECTION 52. IC 21-3-1.7-9.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.7. In addition to the distributions under sections 8, 9.5, and 9.8 of this chapter for 1997 and thereafter, a school corporation is eligible for an amount for at-risk programs in the amount determined in STEP SIX of the following formula:

~~STEP~~ STEP ONE: Determine the greater of the following:

(A) The result determined under item (ii) of the following formula:

(i) Determine the result of the school corporation's at-risk index minus two-tenths (0.2).

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(ii) Multiply the item (i) result by seven-hundredths (0.07).

(B) Zero (0).

STEP TWO: Determine the greater of the following:

(A) The result determined under item (ii) of the following formula:

(i) Determine the result of the school corporation's at-risk index minus fifteen-hundredths (0.15).

(ii) Multiply the item (i) result by eighteen-hundredths (0.18).

(B) Zero (0).

STEP THREE: Add the STEP ONE result and the STEP TWO result.

STEP FOUR: Multiply the STEP THREE sum by the school corporation's current ADM. Round the result to the nearest one-hundredth (0.01).

STEP FIVE: Multiply the STEP FOUR product by two thousand nine hundred fifty dollars ($2,950) in 1998 and three thousand one hundred thirty-five dollars ($3,135) in 1999.

SECTION 53. IC 22-2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Every employer employing four (4) or more employees during a work week shall:

(1) in any work week beginning on or after July 1, 1968, in which he is subject to the provisions of this chapter, pay each of his employees wages of not less than one dollar and twenty-five cents ($1.25) per hour;

(2) in any work week beginning on or after July 1, 1977, in which he is subject to this chapter, pay each of his employees wages of not less than one dollar and fifty cents ($1.50) per hour;

(3) in any work week beginning on or after January 1, 1978, in which he is subject to this chapter, pay each of his employees wages of not less than one dollar and seventy-five cents ($1.75) per hour; and

(4) in any work week beginning on or after January 1, 1979, in which he is subject to this chapter, pay each of his employees wages of not less than two dollars ($2) per hour.

(b) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on and after July 1, 1990, and before October 1, 1998, wages of not less than three dollars

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and thirty-five cents ($3.35) per hour.

(c) An employer subject to subsection (b) is permitted to apply a "tip credit" in determining the amount of cash wage paid to tipped employees. In determining the wage an employer is required to pay a tipped employee, the amount paid the employee by the employee's employer shall be an amount equal to:

(1) the cash wage paid the employee which for purposes of the determination shall be not less than the cash wage required to be paid to employees covered under the federal Fair Labor Standards Act of 1938, as amended ~~(29 U.S.C. 210(m)(1))~~ **(29 U.S.C. 203(m)(1))** on August 20, 1996, which amount is two dollars and thirteen cents ($2.13) an hour; and

(2) an additional amount on account of the tips received by the employee, which amount is equal to the difference between the wage specified in subdivision (1) and the wage in effect under subsections (b), (f), and (g).

An employer is responsible for supporting the amount of tip credit taken through reported tips by the employees.

(d) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which employees are employed, between employees on the basis of sex by paying to employees in such establishment a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to:

(1) a seniority system;

(2) a merit system;

(3) a system which measures earnings by quantity or quality of production; or

(4) a differential based on any other factor other than sex.

(e) An employer who is paying a wage rate differential in violation of subsection (d) shall not, in order to comply with subsection (d), reduce the wage rate of any employee, and no labor organization, or its agents, representing employees of an employer having employees subject to subsection (d) shall cause or attempt to cause such an employer to discriminate against an employee in violation of subsection (d).

(f) Except as provided in subsection (c), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each

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of the employees in any work week beginning on or after October 1, 1998, and before March 1, 1999, wages of not less than four dollars and twenty-five cents ($4.25) per hour.

(g) Except as provided in subsections (c) and (i), every employer employing at least two (2) employees during a work week shall, in any work week in which the employer is subject to this chapter, pay each of the employees in any work week beginning on or after March 1, 1999, wages of not less than five dollars and fifteen cents ($5.15) an hour.

(h) This section does not apply if an employee:

(1) provides companionship services to the aged and infirm (as defined in 29 CFR 552.6); and

(2) is employed by an employer or agency other than the family or household using the companionship services, as provided in 29 CFR 552.109 (a).

(i) This subsection applies only to an employee who has not attained the age of twenty (20) years. Instead of the rates prescribed by subsections (c), (f), and (g), an employer may pay an employee of the employer, during the first ninety (90) consecutive calendar days after the employee is initially employed by the employer, a wage which is not less than four dollars and twenty-five cents ($4.25) per hour, effective March 1, 1999. However, no employer may take any action to displace employees (including partial displacements such as reduction in hours, wages, or employment benefits) for purposes of hiring individuals at the wage authorized in this subsection.

(j) Except as otherwise provided in this section, no employer shall employ any employee for a workweek longer than forty (40) hours unless the employee receives compensation for employment in excess of the hours above specified at a rate not less than one and one-half (1.5) times the regular rate at which he is employed.

(k) For purposes of this section the following apply:

(1) "Overtime compensation" means the compensation required by subsection (j).

(2) "Compensatory time" and "compensatory time off" mean hours during which an employee is not working, which are not counted as hours worked during the applicable workweek or other work period for purposes of overtime compensation, and for which the employee is compensated at the employee's regular rate.

(3) "Regular rate" means the rate at which an employee is employed is considered to include all remuneration for employment paid to, or on behalf of, the employee, but is not

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considered to include the following:

(A) Sums paid as gifts, payments in the nature of gifts made at Christmas time or on other special occasions, as a reward for service, the amounts of which are not measured by or dependent on hours worked, production, or efficiency.

(B) Payments made for occasional periods when no work is performed due to vacation, holiday, illness, failure of the employer to provide sufficient work, or other similar cause, reasonable payments for traveling expenses, or other expenses, incurred by an employee in the furtherance of his employer's interests and properly reimbursable by the employer, and other similar payments to an employee which are not made as compensation for his hours of employment.

(C) Sums paid in recognition of services performed during a given period if:

(i) both the fact that payment is to be made and the amount of the payment are determined at the sole discretion of the employer at or near the end of the period and not pursuant to any prior contract, agreement, or promise causing the employee to expect the payments regularly;

(ii) the payments are made pursuant to a bona fide profit sharing plan or trust or bona fide thrift or savings plan, meeting the requirements of the administrator set forth in appropriately issued regulations, having due regard among other relevant factors, to the extent to which the amounts paid to the employee are determined without regard to hours of work, production, or efficiency; or

(iii) the payments are talent fees paid to performers, including announcers, on radio and television programs.

(D) Contributions irrevocably made by an employer to a trustee or third person pursuant to a bona fide plan for providing old age, retirement, life, accident, or health insurance or similar benefits for employees.

(E) Extra compensation provided by a premium rate paid for certain hours worked by the employee in any day or workweek because those hours are hours worked in excess of eight (8) in a day or in excess of the maximum workweek applicable to the employee under subsection ~~(h)~~ **(j)** or in excess of the employee's normal working hours or regular

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working hours, as the case may be.

(F) Extra compensation provided by a premium rate paid for work by the employee on Saturdays, Sundays, holidays, or regular days of rest, or on the sixth or seventh day of the workweek, where the premium rate is not less than one and one-half (1.5) times the rate established in good faith for like work performed in nonovertime hours on other days.

(G) Extra compensation provided by a premium rate paid to the employee, in pursuance of an applicable employment contract or collective bargaining agreement, for work outside of the hours established in good faith by the contract or agreement as the basic, normal, or regular workday (not exceeding eight hours) or workweek (not exceeding the maximum workweek applicable to the employee under subsection ~~(a)~~ **(j)**) where the premium rate is not less than one and one-half (1.5) times the rate established in good faith by the contract or agreement for like work performed during the workday or workweek.

(l) No employer shall be considered to have violated subsection (j) by employing any employee for a workweek in excess of that specified in subsection ~~(a)~~ **(j)** without paying the compensation for overtime employment prescribed therein if the employee is so employed:

(1) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand forty (1,040) hours during any period of twenty-six (26) consecutive weeks; or

(2) in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that during a specified period of fifty-two (52) consecutive weeks the employee shall be employed not more than two thousand two hundred forty (2,240) hours and shall be guaranteed not less than one thousand eight hundred forty (1,840) hours (or not less than forty-six (46) weeks at the normal number of hours worked per week, but not less than thirty (30) hours per week) and not more than two thousand eighty (2,080) hours of employment for which the employee shall receive compensation for all hours guaranteed or worked at rates not less than those applicable under the agreement to the work performed and for all hours in excess of the guaranty which are also in excess of the maximum

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workweek applicable to the employee under subsection ~~(a)~~ **(j)** or two thousand eighty (2,080) in that period at rates not less than one and one-half (1.5) times the regular rate at which the employee is employed; or

(m) No employer shall be considered to have violated subsection (j) by employing any employee for a workweek in excess of the maximum workweek applicable to the employee under subsection ~~(a)~~ **(j)** if the employee is employed pursuant to a bona fide individual contract, or pursuant to an agreement made as a result of collective bargaining by representatives of employees, if the duties of the employee necessitate irregular hours of work, and the contract or agreement includes the following:

(1) Specifies a regular rate of pay of not less than the minimum hourly rate provided in subsections (c), (f), (g), and (i) (whichever is applicable) and compensation at not less than one and one-half (1.5) times that rate for all hours worked in excess of the maximum workweek.

(2) Provides a weekly guaranty of pay for not more than sixty hours based on the rates so specified.

(n) No employer shall be considered to have violated subsection (j) by employing any employee for a workweek in excess of the maximum workweek applicable to the employee under that subsection if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, the amount paid to the employee for the number of hours worked by him in the workweek in excess of the maximum workweek applicable to the employee under that subsection:

(1) in the case of an employee employed at piece rates, is computed at piece rates not less than one and one-half (1.5) times the bona fide piece rates; applicable to the same work when performed during nonovertime hours; or

(2) in the case of an employee performing two (2) or more kinds of work for which different hourly or piece rates have been established, is computed at rates not less than one and one-half (1.5) times those bona fide rates; applicable to the same work when performed during nonovertime hours; or

(3) is computed at a rate not less than one and one-half (1.5) times the rate established by the agreement or understanding as the basic rate to be used in computing overtime compensation thereunder, provided that the rate so established shall be substantially equivalent to the average hourly earnings of the employee, exclusive of overtime premiums, in the particular

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work over a representative period of time;

and if the employee's average hourly earnings for the workweek exclusive of payments described in this section are not less than the minimum hourly rate required by applicable law, and extra overtime compensation is properly computed and paid on other forms of additional pay required to be included in computing the regular rate.

(o) Extra compensation paid as described in this section shall be creditable toward overtime compensation payable pursuant to this section.

(p) No employer shall be considered to have violated subsection (j) by employing any employee of a retail or service establishment for a workweek in excess of the applicable workweek specified therein, if:

(1) the regular rate of pay of the employee is in excess of one and one-half (1.5) times the minimum hourly rate applicable to the employee under section 2 of this chapter; and

(2) more than half of the employee's compensation for a representative period (not less than one (1) month) represents commissions on goods or services.

In determining the proportion of compensation representing commissions, all earnings resulting from the application of a bona fide commission rate shall be considered commissions on goods or services without regard to whether the computed commissions exceed the draw or guarantee.

(q) No employer engaged in the operation of a hospital or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises shall be considered to have violated subsection (j) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of fourteen (14) consecutive days is accepted in lieu of the workweek of seven (7) consecutive days for purposes of overtime computation and if, for his employment in excess of eight (8) hours in any workday and in excess of eighty (80) hours in that fourteen (14) day period, the employee receives compensation at a rate not less than one and one-half (1.5) times the regular rate at which the employee is employed.

(r) No employer shall employ any employee in domestic service in one (1) or more households for a workweek longer than forty (40) hours unless the employee receives compensation for that employment in accordance with subsection (j).

(s) In the case of an employee of an employer engaged in the business of operating a street, suburban or interurban electric railway,

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or local trolley or motorbus carrier (regardless of whether or not the railway or carrier is public or private or operated for profit or not for profit), in determining the hours of employment of such an employee to which the rate prescribed by subsection (j) applies there shall be excluded the hours the employee was employed in charter activities by the employer if both of the following apply:

(1) The employee's employment in the charter activities was pursuant to an agreement or understanding with the employer arrived at before engaging in that employment.

(2) If employment in the charter activities is not part of the employee's regular employment.

(t) Any employer may employ any employee for a period or periods of not more than ten (10) hours in the aggregate in any workweek in excess of the maximum workweek specified in subsection (j) without paying the compensation for overtime employment prescribed in subsection (j), if during that period or periods the employee is receiving remedial education that:

(1) is provided to employees who lack a high school diploma or educational attainment at the eighth grade level;

(2) is designed to provide reading and other basic skills at an eighth grade level or below; and

(3) does not include job specific training.

(u) Subsection (j) does not apply to an employee of a motion picture theater.

SECTION 54. IC 22-12-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. "Fire department" means a paid fire department or volunteer fire ~~company~~ **department** that renders fire prevention or fire protection services to a political subdivision.

SECTION 55. IC 22-12-1-18.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18.7. "Qualified entity" means:

(1) a volunteer fire ~~company~~ **department** (as defined in IC 36-8-12-2);

(2) the executive of a township providing fire protection under IC 36-8-13-3(a)(1); or

(3) a municipality providing fire protection to a township under IC 36-8-13-3(a)(2) or IC 36-8-13-3(a)(3).

SECTION 56. IC 22-12-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission consists of eighteen (18) voting members and two (2) nonvoting members. The governor shall appoint sixteen (16) voting

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members to the commission, each to serve a term of four (4) years. The state health commissioner or the commissioner's designee shall serve as a voting member of the commission, and the commissioner of labor or the commissioner's designee shall serve as a voting member of the commission. The state fire marshal and the state building commissioner shall serve as nonvoting members of the commission.

(b) Each appointed member of the commission must have a recognized interest, knowledge, and experience in the field of fire prevention, fire protection, building safety, or other related matters.

(c) The appointed members of the commission must include the following:

(1) One (1) member of a professional, paid fire department.

(2) One (1) member of a volunteer fire ~~company~~ **department**.

(3) One (1) individual in the field of fire insurance.

(4) One (1) individual in the fire service industry.

(5) One (1) individual in the manufactured housing industry.

(6) One (1) individual in the field of fire protection engineering.

(7) One (1) professional engineer.

(8) One (1) building contractor.

(9) One (1) individual in the field of building one (1) and two (2) family dwellings.

(10) One (1) registered architect.

(11) One (1) individual engaged in the design or construction of heating, ventilating, air conditioning, or plumbing systems.

(12) One (1) individual engaged in the design or construction of regulated lifting devices.

(13) One (1) building commissioner of a city, town, or county.

(14) One (1) individual in an industry that operates regulated amusement devices.

(15) One (1) individual who is knowledgeable in accessibility requirements and who has personal experience with a disability.

(16) One (1) individual who represents owners, operators, and installers of underground and aboveground motor fuel storage tanks and dispensing systems.

(d) Not more than nine (9) of the appointed members of the commission may be affiliated with the same political party.

(e) An appointed member of the commission may not serve more than two (2) consecutive terms. However, any part of an unexpired term served by a member filling a vacancy does not count toward this limitation.

SECTION 57. IC 25-6.1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) An individual

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may not act as an auctioneer without first having obtained and having in full force and effect the license required under this article.

(b) Except as provided in IC 25-6.1-3-3, a person may not operate an auction house without having obtained and having in full force and effect the license for the auction house as required under this article.

(c) A person (except a person who shall have become exempt, by reason of compliance with the provisions of ~~section 4 of chapter 3 of this article,~~ **IC 25-6.1-3-4,** from the auction company licensing requirements of this article) may not operate an auction company without first having obtained and having in full force and effect the auction company license required under this article.

(d) A person who knowingly or intentionally violates the provisions of this section commits a Class A misdemeanor.

SECTION 58. IC 27-1-15.5-8, AS AMENDED BY P.L.82-1998, SECTION 3, AND P.L.91-1998, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner may suspend, revoke, refuse to continue, renew, or issue any license issued under this chapter, or impose any of the disciplinary sanctions under subsection (f) if, after notice to the licensee and to the insurer represented and a hearing, the commissioner finds as to the licensee any one (1) or more of the following conditions:

(1) Any materially untrue statement in the license application.

(2) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.

(3) Violation of or noncompliance with any insurance laws, violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract, or violation of any lawful rule, regulation, or order of the commissioner or of a commissioner of another state.

(4) Obtaining or attempting to obtain any such license through misrepresentation or fraud.

(5) Improperly withholding, misappropriating, or converting to the licensee's own use any money belonging to policyholders, insurers, beneficiaries, or others received in the course of the licensee's insurance business.

(6) Misrepresentation of the terms of any actual or proposed insurance contract.

(7) *A:*

(A) conviction of; *or*

(B) plea of guilty, no contest, or nolo contendere to;

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a felony or misdemeanor involving moral turpitude.

(8) The licensee has been found guilty of any unfair trade practice or of fraud.

(9) In the conduct of the licensee's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible, or not performing in the best interests of the insuring public.

(10) The licensee's license has been suspended or revoked in any ~~*other*~~ state, province, district, or territory.

(11) The licensee has forged another's name to an application for insurance.

(12) An applicant has been found to have been cheating on an examination for an insurance license.

(13) The applicant or licensee is on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(14) The licensee has failed to satisfy the continuing education requirements under section 7.1 of this chapter.

(15) The licensee has violated section 24 of this chapter.

(b) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

under this chapter to any person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(c) In the event that the action by the commissioner is to not renew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reasons for the denial or nonrenewal of the applicant's or licensee's license. Not later than sixty (60) days after receiving a notice from the commissioner under this subsection, the applicant or licensee may make written demand upon the commissioner for a hearing to determine the reasonableness of the commissioner's action. Such hearing shall be held within thirty (30) days from the date of receipt of the written demand of the applicant.

(d) The license of a corporation may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one (1) or more of the officers or managers acting on behalf of the corporation and such violation was not reported to the insurance department nor corrective action taken in relation to the violation.

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(e) In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating this chapter may, after hearing, be subject to a civil penalty of not less than fifty dollars ($50) nor more than ten thousand dollars ($10,000). Such a penalty may be enforced in the same manner as civil judgments.

(f) The commissioner may impose any of the following sanctions, singly or in combination, when the commissioner finds that a licensee is guilty of any offense under subsection (a):

(1) Permanently revoke (as defined in subsection (i)) a licensee's certificate.

(2) Revoke a licensee's certificate with a stipulation that the licensee may not reapply for a certificate for a period fixed by the commissioner. The fixed period may not exceed ten (10) years.

(3) Suspend a licensee's certificate.

(4) Censure a licensee.

(5) Issue a letter of reprimand.

(6) Place a licensee on probation status and require the licensee to:

(A) report regularly to the commissioner upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the commissioner; or

(C) continue or renew professional education under a licensee approved by the commissioner until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

The commissioner may withdraw the probation if the commissioner finds that the deficiency that required disciplinary action has been remedied.

(g) *The commissioner may order the licensee to make restitution if the commissioner finds that the licensee has violated:*

(1) subsection (a)(5);

(2) subsection (a)(8);

(3) subsection (a)(9); or

(4) section 24 of this chapter.

(h) The insurance commissioner shall notify the securities commissioner when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license.

~~*(h)*~~ *(i)* For purposes of subsection (f), "permanently revoke" means that the licensee's certificate shall never be reinstated and the licensee

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shall not be eligible to submit an application for a certificate to the department.

SECTION 59. IC 27-8-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An insurer may:

(1) enter into agreements with providers relating to terms and conditions of reimbursement for health care services that may be rendered to insureds of the insurer, including agreements relating to the amounts to be charged the insured for services rendered or the terms and conditions for activities intended to reduce inappropriate care;

(2) issue or administer policies in this state that include incentives for the insured to utilize the services of a provider that has entered into an agreement with the insurer under subdivision (1); and

(3) issue or administer policies in this state that provide for reimbursement for expenses of health care services only if the services have been rendered by a provider that has entered into an agreement with the insurer under subdivision (1).

(b) Before entering into any agreement under subsection (a)(1), an insurer shall establish terms and conditions that must be met by providers wishing to enter into an agreement with the insurer under subsection (a)(1). These terms and conditions may not discriminate unreasonably against or among providers. For the purposes of this subsection, neither differences in prices among hospitals or other institutional providers produced by a process of individual negotiation nor price differences among other providers in different geographical areas or different specialties constitutes unreasonable discrimination. Upon request by a provider seeking to enter into an agreement with an insurer under subsection (a)(1), the insurer shall make available to the provider a written statement of the terms and conditions that must be met by providers wishing to enter into an agreement with the insurer under subsection (a)(1).

(c) No hospital, physician, pharmacist, or other provider designated in IC 27-8-6-1 willing to meet the terms and conditions of agreements described in this section ~~or section 3.1 of this chapter~~ may be denied the right to enter into an agreement under subsection (a)(1). ~~or section 3.1 of this chapter.~~ When an insurer denies a provider the right to enter into an agreement with the insurer under subsection (a)(1) ~~or section 3.1 of this chapter~~ on the grounds that the provider does not satisfy the terms and conditions established by the insurer for providers entering into agreements with the insurer, the insurer shall provide the

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provider with a written notice that:

(1) explains the basis of the insurer's denial; and

(2) states the specific terms and conditions that the provider, in the opinion of the insurer, does not satisfy.

(d) In no event may an insurer deny or limit reimbursement to an insured under this chapter on the grounds that the insured was not referred to the provider by a person acting on behalf of or under an agreement with the insurer.

(e) No cause of action shall arise against any person or insurer for:

(1) disclosing information as required by this section; or

(2) the subsequent use of the information by unauthorized individuals.

Nor shall such a cause of action arise against any person or provider for furnishing personal or privileged information to an insurer. However, this subsection provides no immunity for disclosing or furnishing false information with malice or willful intent to injure any person, provider, or insurer.

(f) Nothing in this chapter abrogates the privileges and immunities established in IC 34-30-15 (or IC 34-4-12.6 before its repeal).

SECTION 60. IC 27-8-11-3.1 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 61. IC 27-8-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Policies issued under section 3(a)(3) or section 3.1 of this chapter **(before its repeal)** may not contain terms or conditions that would operate unreasonably to restrict the access and availability of health care services for the insured. The commissioner of insurance may, under IC 4-22-2, adopt rules binding upon insurers prescribing reasonable standards relating to the accessibility and availability of health care services for persons insured under policies described in section 3(a)(3) or section 3.1 of this chapter **(before its repeal)**.

SECTION 62. IC 31-34-21-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) In determining the extent to which reasonable efforts to reunify or preserve a family are appropriate under this chapter, the child's health and safety are of paramount concern.

(b) Except as provided in section 5.6 of this chapter, a county office of family and children shall make reasonable efforts to preserve and reunify families as follows:

(1) If a child has not been removed from the child's home, to prevent or eliminate the need for removing the child from the child's home.

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(2) If a child has been removed from the child's home, ~~as soon as possible~~ to make it possible for the child to return safely to the child's home **as soon as possible**.

SECTION 63. IC 31-34-21-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The court shall hold a permanency hearing:

(1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;

(2) every twelve (12) months after:

(A) the date of the original dispositional decree; or

(B) a child in need of services was removed from the child's parent, guardian, or custodian;

whichever comes first; or

(3) more often if ordered by the juvenile court.

(b) The court shall:

(1) make the determination and findings required by section 5 of this chapter;

(2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;

(3) consider recommendations of persons listed under ~~section 11~~ **section 4** of this chapter, before approving a permanency plan under subdivision (4);

(4) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;

(5) determine whether an existing permanency plan must be modified; and

(6) examine procedural safeguards used by the county office of family and children to protect parental rights.

(c) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the county office of family and children does not sustain its burden for continued jurisdiction, the court shall:

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(1) direct the county office of family and children to establish a permanency plan within thirty (30) days; or; or

(2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 64. IC 33-4-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) A prospective juror who fails to appear as directed by the jury commissioner under section 16 of this ~~section~~ **chapter** must be ordered by the supervising judge to appear and show cause for the failure to appear as directed. If the prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury commissioner, the prospective juror is guilty of criminal contempt.

(b) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

SECTION 65. IC 33-4-11-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. After the period of service for which names were drawn from the master jury list has expired, and all persons ~~elected~~ **selected** to serve as jurors have been discharged, all records and papers compiled and maintained by the jury commissioner or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the Indiana supreme court. The records and papers must be available for public inspection at all reasonable times.

SECTION 66. IC 33-5.1-4 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 67. IC 34-6-2-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998 (RETROACTIVE)]: Sec. 51. (a) "Gratuitously renders emergency care", for purposes of IC 34-30-12-1, means the giving of emergency care **(including the use of an automatic external defibrillator):**

(1) that was volunteered without legal obligation on the part of the person rendering the emergency care; and

(2) for which the person rendering the emergency care does not expect remuneration.

(b) Emergency care may not be considered to be gratuitously rendered emergency care solely because of the failure to send a bill for the emergency care.

SECTION 68. IC 34-13-3-22 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) For purposes of this chapter, the following shall be treated as political subdivisions:

(1) A community action agency (as defined in IC 12-14-23-2).

(2) An individual or corporation rendering public transportation services under a contract with a commuter transportation district created under IC 8-5-15.

(3) A volunteer fire ~~company~~ **department** (as defined in IC 36-8-12-2) that is acting under:

(A) a contract with a unit or a fire protection district; or

(B) IC 36-8-17.

(b) The treatment provided for under subsection (a)(2) shall be accorded only in relation to a loss that occurs in the course of rendering public transportation services under contract with a commuter transportation district.

SECTION 69. IC 34-18-3-5, AS AMENDED BY P.L.91-1998, SECTION 21, AND P.L.111-1998, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), the receipt of proof of financial responsibility and the surcharge constitutes compliance with section 2 of this chapter:

(1) as of the date on which they are received; or

(2) as of the effective date of the policy;

if this proof is filed with and the surcharge paid to the department of insurance not later than ninety (90) days after the effective date of the insurance policy.

(b) If an insurer files proof of financial responsibility and makes payment of the surcharge to the department of insurance at least ninety-one (91) days but not more than one hundred eighty (180) days after the policy effective date, the health care provider ~~*complies*~~ *is in compliance* with section 2 of this chapter if the insurer demonstrates to the satisfaction of the commissioner that the insurer:

(1) received the premium and surcharge in a timely manner; and

(2) erred in transmitting the surcharge in a timely manner.

(c) If the commissioner accepts a filing as timely under subsection (b), the filing must, in addition to any penalties under IC 34-18-5-3, be accompanied by a penalty amount as follows:

(1) Ten percent (10%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least ninety-one (91) days and not more than one hundred twenty (120) days after the original effective date of the policy.

(2) Twenty percent (20%) of the surcharge, if the proof of

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financial responsibility and surcharge are received by the commissioner at least one hundred twenty-one (121) days and not more than one hundred fifty (150) days after the original effective date of the policy.

(3) Fifty percent (50%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least one hundred fifty-one (151) days and not more than one hundred eighty (180) days after the original effective date of the policy.

SECTION 70. IC 34-19-3-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. Except as provided in ~~sections 11 and~~ **section** 13 of this chapter, the court may order appropriate relief under this chapter without proof that a defendant knew of the existence of the nuisance.

SECTION 71. IC 34-20-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) In a product liability action, the fault of the person suffering the physical harm, as well as the fault of all others who caused or contributed to cause the harm, shall be compared by the trier of fact in accordance with ~~IC 34-57-2-7, IC 34-57-2-8, or IC 34-57-2-9.~~ **IC 34-51-2-7, IC 34-51-2-8, or IC 34-51-2-9.**

(b) In assessing percentage of fault, the jury shall consider the fault of all persons who contributed to the physical harm, regardless of whether the person was or could have been named as a party, as long as the nonparty was alleged to have caused or contributed to cause the physical harm.

SECTION 72. IC 34-28-2-3, AS ADDED BY P.L.1-1998, SECTION 24, AND AMENDED BY P.L.18-1998, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Upon filing a petition for a name change, the applicant shall give notice of the petition as follows:

(1) By three (3) weekly publications in a newspaper of general circulation published in the county in which the petition is filed in court.

(2) If no newspaper is published in the county in which the petition is filed, the applicant shall give notice in a newspaper published nearest to that county in an adjoining county.

(3) The last weekly publication shall be published not less than thirty (30) days before the day the petition will be heard as indicated in the notice.

(b) In the case of a petition described in section 2(b) of this

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chapter, the petitioner must publish the first notice of the petition not more than seven (7) days after the date the petition is filed.

(c) In the case of a petition described in section 2(b) of this chapter, the notice required by this section must include the following:

(1) The name of the ~~*petition*~~ *petitioner*.

(2) The name of the minor child whose name is to ~~*change*~~ *be changed*.

(3) The new name desired.

(4) The name of the court in which the action is pending.

(5) The date on which the petition was filed.

(6) A statement that any person has the right to appear at the hearing and to file objections.

(d) *Except as provided in section 1.5 of this chapter,* in the case of a person who has had a felony conviction within ten (10) years before filing a petition for a change of name, at least thirty (30) days before the hearing the petitioner must give notice of the filing of the petition to:

(1) the sheriff of the county in which the ~~*petition*~~ *petitioner* resides;

(2) the prosecuting attorney of the county in which the petitioner resides; and

(3) the Indiana central repository for criminal history information.

(e) The notice given to the Indiana central repository for criminal history information under subsection (d) must include the petitioner's full current name, requested name change, date of birth, address, physical description, and a full set of classifiable fingerprints.

(f) The Indiana central repository for criminal history information shall forward a copy of any criminal records of the petitioner to the court for the court's information.

(g) A copy of the court decree granting or denying such a petition shall be sent to the Indiana state police.

(h) A person who violates subsection (d) commits a Class A misdemeanor.

SECTION 73. IC 34-30-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998 (RETROACTIVE)]: Sec. 1. (a) This section does not apply to services rendered by a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) to a patient in a health care facility (as defined in IC 27-8-10-1).

(b) **Except as provided in subsection (c),** a person who comes upon the scene of an emergency or accident or is summoned to the scene of an emergency or accident and, in good faith, gratuitously

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renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from:

(1) any act or omission by the person in rendering the emergency care; or

(2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person;

except for acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) This subsection applies to a person to whom IC 16-31-6.5 applies. A person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission not amounting to gross negligence or willful or wanton misconduct if the person fulfills the requirements set forth in IC 16-31-6.5.

(d) This subsection applies to an individual, business, or organization to which IC 16-31-6.5 applies. An individual, business, or organization that allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission not amounting to gross negligence or willful or wanton misconduct by the user or for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.

SECTION 74. IC 34-30-15-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The immunities granted by sections 15 through 20 of this chapter shall not extend to any person who violates the confidentiality requirements of **sections 1 through 14 of this chapter**.

SECTION 75. IC 34-43-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) This section applies to a medical record or part of a record that contains information that is confidential under IC 16-41-8-1.

(b) The hospital employee with custody of the original medical records shall:

(1) execute a verified affidavit:

(A) identifying the record or part of a record that contains the confidential information concerning a dangerous communicable disease; and

(B) stating that the confidential record or part of the record

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will only be provided under a court order after in camera review under IC 16-41-8-1; and

(2) comply with sections 5 through 8 of this chapter in delivering the record or part of the record that is not confidential under **subdivision (1)**.

SECTION 76. IC 34-55-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) After a hearing of which the judgment debtor has been notified, the court may order:

(1) any property, income, or profits of the judgment debtor not exempt from execution or process, in the hands either of the judgment debtor or of any other person; or

(2) any debt due to the judgment debtor;

to be applied to the satisfaction of the judgment and forbid transfers of property and choses in action.

(b) The judge may order that:

(1) the judgment or execution is a continuing lien upon the income or profits of the judgment debtor in the hands either of the judgment debtor or any other person, governmental officer, or corporation from the date the order is served upon the person, governmental officer, or corporation indebted to the judgment debtor to the extent that the lien, together with all similar liens, is permitted under IC 24-4.5-5-105; and

(2) the court may enforce all orders and decrees in the premises, by attachment or otherwise.

(c) A court in an action for proceedings supplementary to execution shall issue an order directing a depository financial institution (as defined in IC 28-9-2) to place a hold on a deposit account in which the judgment debtor has an interest, either individually or jointly with another person, whenever the conditions prescribed under ~~IC 28-9-3-4(b)(1)~~ **IC 28-9-3-4(d)(1)** through ~~IC 28-9-3-4(b)(3)~~ **IC 28-9-3-4(d)(3)** are met. An order issued under:

(1) is subject to the limitations as to duration of the restriction and the amount to be restricted as specified under IC 28-9-4-2; and

(2) may be terminated or modified to reflect valid exemptions of a depositor that the court has considered.

(d) If an order for the placing of a hold on a deposit account is issued under subsection (c), a person whose deposit account is affected may request a hearing from the court on the matter of:

(1) the person's right to claim certain funds in the person's deposit account as exempt from garnishment; and

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(2) whether the hold should be removed by the court.

(e) If a court receives a request for a hearing under subsection (d), the court shall hold a hearing on the matter within five (5) days (excluding Saturdays, Sundays, and legal holidays) after the court receives the request.

(f) If a person whose deposit account is affected by the order issued under subsection (c) files an affidavit with the court stating that the funds in the account are exempt from garnishment, the court may issue an order releasing the hold on the account without first conducting a hearing.

SECTION 77. IC 35-38-1-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "sexually violent predator" has the meaning set forth in IC 5-2-12-4.5.

(b) This section applies whenever a court sentences a person for a sex offense listed in IC 5-2-12-4(1)(A) through IC 5-2-12-4(1)(J) for which the person is required to register with **a** local law enforcement agency under IC 5-2-12-5.

(c) At the sentencing hearing, the court shall determine whether the person is a sexually violent predator. Before making a determination under this section, the court shall consult with a board of experts consisting of two (2) board certified psychologists or psychiatrists who have expertise in criminal behavioral disorders.

(d) If the court finds that a person is a sexually violent predator:

(1) the person is required to register with **a** local law enforcement agency as provided in IC 5-2-12-13(b); and

(2) the court shall send notice of its finding under this subsection to the criminal justice institute.

(e) A person who is found by a court to be a sexually violent predator under subsection (c) may petition the court to consider whether the person is no longer a sexually violent predator. The person may file a petition under this subsection not earlier than ten (10) years after the sentencing court makes its finding under subsection (c). A person may file a petition under this subsection not more than one (1) time per year. If a court finds that the person is no longer a sexually violent predator, the court shall send notice to the Indiana criminal justice institute that the person is no longer considered a sexually violent predator.

SECTION 78. IC 35-41-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) "Lawful detention" means:

(1) arrest;

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(2) custody following surrender in lieu of arrest;
(3) detention in a penal facility;
(4) detention in a facility for custody of persons alleged or found to be delinquent children;
(5) detention under a law authorizing civil commitment in lieu of criminal proceedings or authorizing such detention while criminal proceedings are held in abeyance;
(6) detention for extradition or deportation;
(7) placement in a community corrections program's residential facility; ~~or~~
(8) electronic monitoring;
~~(8)~~ **(9)** custody for purposes incident to any of the above including transportation, medical diagnosis or treatment, court appearances, work, or recreation; or
~~(9)~~ **(10)** any other detention for law enforcement purposes.

(b) Except as provided in subsection (a)(7) **and (a)(8)**, the term does not include supervision of a person on probation or parole or constraint incidental to release with or without bail.

SECTION 79. IC 35-50-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies only:

(1) if the county in which a criminal proceeding was filed adopts an ordinance under IC 36-2-13-15; and
(2) to a person who is sentenced under this article for a felony or a misdemeanor.

(b) At the time the court imposes a sentence, the court may order the person to execute a reimbursement plan as directed by the court and make repayments under the plan to the county for the costs described in IC 36-2-13-15.

(c) The court shall fix an amount under this section that:

(1) may not exceed an amount the person can or will be able to pay;
(2) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and
(3) takes into consideration and gives priority to any other restitution, reparation, repayment, costs, fine, or child support obligations the person is required to pay.

(d) When an order is issued under this section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. Upon receiving the order, the clerk shall enter and index the order in the

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circuit court judgment docket in the manner prescribed by IC 33-17-2-3.

(e) An order under this section is not discharged:

(1) by the completion of a sentence imposed for a felony or misdemeanor; or

(2) by the liquidation of a person's estate by a receiver under ~~IC 34-1-12 and IC 34-2-7.~~ **IC 34-48-1, IC 34-48-4, IC 34-48-5, and IC 34-48-6.**

SECTION 80. IC 36-1-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as provided in subsection (c), if an agreement under section 3 of this chapter concerns the provision of law enforcement or firefighting services, the following provisions apply:

(1) Visiting law enforcement officers or firefighters have the same powers and duties as corresponding personnel of the entities they visit, but only for the period they are engaged in activities authorized by the entity they are visiting, and are subject to all provisions of law as if they were providing services within their own jurisdiction.

(2) An entity providing visiting personnel remains responsible for the conduct of its personnel, for their medical expenses, for worker's compensation, and if the entity is a volunteer fire ~~company~~ **department**, for all benefits provided by IC 36-8-12.

(b) A law enforcement or fire service agency of a unit or of the state may request the assistance of a law enforcement or fire service agency of another unit, even if no agreement for such assistance is in effect. In such a case, subsection (a)(1) and (a)(2) apply, the agency requesting assistance shall pay all travel expenses, and all visiting personnel shall be supervised by the agency requesting assistance.

(c) This subsection applies to a law enforcement officer that visits another state after a request for assistance from another state under the emergency management compact is made under IC 10-4-2.5. A law enforcement officer that visits another state does not have the power of arrest unless the law enforcement officer is specifically authorized to exercise the power by the receiving state.

SECTION 81. IC 36-7-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission

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may adopt a resolution designating the area as a district if it makes the findings described in subsection (b).

(b) An advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million (1,000,000) square feet of usable interior floor space; and

(B) that is **or are** vacant or will become vacant due to the relocation of an employer.

(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than one hundred eight thousand nine hundred fifty (108,950) but less than one hundred twelve thousand (112,000).

(c) The advisory commission shall designate the duration of the district, but the duration may not exceed fifteen (15) years (at the time of designation).

(d) Upon adoption of a resolution designating a district, the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. The budget committee shall meet not later than ten (10) days after receipt of a resolution and shall make a recommendation on the resolution to the budget agency.

(e) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and

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tax revenues for at least the duration of the district.

(f) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the budget agency approves the resolution.

SECTION 82. IC 36-7-13-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. Money in the industrial development fund may be pledged by an advisory commission ~~to~~ **for** the following purposes:

(1) To pay debt service on bonds or other obligations issued under this chapter.

(2) To establish and maintain a debt service reserve established by the advisory commission.

SECTION 83. IC 36-8-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. Members of the safety board and members of any township, town, or city (including a consolidated city) police department, fire department, or volunteer fire ~~company~~ **department** (as defined by IC 36-8-12-2) may:

(1) be candidates for elective office and serve in that office if elected;

(2) be appointed to any office and serve in that office if appointed; and

(3) as long as they are not in uniform and not on duty, solicit votes and campaign funds and challenge voters for the office for which they are candidates.

SECTION 84. IC 36-8-10.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to:

(1) all full-time firefighters hired or rehired after January 1, 1988; and

(2) all volunteer firefighters elected or appointed to membership in a volunteer fire ~~company~~ **department** after January 1, 1988.

SECTION 85. IC 36-8-10.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "volunteer fire ~~company~~ **department**" has the meaning set forth in IC 36-8-12-2.

SECTION 86. IC 36-8-10.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A full-time firefighter must successfully complete the minimum basic training requirements established by this chapter before the firefighter may perform the duties of a full-time firefighter for the political subdivision.

(b) A volunteer firefighter who has successfully completed the minimum basic training requirements established by this chapter may

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be elected or appointed to membership in more than one (1) volunteer fire ~~company~~ **department**.

SECTION 87. IC 36-8-10.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The training may be conducted at:

(1) a location within the political subdivision employing a full-time firefighter;

(2) the headquarters of the volunteer fire ~~company~~ **department** where a volunteer firefighter is seeking membership; or

(3) any other facility where the training is offered.

(b) The training must be conducted by personnel certified as instructors by the education board.

SECTION 88. IC 36-8-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

"Nominal compensation" means annual compensation of not more than ten thousand dollars ($10,000).

"Responsible party" has the meaning set forth in IC 13-11-2-191(d).

"Volunteer fire ~~company~~ **department**" means a ~~company~~ **department** or association organized for the purpose of answering fire alarms, extinguishing fires, and providing other emergency services, the majority of members of which receive no compensation or nominal compensation for their services.

"Volunteer firefighter" means a firefighter:

(1) who has volunteered to assist either without compensation or for nominal compensation in fighting all fires occurring and providing other emergency services within the corporate boundaries of the unit of which the firefighter is an assigned member;

(2) who has made application in writing for membership in the volunteer fire ~~company~~ **department** of the unit;

(3) who by virtue of that application is elected or appointed to membership in that volunteer fire ~~company~~ **department**;

(4) whose name has been entered on a roster of volunteer firefighters that is kept by the volunteer fire ~~company~~ **department** and that has been approved by the proper officers of the unit; and

(5) who at the time of the firefighter's election or appointment has taken and signed a pledge to comply with all orders that are given by the chief, assistant chief, or other officer in charge of the volunteer fire ~~company~~ **department** relative to any matter

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pertaining to the work of the volunteer fire ~~company~~ **department**.

SECTION 89. IC 36-8-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A unit may enter into an agreement with one (1) or more volunteer fire ~~companies~~ **departments** that maintain adequate firefighting service for the use and operation of firefighting apparatus and equipment owned by the volunteer fire ~~company~~ **department**, including the service of the operators of the apparatus and equipment, so that the private and public property of the unit is saved from destruction by fire.

SECTION 90. IC 36-8-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The contract between a unit and a volunteer fire ~~company~~ **department** must provide that the unit pay to the ~~company~~ **department**, as consideration for the contract, an amount of money that is determined by negotiation between them. This consideration must include the amounts that the unit is required to pay under this chapter for insurance premiums and clothing, automobile, and other allowances.

SECTION 91. IC 36-8-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Unless otherwise provided by contract, a unit served by a volunteer fire ~~company~~ **department** shall pay to each active and participating member of the ~~company~~ **department:**

(1) a clothing allowance of not less than one hundred dollars ($100) per year; and

(2) an automobile allowance of not less than one hundred dollars ($100) per year for the use of the member's automobile in the line of duty.

(b) A contract may also provide that fees for membership in a regularly organized volunteer firefighters' association be paid by the unit on behalf of the firefighters in the volunteer fire ~~company~~ **department**.

SECTION 92. IC 36-8-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Each unit that has a volunteer fire ~~company~~ **department** shall procure insurance in the name of and for the benefit of each member of the ~~company~~ **department**. However, if a contract or agreement exists between a unit and a volunteer fire ~~company~~ **department**, the contract or agreement must provide for insurance of the volunteer firefighters in the ~~company~~ **department** in the amounts and with the coverages required by this chapter. Unless the contract or agreement stipulates otherwise, all insurance coverage must be under a group plan, rather than in the name

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of each individual firefighter. Either the unit or the volunteer fire ~~company~~ **department**, according to the contractor agreement, may undertake procurement of required insurance, but in either case, the costs of coverage must be borne by the unit. If a volunteer fire ~~company~~ **department** serves more than one (1) unit under a contract or agreement, each unit that the ~~company~~ **department** serves shall pay the amount for the insurance coverage determined under the following formula:

STEP ONE: For each census block or other area in a unit that is served by more than one (1) volunteer fire ~~company~~ **department**, divide the population of the area by the number of volunteer fire ~~companies~~ **departments** serving the area, and round the quotient to the nearest one thousandth (.001).

STEP TWO: Add the quotients determined under STEP ONE for the unit.

STEP THREE: Determine the sum of the STEP TWO amounts for all of the units served by the same volunteer fire ~~company~~ **department**.

STEP FOUR: Divide the STEP TWO amount for a unit by the STEP THREE amount and round the quotient to the nearest one thousandth (.001).

STEP FIVE: Multiply the costs of the insurance coverage for the volunteer fire ~~company~~ **department** by the quotient determined under STEP FOUR, rounded to the nearest dollar.

(b) A diminution of insurance benefits may not occur under this section because of a change in the insurance carrier or a change as to who actually procures the required insurance.

(c) Each unit that has a volunteer fire ~~company~~ **department** may procure an insurance policy for the benefit of auxiliary groups whose members could be injured while assisting the volunteer firefighters in the performance of their duties.

(d) Each unit that has a volunteer fire ~~company~~ **department** may procure an insurance policy or any other type of instrument that provides retirement benefits as an incentive to volunteer firefighters for continued service.

(e) An insurance policy or other instrument containing any of the provisions authorized by subsection (d) may not be considered in the computation of nominal compensation for purposes of this chapter.

(f) A volunteer firefighter who becomes covered by an insurance policy or other instrument containing any of the provisions authorized by subsection (d) does not thereby become eligible for membership in the public employees' retirement fund under IC 5-10.3.

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(g) If a unit fails to provide the insurance for a volunteer firefighter that this chapter requires it to provide, and a volunteer firefighter suffers a loss of the type that the insurance would have covered, then the unit shall pay to that volunteer firefighter the same amount of money that the insurance would have paid to him.

SECTION 93. IC 36-8-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Each policy of insurance must provide for payment to a member of a volunteer fire ~~company~~ **department**, for accidental injury or smoke inhalation caused by or occurring in the course of the performance of the duties of a volunteer firefighter and for a cardiac disease event proximately caused within forty-eight (48) hours by or occurring in the course of the performance of the duties of a volunteer firefighter while in an emergency situation, as follows:

(1) For total disability that prevents the member from pursuing his usual vocation, a weekly indemnity of not less than one hundred fifty dollars ($150), up to a maximum of two hundred sixty (260) weeks.

(2) For medical expenses, coverage for incurred expenses. However, the policy may not have medical expense limits of less than seventy-five thousand dollars ($75,000).

SECTION 94. IC 36-8-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The policy of insurance required by section 6 of this chapter must provide for the payment of a sum not less than one hundred fifty thousand dollars ($150,000) to the beneficiary, beneficiaries, or estate of a volunteer firefighter if the firefighter dies from an injury or smoke inhalation occurring while in the performance of the firefighter's duties as a volunteer firefighter or from a cardiac disease event proximately caused within forty-eight (48) hours by or occurring while in the performance of the firefighter's duties as a volunteer firefighter while in an emergency situation.

(b) The policy of insurance must provide for the payment of a sum not less than sixty thousand dollars ($60,000) to the volunteer firefighter if the firefighter becomes totally and permanently disabled for a continuous period of not less than two hundred sixty (260) weeks as a result of an injury or smoke inhalation occurring in the performance of the firefighter's duties as a volunteer firefighter.

(c) The policy of insurance must also provide for indemnification to a member of a volunteer fire ~~company~~ **department** who becomes partially and permanently disabled or impaired as a result of an injury or smoke inhalation occurring in the performance of the firefighter's

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duties.

(d) For the purposes of this section, partial and permanent disability or impairment shall be indemnified as a percentage factor of a whole person.

(e) In addition to other insurance provided volunteer firefighters under this chapter, each unit shall be covered by an insurance policy that provides a minimum of three hundred thousand dollars ($300,000) of insurance coverage for the liability of all of its volunteer firefighters for bodily injury or property damage caused by the firefighters acting in the scope of their duties while on the scene of a fire or other emergency. The civil liability of a volunteer firefighter for:

(1) an act that is within the scope of a volunteer firefighter's duties; or

(2) the failure to do an act that is within the scope of a volunteer firefighter's duties;

while performing emergency services at the scene of a fire or other emergency or while traveling in an emergency vehicle from the fire station to the scene of the fire or emergency or from the scene of a fire or emergency back to the fire station is limited to the coverage provided by the insurance policy purchased under this subsection. A volunteer firefighter is not liable for punitive damages for any act that is within the scope of a volunteer firefighter's duties. However, if insurance as required under this subsection is not in effect to provide liability coverage for a volunteer firefighter, the firefighter is not subject to civil liability for an act or a failure to act as described in this subsection.

SECTION 95. IC 36-8-12-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A:

(1) volunteer firefighter or an emergency medical technician working in a volunteer capacity for a volunteer fire ~~company~~ **department** or ambulance company is covered; and

(2) volunteer working for a hazardous materials response team may be covered;

by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-6 and IC 22-3-7 shall be used to determine the issue.

(c) This subsection applies to all units, including counties. All expenses incurred for premiums of the insurance allowed under this section may be paid from the unit's general fund in the same manner as

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other expenses in the unit are paid.

SECTION 96. IC 36-8-12-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Members of volunteer fire ~~companies~~ **departments** may display blue lights on their privately owned vehicles while en route to scenes of fires or other emergencies in the line of duty, subject to the following conditions:

(1) A light must have a light source of at least fifty (50) candlepower.

(2) All lights must be placed on the top of the vehicle. In addition, lights may be placed on the front of the vehicle upon the bumper or at bumper level.

(3) No more than four (4) blue lights may be displayed on one (1) vehicle, and each blue light must be of the flashing or revolving type and visible for three hundred sixty (360) degrees, except for lights that are placed on the front of the vehicle.

(4) A blue light must consist of a lamp with a blue lens, not of an uncolored lens with a blue bulb. However, a revolving light may contain multiple bulbs.

(5) A blue light may not be a part of the regular head lamps displayed on the vehicles.

(b) In order for a volunteer firefighter to display a blue light on his vehicle, he must secure a written permit from the chief of the volunteer fire ~~company~~ **department** to use the blue light and must carry the permit at all times when the blue light is displayed.

(c) A person who is not a member of a volunteer fire ~~company~~ **department** may not display a blue light of any size or shape on a motor vehicle, except a school bus used to transport children to or from a public or private school.

(d) A permittee of the owner of a vehicle lawfully equipped with a blue light may operate the vehicle only if the blue light is not illuminated.

(e) A person who violates subsection (a), (b), (c), or (d) commits a Class C infraction. If the violator is a member of a volunteer fire ~~company~~ **department**, the chief of the ~~company~~ **department** shall dismiss him from membership in the ~~company~~ **department.**

(f) This section does not grant a vehicle displaying blue lights the right-of-way under IC 9-21-8-35 or exemption from traffic rules under IC 9-21-1-8. A driver of a vehicle displaying a blue light shall obey all traffic rules.

SECTION 97. IC 36-8-12-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. When a volunteer fire ~~company~~ **department** is responding to a fire call and

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there is no other fire department with overriding jurisdiction present, the fire chief, or in his absence the ranking officer, shall direct all nonfire emergency activities at the scene until a law enforcement officer arrives on the scene.

SECTION 98. IC 36-8-12-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A volunteer fire ~~company~~ **department** may impose a charge on the owner of property, owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(d)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

(1) that is responded to by the volunteer fire ~~company~~ **department**; and

(2) that members of that volunteer fire ~~company~~ **department** assisted in extinguishing, containing, or cleaning up.

(b) The volunteer fire ~~company~~ **department** shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in the township firefighting fund established in IC 36-8-13-4;

(2) used to pay principal and interest on a loan under IC 22-14-5; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) The volunteer fire ~~company~~ **department** may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 99. IC 36-8-12-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The combined aggregate liability of a volunteer fire ~~company~~ **department** for an act or failure to act that is within the scope of the ~~company's~~ **department's** duties does not exceed three hundred thousand dollars ($300,000) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars ($5,000,000) for injury to or death of all persons in that occurrence. A volunteer fire ~~company~~ **department** is not liable for punitive damages.

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SECTION 100. IC 36-8-12-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A volunteer fire ~~company~~ **department** that provides service within a jurisdiction served by the ~~company~~ **department** may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire ~~company~~ **department** may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met:

(1) At the following times, the ~~company~~ **department** gives notice under IC 5-3-1-4(d) in each political subdivision served by the ~~company~~ **department** of the amount of the service charge for each service that the department provides:

(A) Before the schedule of service charges is initiated.

(B) When there is a change in the amount of a service charge.

(2) The property owner has not sent written notice to the ~~company~~ **department** to refuse service by the ~~company~~ **department** to the owner's property.

(3) The ~~company's~~ **department's** bill for payment of the service charge:

(A) is submitted to the property owner in writing within thirty (30) days after the services are provided; and

(B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report.

(b) A volunteer fire ~~company~~ **department** shall use the revenue the department collects from the fire service charges under this section for:

(1) the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services;

(2) deposit in the township firefighting fund established under IC 36-8-13-4; or

(3) to pay principal and interest on a loan under IC 22-14-5.

(c) If at least twenty-five percent (25%) of the money received by a volunteer fire ~~company~~ **department** for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

(d) A volunteer fire ~~company~~ **department** that:

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(1) has contracted with a political subdivision to provide fire protection or emergency services; and

(2) charges for services under this section;

must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

(e) The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services.

(f) The volunteer fire ~~company~~ **department** may maintain a civil action to recover an unpaid service charge under this section.

SECTION 101. IC 36-8-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire ~~company~~ **department** that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the ~~company~~ **department** if the ~~company~~ **department** has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire ~~company~~ **department** that

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maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have all municipal territory completely within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, **the** county auditor, and **the** state board of tax commissioners.

SECTION 102. IC 36-8-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in

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this section, "emergency medical services" has the meaning set forth in IC 16-18-2-110.

(b) As used in this section, "volunteer fire ~~company~~ **department**" has the meaning set forth in IC 36-8-12-2.

(c) The legislative body of a unit or the board of fire trustees of a fire protection district may provide a cumulative building and equipment fund under IC 6-1.1-41 for the following purposes:

(1) The purchase, construction, renovation, or addition to buildings used by the fire department or a volunteer fire ~~company~~ **department** serving the unit.

(2) The purchase of firefighting equipment for use of the fire department or a volunteer fire ~~company~~ **department** serving the unit, including making the required payments under a lease rental with option to purchase agreement made to acquire the equipment.

(3) In a municipality, the purchase of police radio equipment.

(4) The purchase, construction, renovation, or addition to a building, or the purchase of equipment, for use of a provider of emergency medical services under IC 16-31-5 to the unit establishing the fund.

(d) In addition to the requirements of IC 6-1.1-41, before a cumulative fund may be established by a township fire protection district, the county legislative body which appoints the trustees of the fire protection district must approve the establishment of the fund.

SECTION 103. IC 36-8-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "fire department" means a paid fire department or a volunteer fire ~~company~~ **department** that renders fire prevention or fire protection services to a political subdivision.

SECTION 104. IC 36-8-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A fire department serving an area that does not include a city may engage in an inspection program to promote compliance with fire safety laws. The fire department shall maintain a written report for each inspection. These reports shall be made available to the office upon request.

(b) The fire department serving an area that includes a city shall inspect every place and public way within the jurisdiction of the city, except the interiors of private dwellings, for compliance with the fire safety laws. Except as otherwise provided in the rules adopted by the commission, the fire chief of the fire department shall specify the schedule under which places and public ways are inspected and may exclude a class of places or public ways from inspection under this

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section, if the fire chief determines that the public interest will be served without inspection. The fire department shall maintain a written report for each inspection. The fire department shall submit monthly reports to the office, on forms prescribed by the office, containing the following information:

(1) The total number of inspections made.

(2) The total number of defects found, classified as required by the office.

(3) The total number of orders issued for correction of each class of defect.

(4) The total number of orders complied with.

(c) A volunteer fire ~~company~~ **department** may carry out inspections under this section only through an individual who is certified under IC 22-14-2-6(c).

SECTION 105. P.L.131-1998, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this SECTION, "committee" refers to the probation services study committee established by section 2 of this SECTION.

Sec. 2. Given that probation services are an integral part of the law enforcement and correctional processes and are critical to ensure safety in Indiana communities, the probation services study committee is established.

Sec. 3. (a) The committee shall study, review, and make recommendations concerning the following:

(1) The mission of probation services.

(2) The duties, roles, and responsibilities of probation officers.

(3) Organizational changes considered necessary to improve the efficiency and thoroughness of the delivery of probation services.

(4) Improvements to the salary schedules and benefits available to probation officers and probation support staff.

(5) Training standards.

(6) Caseload and case classification standards.

(7) Methods and levels of funding for probation services.

(b) The committee may study other topics as assigned by the legislative council or as directed by the committee's chairman.

(c) The committee is under the jurisdiction of the legislative council and shall operate under the direction of the legislative council.

(d) Before November 1 of each year, the committee shall issue an annual or a final report stating its findings, conclusions, and recommendations. The committee shall issue other reports as directed by the legislative council.

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Sec. 4. (a) The committee consists of ~~seventeen (17)~~ **twenty (20)** members.

(b) The speaker of the house of representatives, with the advice of the legislative leader of a major political party (as defined in IC 3-5-2-30) that is different from the political party of the speaker of the house of representatives, shall appoint two (2) representatives, not more than one (1) of whom is of the same political party, as members of the committee.

(c) The president pro tempore of the senate, with the advice of the legislative leader of a major political party (as defined in IC 3-5-2-30) that is different from the political party of the president pro tempore, shall appoint two (2) senators, not more than one (1) of whom is of the same political party, as members of the committee.

(d) The speaker of the house of representatives shall appoint the following additional members of the committee:

(1) With the advice of the Indiana Judges Association, one (1) judge who exercises criminal jurisdiction.

(2) With the advice of the Association of Indiana Counties, Inc., two (2) individuals who hold public office as a:

(A) county clerk;

(B) county auditor;

(C) county commissioner; or

(D) county council member.

(3) One (1) individual to represent the judicial conference of Indiana.

(4) One (1) individual to represent the department of correction.

(5) One (1) individual to represent the prosecuting attorneys council of Indiana.

(6) With the advice of the Indiana Sheriffs Association, Inc., one (1) county sheriff.

(7) With the advice of the Probation Officers Professional Association of Indiana, two (2) probation officers.

(e) The president pro tempore of the senate shall appoint the following additional members of the committee:

(1) With the advice of the Indiana Judges Association, one (1) judge who exercises juvenile jurisdiction.

(2) With the advice of the Association of Indiana Counties, Inc., one (1) individual who holds public office as a:

(A) county clerk;

(B) county auditor;

(C) county commissioner; or

(D) county council member.

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(3) With the advice of the Association of Indiana Prosecuting Attorneys, Inc., one (1) county prosecuting attorney.

(4) With the advice of the Probation Officers Professional Association of Indiana, two (2) probation officers.

(5) With the advice of the Indiana Association of Chiefs of Police, one (1) municipal police chief.

(6) With the advice of the Indiana Association of Community Corrections Act Counties, one (1) community corrections program director.

(f) The chairman of the legislative council shall name one (1) of the members chairman, and the vice chairman of the legislative council shall name another member vice chairman. The appointing authority may name a different chairman or vice chairman at any time.

(g) A member of the committee may be removed at any time by the appointing authority who appointed the member.

(h) If a vacancy occurs on the committee, the appointing authority making the original appointment shall fill the vacancy.

Sec. 5. Each legislative member and each lay member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals serving as legislative and lay members, respectively, on interim study committees established by the legislative council.

Sec. 6. Staff and administrative support for the committee shall be provided by the legislative services agency.

Sec. 7. (a) The legislative council may establish a budget for the committee.

(b) Subject to prior authorization of the legislative council, the expenses incurred by the committee in performing its duties shall be paid from the funds appropriated to the legislative council.

Sec. 8. The committee expires November 1, 2000.

Sec. 9. This SECTION expires November 2, 2000.

SECTION 106. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill 40, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 40 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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