

Adopted      Rejected

# COMMITTEE REPORT

**YES:            12**  
**NO:             1**

**MR. SPEAKER:**

*Your Committee on Public Health, to which was referred House Bill 1312, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1            Delete the title and insert the following:
- 2            A BILL FOR AN ACT to amend the Indiana Code concerning
- 3            tobacco and to make an appropriation.
- 4            Delete everything after the enacting clause and insert:
- 5            SECTION 1. IC 4-4-9.5 IS ADDED TO THE INDIANA CODE AS
- 6            A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
- 7            1, 2000]:
- 8            **Chapter 9.5. Indiana Rural Development Council**
- 9            **Sec. 1. As used in this chapter, "council" refers to the Indiana**
- 10          **Rural Development Council established by the 1993 memorandum**
- 11          **of understanding between Indiana and the United States**
- 12          **Department of Agriculture.**
- 13          **Sec. 2. With the approval of the governing board of the council,**

1 the council may use not more than two hundred fifty thousand  
 2 dollars (\$250,000) each year to provide funding for the Southern  
 3 Indiana Rural Development Project, Inc. for rural development  
 4 programs.

5 **Sec. 3. (a) There is appropriated to the council from interest**  
 6 **earned on money in the tobacco settlement fund three hundred**  
 7 **thousand dollars (\$300,000) beginning July 1, 2000, and ending**  
 8 **June 30, 2005, to carry out the purposes of this chapter.**

9 **(b) This SECTION expires July 1, 2005.**

10 SECTION 2. IC 4-4-30 IS ADDED TO THE INDIANA CODE AS  
 11 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 12 1, 2000]:

13 **Chapter 30. Rural Community Impact Fund**

14 **Sec. 1. As used in this chapter, "fund" refers to the rural**  
 15 **community impact fund established by section 2 of this chapter.**

16 **Sec. 2. (a) The rural community impact fund is established. The**  
 17 **fund shall be administered by the commissioner of agriculture and**  
 18 **the department of commerce.**

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

21 **(c) The treasurer of state shall invest the money in the fund not**  
 22 **currently needed to meet the obligation of the fund in the same**  
 23 **manner as other public money may be invested. Interest that**  
 24 **accrues from these investments shall be deposited in the fund.**

25 **(d) Money in the fund at the end of the fiscal year does not**  
 26 **revert to the state general fund.**

27 **Sec. 3. (a) Money in the fund shall be used for the following**  
 28 **purposes:**

29 **(1) To develop new agricultural enterprises in areas that were**  
 30 **used for tobacco production, including facilities for research**  
 31 **and development, new market opportunities, educational**  
 32 **programs, leadership developmental programs, and direct**  
 33 **financial assistance.**

34 **(2) Assistance to rural communities that suffer a negative**  
 35 **economic impact from the loss of tobacco production.**

36 **(b) The commissioner of agriculture shall approve money for**  
 37 **projects under subsection (a)(1).**

38 **(c) The department of commerce shall approve money for**

1 projects under subsection (a)(2).

2 **Sec. 4. (a) The fund consists of interest earned on money in the**  
3 **tobacco settlement fund and transferred to the fund as follows:**

4 (1) On July 1, 2000, eight million two hundred thousand  
5 dollars (\$8, 200,000).

6 (2) On July 1, 2001, three million seven hundred thousand  
7 dollars (\$3,700,000).

8 (3) On July 1, 2002, three million seven hundred thousand  
9 dollars (\$3,700,000).

10 (4) On July 1, 2003, three million seven hundred thousand  
11 dollars (\$3,700,000).

12 (5) On July 1, 2004, three million seven hundred thousand  
13 dollars (\$3,700,000).

14 (6) On July 1, 2005, three million seven hundred thousand  
15 dollars (\$3,700,000).

16 (b) Money transferred under subsection (a) is appropriated to  
17 the fund.

18 (c) This section expires July 1, 2005.

19 SECTION 3. IC 4-12-1-14.3, AS ADDED BY P.L.273-1999,  
20 SECTION 232, IS AMENDED TO READ AS FOLLOWS  
21 [EFFECTIVE JULY 1, 2000]: Sec. 14.3. (a) As used in this section,  
22 "advisory council" refers to the tobacco fund executive advisory  
23 council established under subsection (d).

24 (b) As used in this section, "master settlement agreement" has  
25 the meaning set forth in IC 24-3-3-6.

26 (c) There is hereby created the tobacco settlement fund for the  
27 purpose of depositing money received by the state from the master  
28 settlement agreement. ~~with the United States' tobacco product~~  
29 ~~manufacturers.~~ The fund shall be administered by the budget agency.  
30 The treasurer of state shall invest the money in the fund not currently  
31 needed to meet the obligations of the fund in the same manner as other  
32 public money is invested. **Except as provided in IC 4-4-9.5-3 and**  
33 **IC 4-4-30-4,** interest that accrues from these investments shall be  
34 deposited in the fund. Money in the fund at the end of the state fiscal  
35 year does not revert to the state general fund.

36 (d) The tobacco fund executive advisory council is established.  
37 The advisory council consists of the following members:

38 (1) The commissioner of the state department of health.

- 1           **(2) The secretary of family and social services.**  
 2           **(3) The insurance commissioner.**  
 3           **(4) The state superintendent of public instruction.**  
 4           **(5) The attorney general.**  
 5           **(6) A youth member of the commission for a drug free**  
 6           **Indiana selected by the governor.**  
 7           **(7) A member of the enhanced health planning advisory**  
 8           **committee established by IC 16-46-12-2 selected by the**  
 9           **governor.**  
 10          **(8) A member of the tobacco control advisory committee**  
 11          **established by IC 16-46-12-3 selected by the governor.**  
 12          **(9) A member of the Indiana Minority Health Coalition**  
 13          **selected by the governor.**  
 14          **(10) A member of the Indiana commission for women selected**  
 15          **by the governor.**  
 16          **(11) A local health officer selected by the governor.**  
 17          **(12) A representative of a senior citizens organization selected**  
 18          **by the governor.**  
 19          **(13) A representative of a disability organization, appointed**  
 20          **by the governor.**  
 21          **(14) A representative of the Indiana Chapter of the National**  
 22          **Medical Association, appointed by the governor.**  
 23          **(15) A member of the Native American Council, appointed by**  
 24          **the governor.**

25          **The governor shall designate a member to serve as chairperson. A**  
 26          **vacancy with respect to a member shall be filled in the same**  
 27          **manner as the original appointment. The advisory council shall**  
 28          **annually elect one (1) of its members as vice chairperson. Each**  
 29          **member is entitled to reimbursement for traveling expenses and**  
 30          **other expenses actually incurred in connection with the member's**  
 31          **duties. The state department of health shall provide staff for the**  
 32          **advisory council. The advisory council is a public agency for**  
 33          **purposes of IC 5-14-1.5 and IC 5-14-3. The advisory council is a**  
 34          **governing body for purposes of IC 5-14-1.5.**

35          **(e) A quorum consists of a majority of the voting members**  
 36          **appointed to the council. Approval of a program requires approval**  
 37          **by a majority of the voting member appointed to the council. The**  
 38          **advisory council shall review all programs recommended by the:**

- 1           **(1) enhanced health planning advisory committee established**  
 2           **by IC 16-46-12-2;**  
 3           **(2) tobacco control advisory committee established by**  
 4           **IC 16-46-12-3; and**  
 5           **(3) prescription drug advisory committee established by**  
 6           **IC 16-46-12-7.**

7           **The advisory council may reject, approve, or modify and then**  
 8           **approve any recommended program. A program approved by the**  
 9           **advisory council shall be recommended to the budget committee.**  
 10          **The budget committee shall review and may approve only those**  
 11          **programs that further the purposes of IC 16-46-12.**

12          **(f) The advisory council shall prepare an annual financial report**  
 13          **and an annual report concerning the advisory council's activities**  
 14          **under this section. The reports shall be transmitted to the governor**  
 15          **and the health finance commission.**

16          **(g) The expenses of the following shall be paid from the tobacco**  
 17          **settlement fund:**

- 18           **(1) The tobacco fund executive advisory council established by**  
 19           **subsection (d).**  
 20           **(2) The enhanced health planning advisory committee**  
 21           **established by IC 16-46-12-2.**  
 22           **(3) The tobacco control advisory committee established by**  
 23           **IC 16-46-12-3.**  
 24           **(4) The prescription drug advisory committee established by**  
 25           **IC 16-46-12-7.**

26          **(h) The office of the secretary of family and social services and**  
 27          **the office of Medicaid policy and planning shall enter into a**  
 28          **contract with a health insurance company to administer a**  
 29          **prescription drug program approved under subsection (e).**

30          SECTION 4. IC 6-7-1-15 IS AMENDED TO READ AS FOLLOWS  
 31          [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The department is the  
 32          official agent of the state for the administration and enforcement of this  
 33          chapter. A sufficient sum to pay salaries and expenses is appropriated  
 34          to the department out of the monies received by virtue of this chapter.

35          (b) The department may issue registration certificates, upon the  
 36          terms and conditions provided in this chapter, and may revoke or  
 37          suspend the ~~same~~ **registration certificate** upon the violation of:

- 38           **(1) this chapter;**

- 1           **(2) IC 24-3-2; or**
- 2           **(3) IC 24-3-4;**

3 by the holder of ~~such a~~ **the registration** certificate.

4           (c) The department may apply for membership in the National  
5 Tobacco Tax Association.

6           (d) The department may design and have printed or manufactured  
7 stamps of sizes and denominations to be affixed to each individual  
8 package. The stamps shall be firmly affixed on each individual package  
9 in such a manner that the stamps can not be removed without being  
10 mutilated or destroyed; however, the department may by regulation  
11 designate some other manner for cancelation of stamps. In addition to  
12 the stamps, the department may by rules and regulations authorize  
13 distributors to use metered stamping machines or other devices which  
14 will imprint distinctive indicia evidencing the payment of the tax upon  
15 each individual package. The machines shall be constructed in such a  
16 manner as will accurately record or meter the number of impressions  
17 or tax stamps made. The tax meter machines or other devices shall be  
18 kept available at all reasonable times for inspection by the department,  
19 and the machines shall be maintained in proper operating condition. A  
20 person who knowingly tampers with the printing or recording  
21 mechanism of such a machine commits a Class B misdemeanor.

22           SECTION 5. IC 16-46-10-2 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Except as  
24 provided in subsections (b) and (d), the state department shall provide  
25 funding each year from the local health maintenance fund under the  
26 following schedule to each local board of health whose application for  
27 funding is approved by the state department:

28	COUNTY POPULATION	AMOUNT OF GRANT
29	over - 499,999	\$ <del>60,000</del> <b>120,000</b>
30	100,000 = 499,999	<del>50,000</del> <b>100,000</b>
31	50,000 = 99,999	<del>30,000</del> <b>60,000</b>
32	under = 50,000	<del>20,000</del> <b>40,000</b>

33           (b) For purposes of determining the amount of a grant to a multiple  
34 county board of health, the state department shall regard each county  
35 of the multiple county health department as a separate county. A grant  
36 to a multiple county board of health must equal the total of grants that  
37 would be made to the separate counties based on the population of each  
38 county.

1 (c) A local board of health that desires to receive funding from the  
2 local health maintenance fund must file an application with the state  
3 department before May 1 of each year. The application must state how  
4 the funds will be spent. The state department may extend the deadline  
5 for filing an application upon a showing of good cause by the local  
6 board of health.

7 (d) If a county has more than one (1) local health department, the  
8 county fiscal body shall adopt an ordinance to allocate the funds  
9 provided to the county under subsection (a). This ordinance must  
10 provide that each local board of health in the county must receive an  
11 allocation of funds granted under subsection (a). The county fiscal  
12 body shall file a copy of the ordinance with the state department before  
13 May 1 of each year.

14 (e) By June 1 of each year, the state department shall:

15 (1) allocate money in the local health maintenance fund (for  
16 distribution the following January) to each local board of health  
17 whose application is approved in accordance with the schedule in  
18 subsection (a); and

19 (2) determine how much money in the local health maintenance  
20 fund has not been applied for.

21 The state department may use the money that has not been applied for  
22 or otherwise allocated to fund joint plans entered into by two (2) or  
23 more local boards of health or by a multiple county board as provided  
24 in subsections (g) and (i).

25 (f) If two (2) or more local boards of health cooperate in providing  
26 any of the services set out in section 3 of this chapter, those boards of  
27 health shall file a joint plan that must be approved by the state  
28 department. The joint plan must specify the following:

29 (1) The services to be provided under the plan.

30 (2) The cost of each service to be provided under the plan.

31 (3) The percentage of the total cost of services to be provided  
32 under the joint plan by each local board of health.

33 (g) If two (2) or more local boards of health join together to provide  
34 services in accordance with a joint plan filed with the state department  
35 of health under subsection (f), and the state department determines that  
36 the services to be provided under the joint plan are eligible for funding  
37 from the local health maintenance fund, the state department shall  
38 grant (in addition to the funds provided to each county in which the

1 local boards of health are located under subsection (a)) an amount not  
 2 to exceed fifteen thousand dollars (\$15,000) to fund the joint plan. The  
 3 state department shall grant money to fund joint plans that most  
 4 effectively accomplish the following goals in accordance with  
 5 standards adopted by the state department:

- 6 (1) Benefit the greatest number of people.
- 7 (2) Provide services in a cost effective manner.
- 8 (3) Address the most serious health care needs of the area served.
- 9 (4) Provide additional public health services in a medically  
 10 underserved or economically distressed area.

11 This money shall be allocated directly to each local board of health  
 12 participating in the joint plan in the same percentages specified in the  
 13 joint plan under subsection (f)(3).

14 (h) A multiple county health board may file a plan under this section  
 15 to provide any of the services set out in section 3 of this chapter. If the  
 16 state department determines that the services to be provided under the  
 17 plan submitted by a multiple county health board are eligible for  
 18 funding from the local health maintenance fund, the state department  
 19 shall grant (in addition to the funds provided under subsection (a) to  
 20 each county in which the local boards of health are located) an amount  
 21 not to exceed fifteen thousand dollars (\$15,000) to fund the plan.

22 (i) Services funded under this section must be in addition to, and not  
 23 in place of, services funded at the local level.

24 SECTION 6. IC 16-46-12 IS ADDED TO THE INDIANA CODE  
 25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2000]:

27 **Chapter 12. Tobacco Settlement Fund Programs**

28 **Sec. 1. The tobacco settlement programs to be funded under this**  
 29 **chapter must be designed to achieve one (1) or more of the**  
 30 **following goals:**

- 31 (1) **Prevention, intervention, and reduction of tobacco use,**  
 32 **especially among children and youth and smoking cessation**  
 33 **programs offered by local health departments that use a**  
 34 **combination of classes and treatment for nicotine addiction.**
- 35 (2) **Provide better access to quality health care, including**  
 36 **mental health and addictions treatment.**
- 37 (3) **Increase the availability of quality health care in**  
 38 **underserved geographic areas and for low income individuals.**

1           **(4) Research treatments and cures for tobacco related**  
2           **diseases.**

3           **(5) Address the special health care needs of those who suffer**  
4           **most from tobacco related diseases, including end of life and**  
5           **long term care alternatives.**

6           **(6) Eliminate health disparities for ethnic racial minorities.**

7           **Sec. 2. (a) The enhanced health planning advisory committee is**  
8           **established. The committee consists of appointees by the governor**  
9           **who represent the following organizations or interests:**

10           **(1) One (1) consumer of community health services.**

11           **(2) The Indiana Dental Association.**

12           **(3) The Indiana Hospital Association.**

13           **(4) The Indiana Minority Health Coalition.**

14           **(5) The Indiana Pediatric Association.**

15           **(6) The Indiana State Medical Association.**

16           **(7) The Indiana State Nurses Association.**

17           **(8) The Indiana University School of Medicine.**

18           **(9) A local health officer.**

19           **(10) A primary health care organization.**

20           **(11) A rural health organization.**

21           **(12) A senior citizens organization.**

22           **(13) The Indiana chapter of the National Medical Association.**

23           **(14) The Indiana Council of Community Mental Health**  
24           **Centers.**

25           **(15) A consumer or representative of an end of life care**  
26           **organization, an alternative to long term care services, or a**  
27           **disability organization.**

28           **(b) The members of the enhanced health planning advisory**  
29           **committee serve at the pleasure of the governor. The term of each**  
30           **member is two (2) years. Not more than eight (8) members of the**  
31           **enhanced health planning advisory committee may be from the**  
32           **same political party.**

33           **(c) The governor may reappoint a sitting member.**

34           **(d) A vacancy with respect to a member shall be filled in the**  
35           **same manner as the original appointment.**

36           **(e) The governor shall designate a member to serve as**  
37           **chairperson. The board shall annually elect one (1) of its members**  
38           **as vice chairperson.**

1           **(f) Each member is entitled to reimbursement for traveling**  
 2 **expenses and other expenses actually incurred in connection with**  
 3 **the member's duties.**

4           **(g) The state department of health shall provide the staff for the**  
 5 **enhanced health planning advisory committee.**

6           **(h) The enhanced health planning advisory committee is a**  
 7 **public agency for purposes of IC 5-14-1.5 and IC 5-14-3.**

8           **(i) The enhanced health planning advisory committee is a**  
 9 **governing body for purposes of IC 5-14-1.5.**

10          **Sec. 3. (a) The tobacco control advisory committee is**  
 11 **established.**

12          **(b) The voting members of the tobacco control advisory**  
 13 **committee consist of appointees by the governor who represent the**  
 14 **following organizations or interests:**

15           **(1) The Indiana Chapter of the American Cancer Society.**

16           **(2) The Indiana Chapter of the American Heart Association.**

17           **(3) The Indiana Chapter of the American Lung Association.**

18           **(4) The Indiana Dental Association.**

19           **(5) The state excise police within the Indiana alcoholic**  
 20 **beverage commission.**

21           **(6) The Indiana Minority Health Coalition.**

22           **(7) The Indiana State Medical Association.**

23           **(8) The Indiana State Mental Health Association.**

24           **(9) An individual doing tobacco disease research.**

25           **(10) A local health officer.**

26           **(11) A senior citizens organization.**

27           **(12) A representative of a tobacco free youth organization.**

28           **(13) The Indiana Chapter of the National Medical**  
 29 **Association.**

30           **(14) The Indiana Council of Community Mental Health**  
 31 **Centers.**

32           **(15) The Indiana Pharmacists Alliance.**

33          **(c) The nonvoting members of the tobacco control advisory**  
 34 **committee consist of appointees by the governor who represent the**  
 35 **following organizations:**

36           **(1) The division of mental health.**

37           **(2) The Governor's Commission for a Drug-Free Indiana.**

38           **(3) The office of tobacco control within the state department**

1           **of health.**

2           **(4) The department of education.**

3           **(d) The members of the tobacco control advisory committee**  
 4 **serve at the pleasure of the governor. The term of each member is**  
 5 **two (2) years. Not more than eight (8) voting members of the**  
 6 **tobacco control advisory committee may be from the same political**  
 7 **party.**

8           **(e) The governor may reappoint a sitting member.**

9           **(f) A vacancy with respect to a member shall be filled in the**  
 10 **same manner as the original appointment.**

11           **(g) The governor shall designate a member to serve as**  
 12 **chairperson. The committee shall annually elect one (1) of its**  
 13 **members vice chairperson.**

14           **(h) Each member is entitled to reimbursement for traveling**  
 15 **expenses and other expenses actually incurred in connection with**  
 16 **the member's duties.**

17           **(i) The state department of health shall provide the staff for the**  
 18 **tobacco control advisory committee.**

19           **(j) The tobacco control advisory committee is a public agency**  
 20 **for purposes of IC 5-14-1.5 and IC 5-14-3.**

21           **(k) The tobacco control advisory committee is a governing body**  
 22 **for purposes of IC 5-14-1.5.**

23           **Sec. 4. The enhanced health planning advisory committee shall**  
 24 **study health needs of the population and recommend to the tobacco**  
 25 **fund executive advisory council established by IC 4-12-1-14.3 goals**  
 26 **and programs that:**

27           **(1) promote health and wellness activities, including mental**  
 28 **health and addictions;**

29           **(2) encourage the prevention of disease, particularly tobacco**  
 30 **related diseases;**

31           **(3) address alternative services to meet the health care of**  
 32 **seniors;**

33           **(4) address minority health disparities;**

34           **(5) address the impact of tobacco related diseases,**  
 35 **particularly on minorities;**

36           **(6) promote community based health care, particularly in**  
 37 **areas with a high percentage of uninsured and under insured**  
 38 **citizens, including individuals with disabilities, or with a**

- 1           **shortage of health care professionals;**
- 2           **(7) enhance local health department services; and**
- 3           **(8) expand community based minority health infrastructure.**

4           **Sec. 5. The tobacco control advisory committee shall**  
 5           **recommend to the tobacco fund executive advisory council**  
 6           **established by IC 4-12-1-14.3 programs that do the following:**

- 7           **(1) Provide screening and counseling for tobacco users.**
- 8           **(2) Emphasize the prevention and reduction of tobacco use by**  
 9           **minorities, pregnant women, children, and youth.**
- 10          **(3) Provide smoking cessation.**
- 11          **(4) Produce and distribute information concerning the**  
 12          **dangers of tobacco use.**
- 13          **(5) Provide research on issues related to reduction of tobacco**  
 14          **use, especially chronic diseases, including mental illness and**  
 15          **addictive disorders, common to tobacco users.**
- 16          **(6) Enforce Indiana tobacco use laws.**
- 17          **(7) Educate the public about the harms of tobacco use.**
- 18          **(8) Provide research and information needed to assess**  
 19          **programs.**
- 20          **(9) Develop a minority health epidemiology center to collect**  
 21          **minority-specific health data through research and clinical**  
 22          **trials.**
- 23          **(10) Assess attitudes, beliefs, and behaviors of minority**  
 24          **populations.**
- 25          **(11) Assess the impact of cultural, social, economic, religion,**  
 26          **environmental, and psycho-social factors on health outcomes**  
 27          **for minorities.**

28          **Sec. 6. (a) A public or private entity or an individual may submit**  
 29          **an application to the enhanced health planning advisory**  
 30          **committee, the tobacco control advisory committee, or the**  
 31          **prescription drug advisory committee for program funding from**  
 32          **the tobacco settlement fund. Each application must be in writing**  
 33          **and contain the following information:**

- 34          **(1) A clear objective to be achieved with the program.**
- 35          **(2) A plan for implementation of the program.**
- 36          **(3) A statement of the manner in which the proposed program**  
 37          **will further the goals of the enhanced health planning**  
 38          **advisory committee, tobacco control advisory committee, the**

1 tobacco control advisory committee, or the prescription drug  
2 advisory committee.

3 (4) The amount of funding requested.

4 (5) An evaluation and assessment component to determine the  
5 program's performance.

6 (6) Any other information required by the enhanced health  
7 planning advisory committee, the tobacco control advisory  
8 committee, the tobacco control advisory committee, or the  
9 prescription drug advisory committee.

10 The enhanced health planning advisory committee, the tobacco  
11 control advisory committee, the tobacco control advisory  
12 committee, and the prescription drug advisory committee may  
13 each adopt written guidelines to establish procedures, forms,  
14 additional evaluation criteria, and application deadlines for  
15 programs.

16 (b)The approval by a majority of the voting members appointed  
17 to serve on a specific committee are required for approval of a  
18 program by the enhanced health planning advisory committee, the  
19 tobacco control advisory committee, the tobacco control advisory  
20 committee, or the prescription drug advisory committee.

21 Sec. 7. (a) The prescription drug advisory committee is  
22 established to recommend to the tobacco fund executive advisory  
23 council established by IC 4-12-1-14.3 programs that address the  
24 pharmaceutical costs of low income elderly and disabled  
25 individuals.

26 (b) The prescription drug advisory committee consists of seven  
27 (7) members appointed by the governor who have knowledge, skill,  
28 and expertise in health planning and the impact of pharmaceutical  
29 costs on low income elderly and disabled individuals. The term of  
30 each member is two (2) years. The committee must include the  
31 following members:

- 32 (1) A pharmacoeconomist.
- 33 (2) A health economist.
- 34 (3) A medical actuary with expertise in prescription drug  
35 benefits.
- 36 (4) A pharmaceutical researcher.
- 37 (5) A physician with a specialty in geriatrics.
- 38 (6) A health planner or health finance person with expertise

- 1           **in health programs for the elderly.**
- 2           **(7) A senior citizen consumer with knowledge in health**
- 3           **planning and the impact of pharmaceutical costs on low**
- 4           **income elderly individuals.**
- 5           **(c) The office of family and social services shall provide staff for**
- 6           **the prescription drug advisory committee.**
- 7           **(d) The prescription drug advisory committee is a public agency**
- 8           **for purposes of IC 5-14-1.5 and IC 5-14-3.**
- 9           **(e) The prescription drug advisory committee is a governing**
- 10          **body for purposes of IC 5-14-1.5.**
- 11          **(f) Each member of the committee is entitled to reimbursement**
- 12          **for traveling expenses and other expenses actually incurred in**
- 13          **connection with the member's duties. The expenses of the**
- 14          **committee shall be paid from the tobacco settlement fund created**
- 15          **by IC 14-12-1-14.3.**

16           SECTION 7. IC 24-3-2-10 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) In  
 18 establishing the cost of cigarettes to the retailer or distributor, the  
 19 invoice cost of said cigarettes purchased at a forced, bankrupt, or  
 20 close-out sale, or other sale outside of the ordinary channels of trade,  
 21 may not be used as a basis for justifying a price lower than one based  
 22 upon the replacement cost of the cigarettes to the retailer or distributor,  
 23 within thirty (30) days prior to the date of sale, in the quantity last  
 24 purchased, through the ordinary channels of trade.

25           **(b) Any cigarettes that are imported or reimported into the**  
 26           **United States for sale or distribution under a trade name, trade**  
 27           **dress, or trademark that is the same as or confusingly similar to a**  
 28           **trade name, trade dress, or trademark used for cigarettes**  
 29           **manufactured in the United States for sale or distribution in the**  
 30           **United States are presumed to be purchased outside the ordinary**  
 31           **channels of trade.**

32           SECTION 8. IC 24-3-4 IS ADDED TO THE INDIANA CODE AS  
 33 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
 34 PASSAGE]:

35           **Chapter 4. Cigarettes Produced for Export; Imported**  
 36           **Cigarettes**

37           **Sec. 1. This chapter does not apply to cigarettes sold or intended**  
 38           **to be sold as duty free merchandise by a duty free sales enterprise**

1 that complies with federal requirements, including the  
2 requirements under 19 U.S.C. 1555(b). However, this chapter  
3 applies to cigarettes that are brought back into the United States  
4 that have not been assessed a federal tax or federal duty.

5 Sec. 2. As used in this chapter, "cigarette" has the meaning set  
6 forth in IC 24-3-2-2(a).

7 Sec. 3. As used in this chapter, "department" refers to the  
8 department of state revenue.

9 Sec. 4. As used in this chapter, "importer" means any of the  
10 following:

11 (1) A person in the United States to whom nontaxpaid tobacco  
12 products, cigarette papers, or cigarette tubes manufactured  
13 in a foreign country, Puerto Rico, the Virgin Islands, or a  
14 possession of the United States are shipped or consigned.

15 (2) A person who removes cigars or cigarettes for sale or  
16 consumption in the United States from a customs bonded  
17 manufacturing warehouse.

18 (3) A person who smuggles or unlawfully brings tobacco  
19 products, cigarette papers, or cigarette tubes into the United  
20 States.

21 Sec. 5. As used in this chapter, "law enforcement officer" has  
22 the meaning set forth in IC 35-41-1-17.

23 Sec. 6. As used in this chapter, "manufacturer" means a person  
24 who manufactures a product made from tobacco that is made for  
25 smoking or chewing, including snuff. However, the term does not  
26 include the following:

27 (1) A person who produces a product made from tobacco that  
28 is made for smoking or chewing, including snuff, solely for the  
29 person's own personal consumption or use.

30 (2) A proprietor of a customs bonded manufacturing  
31 warehouse with respect to the operation of the warehouse.

32 Sec. 7. As used in this chapter, "person" has the meaning set  
33 forth in IC 24-3-2-2(b).

34 Sec. 8. As of July 1, 2000, a person may not sell, distribute,  
35 possess, or transport into Indiana any of the following cigarettes:

36 (1) Cigarettes that have been marked for sale, distribution, or  
37 use outside the United States, including labels stating "For  
38 Export Only", "U.S. Tax-Exempt", and "For Use Outside

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- U.S.".**
  - (2) Cigarettes that do not comply with the federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) or with other federal requirements regarding health warnings and other information on cigarette packages manufactured, packaged, or imported for sale, distribution, or use in the United States.**
  - (3) Cigarettes that do not comply with federal trademark and copyright laws.**
  - (4) Cigarettes that violate federal requirements on importation of previously exported tobacco products, including 26 U.S.C. 5754.**
  - (5) Cigarettes that the person knows or has reason to know that the manufacturer did not intend to be sold, distributed, or used in the United States.**
  - (6) Cigarettes that have not had the list of the cigarette's added ingredients submitted to the Secretary of the Department of Health and Human Services under 15 U.S.C. 1335a.**
  - (7) Cigarettes that have had the package altered before the cigarettes are sold or distributed to the consumer that remove, conceal, or obscure any of the following:**
    - (A) A marking that indicates the cigarettes are intended to be sold, distributed, or used outside the United States.**
    - (B) A health warning or other information required under 15 U.S.C. 1333.**
- Sec. 9. A person may not affix a stamp (as defined by IC 6-7-1-9) on a package of cigarettes described in section 8 of this chapter.**
- Sec. 10. (a) A person who, for the purpose of selling or distributing the cigarettes in Indiana, imports cigarettes into Indiana that were manufactured outside the United States, shall file a monthly report with the department and keep and maintain the records required under IC 6-7-1-19 and IC 6-7-1-19.5.**
- (b) The report required under subsection (a) must be signed by the person who imports the cigarettes, under penalties of perjury, and must contain the following information concerning cigarettes that the person imported during the preceding month:**
- (1) A copy of each of the following:**
    - (A) The permit issued under 26 U.S.C. 5713 that allows the**

- 1           person to import the cigarettes into the United States.
- 2           **(B) The U.S. Customs Service form concerning the**
- 3           **cigarettes that contains the internal revenue tax**
- 4           **information required by the federal Bureau of Alcohol,**
- 5           **Tobacco, and Firearms.**
- 6           **(2) A statement that includes the following information:**
- 7           **(A) The brand and brand styles of the cigarettes imported.**
- 8           **(B) The quantity of each brand style of the cigarettes**
- 9           **imported.**
- 10           **(C) The name and address of each person to whom the**
- 11           **cigarettes have been shipped.**
- 12           **(3) A statement signed by an officer of the manufacturer or**
- 13           **importer, under the penalties for perjury, that states whether**
- 14           **the manufacturer is a participant in the escrow fund under**
- 15           **IC 24-3-3-12 and certifies that the manufacturer or importer**
- 16           **has complied with the following:**
- 17           **(A) The federal cigarette package health warning**
- 18           **requirements (15 U.S.C. 1333) and the federal ingredient**
- 19           **reporting requirements (15 U.S.C. 1335a).**
- 20           **(B) The qualified escrow fund for tobacco product**
- 21           **manufacturers requirements under IC 24-3-3.**
- 22           **Sec. 11. The department may do the following:**
- 23           **(1) Adopt rules under IC 4-22-2 to implement this chapter.**
- 24           **(2) Assess tax due, penalties, and interest on cigarettes in**
- 25           **violation of this chapter.**
- 26           **(3) Revoke or suspend the registration certificate issued under**
- 27           **IC 6-7-1-16 of a person who violates this chapter.**
- 28           **Sec. 12. (a) If the department or a law enforcement officer**
- 29           **discovers cigarettes that are in violation of section 8 or 9 of this**
- 30           **chapter, the department or a law enforcement officer may seize**
- 31           **and take possession of the cigarettes together with any vending**
- 32           **machine or receptacle in which the cigarettes are held for sale. The**
- 33           **seized cigarettes, vending machine, or receptacle, not including**
- 34           **money contained in the vending machine or receptacle, shall be**
- 35           **forfeited to the state. The department or law enforcement agency**
- 36           **shall, within a reasonable time after the seizure, destroy the**
- 37           **confiscated cigarettes and vending machine or receptacle.**
- 38           **(b) The confiscation, destruction, sale, or redemption of**

1 cigarettes does not relieve a person of any penalties imposed for  
2 violation of this chapter.

3 (c) When the department has reason to believe that any  
4 cigarettes are being kept, sold, offered for sale, or given away in  
5 violation of this chapter, an officer of the department or a law  
6 enforcement officer may make an affidavit for a search warrant  
7 under IC 35-33-5. If the judge issues a search warrant under  
8 IC 35-33-1, a law enforcement officer or an authorized agent of the  
9 department may search any place or vehicle designated in the  
10 affidavit and search warrant and seize any cigarettes.

11 Sec. 13. (a) This chapter may be enforced by the department or  
12 a law enforcement officer.

13 (b) Upon referral of a violation of this chapter by the  
14 department or a law enforcement officer, the prosecuting attorney  
15 or the attorney general shall prosecute the person who violates this  
16 chapter.

17 Sec. 14. In addition to any other remedy, any person may bring  
18 an action for appropriate injunctive or equitable relief for a  
19 violation of this chapter that caused actual damages to the person.  
20 The person who brings the action may recover actual damages,  
21 interest on the damages from the date the complaint was filed,  
22 costs, and reasonable attorney's fees. If the court finds that the  
23 violation was flagrant, the court may increase the recovery to an  
24 amount not exceeding three (3) times the amount of actual  
25 damages.

26 Sec. 15. A person who knowingly or intentionally possesses,  
27 sells, distributes, or transports into Indiana cigarettes in violation  
28 of section 8 of this chapter commits a Class A misdemeanor.

29 Sec. 16. A person who knowingly or intentionally possesses,  
30 sells, or distributes cigarettes that bear Indiana tax stamps affixed  
31 in violation of this chapter commits a Class A misdemeanor.

32 Sec. 17. A person who:

33 (1) knowingly possesses, sells, distributes, or transports more  
34 than twelve thousand (12,000) cigarettes in violation of section  
35 8 or 9 of this chapter; and

36 (2) has previously been convicted of an offense under section  
37 8 or 9 of this chapter;

38 commits a Class D felony.

1 SECTION 9. IC 24-5-0.5-3 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The  
3 following acts or representations as to the subject matter of a consumer  
4 transaction, made either orally or in writing by a supplier, are deceptive  
5 acts:

6 (1) That such subject of a consumer transaction has sponsorship,  
7 approval, performance, characteristics, accessories, uses, or  
8 benefits it does not have which the supplier knows or should  
9 reasonably know it does not have.

10 (2) That such subject of a consumer transaction is of a particular  
11 standard, quality, grade, style, or model, if it is not and if the  
12 supplier knows or should reasonably know that it is not.

13 (3) That such subject of a consumer transaction is new or unused,  
14 if it is not and if the supplier knows or should reasonably know  
15 that it is not.

16 (4) That such subject of a consumer transaction will be supplied  
17 to the public in greater quantity than the supplier intends or  
18 reasonably expects.

19 (5) That replacement or repair constituting the subject of a  
20 consumer transaction is needed, if it is not and if the supplier  
21 knows or should reasonably know that it is not.

22 (6) That a specific price advantage exists as to such subject of a  
23 consumer transaction, if it does not and if the supplier knows or  
24 should reasonably know that it does not.

25 (7) That the supplier has a sponsorship, approval, or affiliation in  
26 such consumer transaction he does not have, and which the  
27 supplier knows or should reasonably know that he does not have.

28 (8) That such consumer transaction involves or does not involve  
29 a warranty, a disclaimer of warranties, or other rights, remedies,  
30 or obligations, if the representation is false and if the supplier  
31 knows or should reasonably know that the representation is false.

32 (9) That the consumer will receive a rebate, discount, or other  
33 benefit as an inducement for entering into a sale or lease in return  
34 for giving the supplier the names of prospective consumers or  
35 otherwise helping the supplier to enter into other consumer  
36 transactions, if earning the benefit, rebate, or discount is  
37 contingent upon the occurrence of an event subsequent to the time  
38 the consumer agrees to the purchase or lease.

- 1 (10) That the supplier is able to deliver or complete the subject of  
2 the consumer transaction within a stated period of time, when the  
3 supplier knows or should reasonably know he could not. If no  
4 time period has been stated by the supplier, there is a presumption  
5 that the supplier has represented that he will deliver or complete  
6 the subject of the consumer transaction within a reasonable time,  
7 according to the course of dealing or the usage of the trade.
- 8 (11) That the consumer will be able to purchase the subject of the  
9 consumer transaction as advertised by the supplier, if the supplier  
10 does not intend to sell it.
- 11 (12) That the replacement or repair constituting the subject of a  
12 consumer transaction can be made by the supplier for the estimate  
13 the supplier gives a customer for the replacement or repair, if the  
14 specified work is completed and:
- 15 (A) the cost exceeds the estimate by an amount equal to or  
16 greater than ten percent (10%) of the estimate;
- 17 (B) the supplier did not obtain written permission from the  
18 customer to authorize the supplier to complete the work even  
19 if the cost would exceed the amounts specified in clause (A);
- 20 (C) the total cost for services and parts for a single transaction  
21 is more than seven hundred fifty dollars (\$750); and
- 22 (D) the supplier knew or reasonably should have known that  
23 the cost would exceed the estimate in the amounts specified in  
24 clause (A).
- 25 (13) That the replacement or repair constituting the subject of a  
26 consumer transaction is needed, and that the supplier disposes of  
27 the part repaired or replaced earlier than seventy-two (72) hours  
28 after both:
- 29 (A) the customer has been notified that the work has been  
30 completed; and
- 31 (B) the part repaired or replaced has been made available for  
32 examination upon the request of the customer.
- 33 (14) Engaging in the replacement or repair of the subject of a  
34 consumer transaction if the consumer has not authorized the  
35 replacement or repair, and if the supplier knows or should  
36 reasonably know that it is not authorized.
- 37 (15) The act of misrepresenting the geographic location of the  
38 supplier by listing a fictitious business name or an assumed

1 business name (as described in IC 23-15-1) in a local telephone  
2 directory if:

- 3 (A) the name misrepresents the supplier's geographic location;  
4 (B) the listing fails to identify the locality and state of the  
5 supplier's business;  
6 (C) calls to the local telephone number are routinely forwarded  
7 or otherwise transferred to a supplier's business location that  
8 is outside the calling area covered by the local telephone  
9 directory; and  
10 (D) the supplier's business location is located in a county that  
11 is not contiguous to a county in the calling area covered by the  
12 local telephone directory.

13 (16) The act of listing a fictitious business name or assumed  
14 business name (as described in IC 23-15-1) in a directory  
15 assistance database if:

- 16 (A) the name misrepresents the supplier's geographic location;  
17 (B) calls to the local telephone number are routinely forwarded  
18 or otherwise transferred to a supplier's business location that  
19 is outside the local calling area; and  
20 (C) the supplier's business location is located in a county that  
21 is not contiguous to a county in the local calling area.

22 **(17) That the supplier violated IC 24-3-4 concerning cigarettes**  
23 **for import or export.**

24 (b) Any representations on or within a product or its packaging or  
25 in advertising or promotional materials which would constitute a  
26 deceptive act shall be the deceptive act both of the supplier who places  
27 such representation thereon or therein, or who authored such materials,  
28 and such other suppliers who shall state orally or in writing that such  
29 representation is true if such other supplier shall know or have reason  
30 to know that such representation was false.

31 (c) If a supplier shows by a preponderance of the evidence that an  
32 act resulted from a bona fide error notwithstanding the maintenance of  
33 procedures reasonably adopted to avoid the error, such act shall not be  
34 deceptive within the meaning of this chapter.

35 (d) It shall be a defense to any action brought under this chapter that  
36 the representation constituting an alleged deceptive act was one made  
37 in good faith by the supplier without knowledge of its falsity and in  
38 reliance upon the oral or written representations of the manufacturer,

1 the person from whom the supplier acquired the product, any testing  
 2 organization, or any other person provided that the source thereof is  
 3 disclosed to the consumer.

4 (e) For purposes of subsection (a)(12), a supplier that provides  
 5 estimates before performing repair or replacement work for a customer  
 6 shall give the customer a written estimate itemizing as closely as  
 7 possible the price for labor and parts necessary for the specific job  
 8 before commencing the work.

9 (f) For purposes of subsection (a)(15), a telephone company or other  
 10 provider of a telephone directory or directory assistance service or its  
 11 officer or agent is immune from liability for publishing the listing of a  
 12 fictitious business name or assumed business name of a supplier in its  
 13 directory or directory assistance database unless the telephone  
 14 company or other provider of a telephone directory or directory  
 15 assistance service is the same person as the supplier who has  
 16 committed the deceptive act.

17 SECTION 10. [EFFECTIVE JULY 1, 2000] **(a) The following**  
 18 **amounts are appropriated from the tobacco settlement fund**  
 19 **established by IC 4-12-1-14.3, as amended by this act, to the budget**  
 20 **agency to cover total operating expenses incurred in carrying out**  
 21 **the purposes of IC 16-46-12, as added by this act, for the period**  
 22 **beginning July 1, 2000, and ending June 30, 2001:**

23 **(1) Thirty million dollars (\$30,000,000) for tobacco education,**  
 24 **prevention, and use control, with emphasis on mental health**  
 25 **addictions treatment and intervention programs. However,**  
 26 **two million five hundred thousand dollars (\$2,500,000) must**  
 27 **be used to fund minority organizations, agencies, and**  
 28 **businesses to implement minority prevention and intervention**  
 29 **programs.**

30 **(2) Twenty million dollars (\$20,000,000) for pharmaceutical**  
 31 **assistance.**

32 **(3) Nine million five hundred thousand dollars (\$9,500,000)**  
 33 **for other programs approved by the tobacco fund executive**  
 34 **advisory council under IC 4-12-1-14.3, as amended by this act.**

35 **(b) Fifteen million dollars (\$15,000,000) is appropriated from**  
 36 **the tobacco settlement fund established by IC 4-12-1-14.3, as**  
 37 **amended by this act, to the state department of health for total**  
 38 **operating expenses for community health centers for the period**

1 beginning July 1, 2000, and ending June 30, 2001.

2 (c) Five million dollars (\$5,000,000) shall be transferred from  
3 the tobacco settlement fund established by IC 4-12-1-14.3, as  
4 amended by this act, to the Indiana twenty-first century research  
5 and technology fund (IC 4-4-5.1), and is appropriated to pay for  
6 research on tobacco related diseases for the period beginning July  
7 1, 2000, and ending June 30, 2001.

8 (d) Ten million dollars (\$10,000,000) is appropriated from the  
9 tobacco settlement fund established by IC 4-12-1-14.3, as amended  
10 by this act, as follows:

11 (1) To the budget agency, four million six hundred twenty-five  
12 thousand dollars (\$4, 625,000) to cover capital costs for the  
13 period beginning July 1, 2000, and ending June 30, 2002, for  
14 community health centers to carry out programs approved by  
15 the tobacco fund executive advisory council under  
16 IC 4-12-1-14.3, as amended by this act.

17 (2) To the state department of health, two million three  
18 hundred seventy-five thousand dollars (\$2,375,000) to expand  
19 local minority health coalitions.

20 (3) To the Indiana minority health coalition and Martin  
21 University three million dollars (\$3,000,000) to establish a  
22 minority epidemiology resource center.

23 (e) In addition to the money appropriated under IC 6-7-1-30.5  
24 and under P.L.273-1999, SECTION 8, two million five hundred  
25 thousand dollars (\$2,500,000) shall be transferred from the tobacco  
26 settlement fund established by IC 4-12-1-14.3, as amended by this  
27 act, to the local health maintenance fund established by  
28 IC 16-46-10-1 and is appropriated for total operating expenses of  
29 the local health maintenance fund beginning July 1, 2000, and  
30 ending June 30, 2001.

31 (f) Five million dollars (\$5,000,000) is appropriated from the  
32 tobacco settlement fund established by IC 4-12-1-14.3, as amended  
33 by this act, to the division of mental health for the purpose of  
34 funding a special program for prevention, intervention, and  
35 reduction of tobacco use by seriously emotionally disturbed  
36 children who are enrolled in the division's Hoosier assurance plan.  
37 All providers who participate in the program under this subsection  
38 shall submit service data including measures to the division of

1        **mental health.**

2            **(g) Notwithstanding IC 4-12-1-14.3, as amended by this act, two**  
 3        **million five hundred thousand dollars (\$2,500,000) is appropriated**  
 4        **from interest earned on the tobacco fund settlement established by**  
 5        **IC 4-12-1-14.3, as amended by this act, to the Indiana**  
 6        **comprehensive health insurance association (ICHIA) to provide**  
 7        **reduced premiums to qualified individuals who are unable to**  
 8        **afford ICHIA health insurance without the reduction.**

9            **(h) The general assembly encourages the governor to include the**  
 10        **following programs in the governor's next recommended**  
 11        **appropriations from the tobacco settlement fund:**

12            **(1) Two million five hundred thousand dollars (\$2,500,000) to**  
 13        **the Indiana comprehensive health insurance association**  
 14        **(ICHIA) to provide reduced premiums to qualified individuals**  
 15        **who are unable to afford ICHIA health insurance without the**  
 16        **reduction.**

17            **(2) Thirty million dollars (\$30,000,000) to be combined with**  
 18        **existing funds for hospital care for the indigent to be used by**  
 19        **the office of Medicaid policy and planning to be used with the**  
 20        **funds for hospital care for the indigent to secure federal**  
 21        **Medicaid matching funds. The office of Medicaid policy and**  
 22        **planning is encouraged to apply for any federal waivers**  
 23        **necessary to secure the federal Medicaid matching funds and**  
 24        **to use the funds to provide health care coverage for**  
 25        **individuals who are uninsured, working, and poor.**

26            **(i) This SECTION expires July 1, 2002.**

27        **SECTION 11. An emergency is declared for this act.**

(Reference is to HB 1312 as introduced.)

**and when so amended that said bill do pass and that said bill be referred to the Committee on Ways and Means, per Rule 127.**

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Representative Brown C