



January 13, 2000

# SENATE BILL No. 239

DIGEST OF SB0239 (Updated January 12, 2000 10:01 AM - DI 47)

**Citations Affected:** IC 4-13; IC 4-23; IC 4-35; IC 5-15; IC 6-3.1; IC 10-7; IC 14-8; IC 14-9; IC 14-10; IC 14-11; IC 14-12; IC 14-20; IC 14-21; IC 14-29; IC 14-34; IC 20-11; IC 20-14; noncode.

**Synopsis:** Department of Indiana heritage. Establishes the department of Indiana heritage under the direction of a commissioner appointed by the governor. Provides that the department consists of: (1) the office of the commissioner; (2) the division of state museums and historic sites (currently under the department of natural resources); (3) the division of history, historic preservation, and archeology (currently the Indiana historical bureau and the division of historic preservation and archeology under the department of natural resources); (4) the Indiana state library division (currently part of the Indiana library and historical department); and (5) the division on public records (currently the commission on public records). Eliminates the Indiana library and historical board. Creates the Indiana heritage commission to act as an advisory board for the department of Indiana heritage. Makes conforming amendments.

**Effective:** July 1, 2000; July 1, 2001.

**Merritt**

January 10, 2000, read first time and referred to Committee on Rules and Legislative Procedure.  
January 12, 2000, reported favorably — Do Pass; reassigned to Committee on Finance.

SB 239—LS 6729/DI 77+



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January 13, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## SENATE BILL No. 239

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

- 1 SECTION 1. IC 4-35 IS ADDED TO THE INDIANA CODE AS A  
2 **NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
3 **2001]:**  
4 **ARTICLE 35. DEPARTMENT OF INDIANA HERITAGE**  
5 **Chapter 1. Definitions**  
6 **Sec. 1. "Agricultural purpose", for purposes of IC 4-35-5-10,**  
7 **has the meaning set forth in IC 4-35-5-9.**  
8 **Sec. 2. "Artifact", for purposes of IC 4-35-5, has the meaning set**  
9 **forth in IC 4-35-5-2.**  
10 **Sec. 3. "Burial ground", for purposes of IC 4-35-5, has the**  
11 **meaning set forth in IC 4-35-5-3.**  
12 **Sec. 4. "Burial object", for purposes of IC 4-35-5, has the**  
13 **meaning set forth in IC 4-35-5-4.**  
14 **Sec. 5. "Commission", for purposes of this article, refers to the**  
15 **Indiana heritage commission.**  
16 **Sec. 6. "Commissioner", for purposes of this article, refers to**  
17 **the commissioner of the department of Indiana heritage.**

SB 239—LS 6729/DI 77+



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1           **Sec. 7. "Contributing property"**, for purposes of this article,  
2 means a site or structure that:

- 3           (1) contributes materially to the significance of a historic  
4 property; or  
5           (2) would, if altered from its present condition or converted to  
6 a proposed use, have a material adverse effect on a historic  
7 property.

8           **Sec. 8. "Department"**, for purposes of this article, refers to the  
9 department of Indiana heritage.

10           **Sec. 9. "Division"**, for purposes of IC 4-35-5, has the meaning  
11 set forth in IC 4-35-5-5.

12           **Sec. 10. (a) "Heritage"**, for purposes of this article, means all  
13 past and present manifestations in Indiana of:

- 14           (1) Indiana history and folklore;  
15           (2) Indiana architecture, engineering, landscape design, and  
16 planning;  
17           (3) physical features created or shaped by human hand that  
18 have value and meaning to the people of the state; and  
19           (4) surviving remains of prehistoric and historic cultures.

20           **(b) The term includes manifestations that are:**

- 21           (1) tangible or intangible;  
22           (2) in handwritten, printed, audio-visual, oral, or electronic  
23 form;  
24           (3) designed and constructed or accrued over the passage of  
25 time; and  
26           (4) located above or below ground.

27           **Sec. 11. "Historic property"**, for purposes of this article, means:

- 28           (1) a historic site;  
29           (2) a historic structure; or  
30           (3) other personal or real property located on or in a historic  
31 site or historic structure.

32           **Sec. 12. "Historic site"**, for purposes of this article, means a site  
33 that is important to the general, archeological, agricultural, economic,  
34 social, political, architectural, industrial, or cultural  
35 history of Indiana. The term includes adjacent property that is  
36 necessary for the preservation or restoration of the site.

37           **Sec. 13. "Historic structure"**, for purposes of this article, means  
38 a structure that is important to the general, archeological,  
39 agricultural, economic, social, political, architectural, industrial,  
40 or cultural history of Indiana. The term includes adjacent property  
41 that is necessary for the preservation or restoration of the  
42 structure.



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1           **Sec. 14. "Human remains"**, for purposes of IC 4-35-5, has the  
2 meaning set forth in IC 4-35-5-6.

3           **Sec. 15. "Interested party"**, for purposes of IC 4-35-5-34, has  
4 the meaning set forth in IC 4-35-5-34.

5           **Sec. 16. "Person"**, for purposes of this article, means an  
6 individual, a partnership, an association, a fiduciary, an executor  
7 or administrator, a limited liability company, a corporation, or a  
8 governmental entity.

9           **Sec. 17. "Plan"**, for purposes of IC 4-35-5, has the meaning set  
10 forth in IC 4-35-5-7.

11           **Sec. 18. "Proceeding"**, for purposes of IC 4-35-5-34, has the  
12 meaning set forth in IC 4-35-5-34.

13           **Sec. 19. "Review board"**, for purposes of this article, refers to  
14 the history and historic preservation review board established by  
15 IC 4-35-5-35.

16           **Sec. 20. "Site"**, for purposes of this article, includes the  
17 following:

18           (1) An aboriginal mound, a fort, an earthwork, a village  
19 location, a burial ground, a ruin, a mine, a cave, a  
20 battleground, a shipwreck, or other similar location on land  
21 or under water.

22           (2) A location that contains or did contain a structure.

23           **Sec. 21. "State action"**, for purposes of IC 4-35-5-34, has the  
24 meaning set forth in IC 4-35-5-34.

25           **Sec. 22. "State college or university project"**, for purposes of  
26 IC 4-35-5, has the meaning set forth in IC 4-35-5-8.

27           **Sec. 23. "State register"**, for purposes of this article, refers to  
28 the register of Indiana historic sites and historic structures  
29 established under IC 4-35-5.

30           **Sec. 24. "Structure"**, for purposes of this article, means a  
31 manmade construction.

32           **Sec. 25. "Subject property"**, for purposes of IC 4-35-5-34, has  
33 the meaning set forth in IC 4-35-5-34.

34           **Sec. 26. "Substantial alteration"**, for purposes of IC 4-35-5-33,  
35 has the meaning set forth in IC 4-35-5-33(a).

36           **Chapter 2. General Provisions**

37           **Sec. 1. The department of Indiana heritage is established.**

38           **Sec. 2. The department consists of the following:**

39           (1) The office of the commissioner.

40           (2) The historic preservation, archeology, and history division  
41 established by IC 4-35-5-10.

42           (3) The division of state museums and historic sites



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1 established by IC 14-20.

2 (4) The Indiana state library division established by IC 4-23-7.

3 (5) The division of public records created by IC 5-15-5.1.

4 (6) Other personnel necessary for the performance of the  
5 functions imposed upon the department.

6 **Sec. 3. The purpose of the department is to:**

7 (1) promote and facilitate the preservation, enhancement,  
8 enjoyment, and educational interpretation of the varied forms  
9 of Indiana heritage; and

10 (2) perform other educational functions.

11 **Sec. 4. (a) The department of Indiana heritage may accept gifts,**  
12 **bequests, and devises of personal and real property for the**  
13 **maintenance, use, or benefit of the department or any of its**  
14 **divisions under terms and conditions and with obligations,**  
15 **liabilities, and burdens that the commissioner believes are in the**  
16 **best interest of the department.**

17 (b) The department shall not assume any obligation, liability, or  
18 burden that exceeds appropriations made by law for the payment  
19 of such obligations, liabilities, and burdens.

20 **Sec. 5. (a) The department of Indiana heritage fund is**  
21 **established as a dedicated fund to be administered by the**  
22 **department. Money in the fund may be expended by the**  
23 **commissioner exclusively to further the purpose of the department**  
24 **or any of its divisions.**

25 (b) The fund consists of the following:

26 (1) Gifts of money or the proceeds from the sale of gifts  
27 donated to the fund.

28 (2) Investment earnings from any part of the fund.

29 (c) Money accruing in the fund is appropriated continuously for  
30 purposes specified in subsection (a).

31 (d) Money remaining in the fund does not revert to the state  
32 general fund at the end of a state fiscal year. However, if the fund  
33 is abolished, its contents revert to the state general fund.

34 **Chapter 3. Office of the Commissioner of the Department**

35 **Sec. 1. The office of the commissioner of the department is**  
36 **established.**

37 **Sec. 2. (a) The governor shall appoint the commissioner, who**  
38 **serves at the pleasure of the governor. The commissioner is the**  
39 **executive and chief administrative officer of the department.**

40 (b) The commissioner must have:

41 (1) a graduate degree in one (1) or more of the following  
42 subjects:

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- 1 (A) Archeology or a closely related field.  
 2 (B) Museum studies, history, historic preservation, or a  
 3 closely related discipline.  
 4 (C) Library science or management.  
 5 (D) History, archives management, or a closely related  
 6 field; and  
 7 (2) at least ten (10) years of professional experience in one (1)  
 8 or more of the following disciplines:  
 9 (A) Historic preservation or archeology.  
 10 (B) Managing a historic site or museum.  
 11 (C) Library management.  
 12 (D) Information and forms management or archives  
 13 management.
- 14 **Sec. 3. The commissioner is entitled to compensation in an**  
 15 **amount to be fixed by the Indiana department of administration**  
 16 **with the approval of the governor.**
- 17 **Sec. 4. The commissioner may do the following:**  
 18 (1) **Appoint and remove the director of the:**  
 19 (A) **historic preservation, archeology, and history division;**  
 20 (B) **state museums and historic sites division;**  
 21 (C) **Indiana state library division (under IC 4-23-7.1-37);**  
 22 **and**  
 23 (D) **division of public records;**  
 24 **of the department.**  
 25 (2) **Upon the recommendation of a division director, appoint**  
 26 **and remove all officers and employees of a division.**  
 27 (3) **Adopt rules under IC 4-22-2 concerning matters within the**  
 28 **authority of the commissioner and the department.**  
 29 (4) **Delegate authority to appropriate department staff.**  
 30 (5) **Create other offices and divisions.**  
 31 (6) **Appoint advisory commissions to consult and advise on the**  
 32 **work of the department and its divisions.**
- 33 **Sec. 5. The commissioner shall supervise the work of the**  
 34 **department and of each of the divisions of the department.**
- 35 **Sec. 6. (a) Employees of each division, except the director, shall**  
 36 **be selected by the director of the division with the approval of the**  
 37 **commissioner and may be removed by the director for cause at any**  
 38 **time with the approval of the commissioner.**  
 39 (b) **The commissioner may adopt rules under IC 4-22-2**  
 40 **prescribing academic preparation and special training required for**  
 41 **employees of the department who hold certain positions.**  
 42 (c) **The commissioner may provide that appointments may be**

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1 made only after an applicant has successfully passed an  
 2 examination given by the commissioner or some person designated  
 3 by the commissioner.

4 (d) The budget agency shall fix the compensation of the director  
 5 of each division. The director shall fix the compensation of the  
 6 employees of the division, with the approval of the commissioner  
 7 and the budget agency.

8 (e) An employee of the department may not directly or  
 9 indirectly solicit subscriptions or contributions for a political party  
 10 or political purpose, or be forced in any way to make a  
 11 contribution, or be required to participate in any form of political  
 12 activity.

13 (f) All department employees are covered under IC 4-15-2.

#### 14 Chapter 4. Indiana Heritage Commission

15 Sec. 1. The Indiana heritage commission is established. The  
 16 commission consists of seventeen (17) members as follows:

17 (1) The commissioner of the department of Indiana heritage  
 18 or the commissioner's designee.

19 (2) The director of the department of natural resources or the  
 20 director's designee.

21 (3) The director of the department of commerce or the  
 22 director's designee.

23 (4) The commissioner of the Indiana department of  
 24 transportation or the director's designee.

25 (5) The state superintendent of public instruction or the  
 26 superintendent's designee.

27 (6) The secretary of state or the secretary of state's designee.

28 (7) The executive director of the Indiana war memorials  
 29 commission.

30 (8) The following four (4) individuals appointed by the  
 31 commissioner:

32 (A) A member of the history and historic preservation  
 33 review board established by IC 4-35-5-35.

34 (B) A member of the board of trustees for the division of  
 35 state museums and historic sites established under  
 36 IC 14-20-1.

37 (C) A member of the Indiana state library advisory council  
 38 established by IC 4-23-7.1-39.

39 (D) A member of the oversight committee on public  
 40 records established by IC 5-15-5.1-18.

41 (9) Six (6) citizens appointed by the governor, not more than  
 42 three (3) from the same political party.



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1           **Sec. 2.** The governor may fill a vacancy in the ex officio  
2 membership of the commission by temporary appointment.  
3 However, the term of a member appointed under this section  
4 terminates upon the filling of the office.

5           **Sec. 3. (a)** The term of a citizen member of the commission is  
6 three (3) years, and a citizen member may not serve more than  
7 three (3) terms.

8           **(b)** The governor may remove a citizen member for cause.

9           **(c)** When a vacancy occurs in the citizen membership of the  
10 commission because of death, resignation, removal, or other cause,  
11 the governor shall appoint a person to fill the vacancy for the  
12 unexpired term.

13           **Sec. 4. (a)** The members of the commission who are not state  
14 employees are entitled to the minimum salary per diem as provided  
15 in IC 4-10-11-2.1(b) for each day that the members are engaged in  
16 the official business of the commission.

17           **(b)** The members of the commission are entitled to  
18 reimbursement for travel, lodging, meals, and other expenses as  
19 provided in the state travel policies and procedures established by  
20 the Indiana department of administration and approved by the  
21 budget agency.

22           **Sec. 5. (a)** The commissioner or the commissioner's designee  
23 shall serve as chairperson of the commission and shall preside at  
24 meetings.

25           **(b)** The commission members may select other officers as the  
26 commission determines.

27           **Sec. 6.** A majority of the members of the commission constitutes  
28 a quorum for the transaction of business, the exercise of powers, or  
29 the performance of duties.

30           **Sec. 7. (a)** The commission shall have at least four (4) regular  
31 meetings in each fiscal year and as many additional or special  
32 meetings as the commission's business, powers, or duties require.

33           **(b) The chairperson:**

34           **(1)** may call a special meeting; and

35           **(2)** shall call a special meeting at the request of any five (5)  
36 members.

37           **Sec. 8.** The commission shall advise the commissioner on:

38           **(1)** the operation of the department;

39           **(2)** the execution of the department's mandates; and

40           **(3)** other issues the commissioner refers to the commission.

41           **Sec. 9.** The commission may appoint administrative law judges.  
42 An administrative law judge is subject to IC 4-15-2. A person who



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1 is not appointed by the commission may not act as an  
 2 administrative law judge for the commission. The commission may  
 3 create a division of hearings to assist in performing the functions  
 4 of this section.

5 **Sec. 10.** The commission is the ultimate authority of the  
 6 department under IC 4-21.5.

7 **Sec. 11. (a)** The commission shall adopt rules under IC 4-22-2 to  
 8 carry out the commission's duties under this article.

9 **(b)** Whenever the department or the commissioner has the  
 10 authority to adopt rules under IC 4-22-2, the commission shall  
 11 exclusively exercise the authority.

12 **Sec. 12. (a)** The commission may issue a notice of violation to a  
 13 person who violates a law administered by the department for  
 14 which a misdemeanor or an infraction penalty is established. If the  
 15 person:

16 (1) receives the notice; and

17 (2) fails to abate within a period of not less than fifteen (15)  
 18 days the violation specified in the notice;

19 the commission may impose a charge that does not exceed the  
 20 maximum amount that may be assessed by a court for committing  
 21 the violation.

22 **(b)** IC 4-21.5 applies to proceedings by the commission under  
 23 this section. The department has the burden of proving the alleged  
 24 violation by a preponderance of the evidence.

25 **(c)** A separate notice of violation may be issued or a separate  
 26 charge imposed for each day a violation occurs.

27 **(d)** The person may establish as an affirmative defense the filing  
 28 by a prosecuting attorney of a misdemeanor information or  
 29 infraction complaint based on the same event as that upon which  
 30 the notice of violation was based. The person has the burden of  
 31 proving the affirmative defense.

32 **(e)** The remedy provided by this section is supplemental to other  
 33 remedies.

34 **Chapter 5. Historic Preservation, Archeology, and History**  
 35 **Division**

36 **Sec. 1.** This chapter does not apply to the human remains of  
 37 individuals who die after December 31, 1939.

38 **Sec. 2.** As used in this chapter, "artifact" means an object made  
 39 or shaped by human workmanship before December 11, 1816.

40 **Sec. 3.** As used in this chapter, "burial ground" means ground  
 41 in which human remains are buried. The term includes the land  
 42 associated with or incidental to the burial of human remains.



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1           **Sec. 4.** As used in this chapter, "burial object" means an item  
2 intentionally placed in a burial ground at or near the time of  
3 burial.

4           **Sec. 5.** As used in this chapter, "division" means the historic  
5 preservation, archeology, and history division.

6           **Sec. 6.** As used in this chapter, "human remains" means any  
7 part of the body of a human being in any:

- 8           (1) stage of decomposition; or  
9           (2) state of preservation.

10           **Sec. 7.** As used in this chapter, "plan" means an archeological  
11 plan for the systematic recovery, analysis, and disposition by  
12 scientific methods of material evidence and information about life  
13 and culture of past ages.

14           **Sec. 8.** As used in this chapter, "state college or university  
15 project" means a project of a state college or university that  
16 involves the construction, renovation, or demolition of one (1) or  
17 more buildings.

18           **Sec. 9. (a)** As used in this section, "agricultural purpose"  
19 includes farming, dairying, pasturage, agriculture, horticulture,  
20 floriculture, viticulture, ornamental horticulture, olericulture,  
21 pomiculture, animal husbandry, and poultry husbandry.

22           **(b)** Sections 21, 22, 25, and 26 of this chapter do not apply to the  
23 following:

- 24           (1) Surface coal mining regulated under IC 14-34.  
25           (2) Cemeteries and human remains subject to IC 23-14.  
26           (3) Disturbing the earth for an agricultural purpose.  
27           (4) Collecting an object other than human remains that is  
28 visible in whole or in part on the surface of the ground,  
29 regardless of the time the object was made or shaped.

30           **Sec. 10.** The historic preservation, archeology, and history  
31 division is established as a division within the department of  
32 Indiana heritage.

33           **Sec. 11.** The commissioner is designated as the state historic  
34 preservation officer.

35           **Sec. 12. (a)** The commissioner shall appoint a director to be the  
36 chief administrative officer of the division.

37           **(b)** The director must have:

- 38           (1) a graduate degree in historic preservation, archeology, or  
39 a closely related field; and  
40           (2) not less than three (3) years of professional experience in  
41 either historic preservation or archeology.

42           **(c)** The director may be removed by the commissioner at any



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1 time.

2 **Sec. 13.** The division shall be organized in a manner determined  
3 by the director of the division with the approval of the  
4 commissioner. The duties of the division established by law may be  
5 supplemented by the commissioner.

6 **Sec. 14.** The historic preservation, archeology, and history  
7 division shall administer and develop the programs and policies  
8 established by this article.

9 **Sec. 15.** The division shall do the following:

10 (1) Develop a program of historical, architectural, and  
11 archeological research and development, including continuing  
12 surveys, excavations, scientific recording, interpretation, and  
13 publication of the state's historical, architectural, and  
14 archeological resources.

15 (2) Prepare a preservation plan for the state that establishes  
16 planning guidelines to encourage the continuous maintenance  
17 and integrity of historic sites and historic structures.  
18 However, the plan is not effective until the plan is:

19 (A) presented to the review board for review and  
20 comment; and

21 (B) approved by the commission after public hearing.

22 (3) Undertake the action necessary to qualify the state for  
23 participation in sources of federal aid to further the purposes  
24 stated in subdivisions (1) and (2).

25 (4) Provide information on historic sites and structures within  
26 Indiana to federal, state, and local governmental agencies,  
27 private individuals, and organizations.

28 (5) Advise and coordinate the activities of local historical  
29 associations, historic district commissions, historic  
30 commissions, and other interested groups or persons.

31 (6) Provide technical and financial assistance to local  
32 historical associations, historic district commissions, historic  
33 commissions, and other interested groups or persons.

34 (7) Review environmental impact statements as required by  
35 federal and state law for actions significantly affecting  
36 historic properties.

37 (8) Undertake a statewide survey to identify and document  
38 historic sites and historic structures.

39 (9) Prepare, establish, and maintain a state register of Indiana  
40 historic sites and historic structures and establish criteria for  
41 listing historic sites and historic structures on the register.

42 (10) Maintain the Indiana part of the National Register of

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- Historic Places under 16 U.S.C. 470 et seq.**
- (11) Administer the federal preservation grants program under 16 U.S.C. 470 et seq.**
- (12) Operate the historical publications program.**
- (13) Operate the historical marker program.**
- (14) Provide custody, care, and maintenance of the governor portraits collection.**

**Sec. 16. The division may do the following:**

- (1) Recommend the purchase, lease, or gift of historic property of archeological importance and make recommendations to the commissioner regarding policies affecting the operation and administration of these sites and structures by the section of historic sites of the division of state museums and historic sites.**
- (2) Prepare and review planning and research studies relating to archeology.**
- (3) Conduct a program of education in archeology, either within the division or in conjunction with an institution of higher education.**
- (4) Inspect and supervise an archeological field investigation authorized by this chapter.**

**Sec. 17. (a) The historic preservation, archeology, and history division may accept gifts, bequests, and devises of personal and real property for the maintenance, use, or benefit of the division under such terms and conditions and with the obligations, liabilities, and burdens that the director and the commissioner believe are in the best interest of the division.**

**(b) The division shall not assume any obligation, liability, or burden that exceeds appropriations made by law for the payment of such obligations, liabilities, and burdens.**

**Sec. 18. (a) The historic preservation, archeology, and history division fund is established as a dedicated fund to be administered by the division. Money in the fund may be expended by the director exclusively for the maintenance, use, or benefit of the division.**

**(b) The fund consists of the following:**

- (1) The proceeds from the sale of items as directed by law or by the director.**
- (2) Gifts of money and the proceeds from the sale of gifts donated to the fund.**
- (3) Investment earnings from any part of the fund.**

**(c) Money accruing in the fund is appropriated continuously for purposes specified in subsection (a).**

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1 (d) Money remaining in the fund does not revert to the state  
2 general fund at the end of a state fiscal year. However, if the fund  
3 is abolished, its contents revert to the state general fund.

4 Sec. 19. Each state, county, township, city, town, judicial officer,  
5 or other public officer who has custody of, is capable of supplying,  
6 or is required to collect and compile information that may be  
7 required by the division shall supply the information promptly at  
8 the request of the division, whether the request is:

- 9 (1) oral;  
10 (2) by letter or circular; or  
11 (3) by forms provided to the officer to complete.

12 Sec. 20. (a) The historic preservation, archeology, and history  
13 division established within the department of Indiana heritage is a  
14 continuation of:

- 15 (1) the Indiana historical bureau established under  
16 IC 4-23-7.2 (before its repeal) as a division of the Indiana  
17 library and historical department; and  
18 (2) the division of historic preservation and archeology of the  
19 department of natural resources.

20 (b) Any authority that the Indiana library and historical board  
21 had (before it was abolished under IC 4-23-7-1.5) to make rules  
22 concerning the Indiana historical bureau (before its repeal) is  
23 transferred to the Indiana heritage commission. Any rules of the  
24 Indiana library and historical board that:

- 25 (1) concern the Indiana historical bureau; and  
26 (2) were filed with the secretary of state before July 1, 2001;  
27 shall be treated after June 30, 2001, as though they had been  
28 adopted by the Indiana heritage commission.

29 (c) The rules adopted by the natural resources commission  
30 concerning the division of historic preservation and archeology of  
31 the department of natural resources shall be treated, after June 30,  
32 2001, as rules of the Indiana heritage commission.

33 (d) On July 1, 2001, all powers, duties, assets, and liabilities of:

- 34 (1) the Indiana historical bureau established under  
35 IC 4-23-7.2 (before its repeal); and  
36 (2) the division of historic preservation and archeology of the  
37 department of natural resources;

38 are transferred to the historic preservation, archeology, and  
39 history division of the department of Indiana heritage, established  
40 by this article, as the successor agency.

41 (e) On July 1, 2001, all powers, duties, assets, and liabilities of  
42 the department of natural resources that are attributable to the

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1 division of historic preservation and archeology are transferred to  
2 the department of Indiana heritage.

3 (f) On July 1, 2001, all powers, duties, assets, and liabilities of  
4 the:

5 (1) Indiana library and historical board; and

6 (2) Indiana library and historical department;

7 that are attributable to the Indiana historical bureau are  
8 transferred to the department of Indiana heritage.

9 (g) After July 1, 2001, any reference in a statute or rule to:

10 (1) the department of natural resources in a statute or rule  
11 concerning the division of historic preservation and  
12 archeology shall be treated as a reference to the department  
13 of Indiana heritage;

14 (2) the division of historic preservation and archeology shall  
15 be treated as a reference to the historic preservation,  
16 archeology, and history division;

17 (3) the director of the department of natural resources in a  
18 statute or rule concerning the division of historic preservation  
19 and archeology shall be treated as a reference to the  
20 commissioner of the department of Indiana heritage;

21 (4) the Indiana historical bureau shall be treated as a  
22 reference to the historic preservation, archeology, and history  
23 division;

24 (5) the Indiana library and historical board in a statute or  
25 rule concerning the Indiana historical bureau shall be treated  
26 as a reference to the department of Indiana heritage; and

27 (6) the Indiana library and historical department in a statute  
28 or rule concerning the Indiana historical bureau shall be  
29 treated as a reference to the historic preservation, archeology,  
30 and history division.

31 Sec. 21. (a) The commission shall adopt rules under IC 4-22-2  
32 establishing standards for plans. The rules must impose a standard  
33 of conduct that does the following:

34 (1) Promotes the scientific investigation and conservation of  
35 past cultures.

36 (2) Considers the interests and expertise of amateur  
37 archeologists and professional archeologists.

38 (b) Plans required under this chapter must be submitted to the  
39 division for approval according to rules adopted under IC 4-22-2  
40 by the commission.

41 Sec. 22. (a) A person who disturbs the ground to discover  
42 artifacts or burial objects must do so in accordance with a plan

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1 approved by:

2 (1) the division under section 21 of this chapter; or

3 (2) the department of natural resources under:

4 (A) IC 14-21-1-25 (before its repeal); or

5 (B) IC 14-3-3.4-14 (before its repeal).

6 (b) A person who recklessly, knowingly, or intentionally violates  
7 this section commits a Class A misdemeanor.

8 Sec. 23. (a) A person who disturbs buried human remains shall  
9 do the following:

10 (1) Notify the division not later than two (2) business days  
11 after the time of the disturbance.

12 (2) Treat or rebury the human remains in a manner and place  
13 according to rules adopted by the commission or a court  
14 order and permit issued by the state department of health  
15 under IC 23-14-56.

16 (b) A person who recklessly, knowingly, or intentionally violates  
17 this section commits a Class A misdemeanor.

18 Sec. 24. Except as provided in sections 21 through 23 and section  
19 31 of this chapter, a person who knowingly, without a permit,  
20 conducts a field investigation or alters historic property within the  
21 boundaries of property owned or leased by the state commits a  
22 Class A misdemeanor.

23 Sec. 25. A person who, with the intent to disturb ground to  
24 discover or remove artifacts, burial objects, grave markers, or  
25 human remains, disturbs buried human remains or grave markers  
26 either:

27 (1) without a plan approved by:

28 (A) the division under section 21 of this chapter; or

29 (B) the department of natural resources under  
30 IC 14-21-1-25 (before its repeal) or IC 14-3-3.4-14 (before  
31 its repeal); or

32 (2) in violation of a plan described in subdivision (1);  
33 commits a Class D felony.

34 Sec. 26. (a) A person who discovers an artifact or burial object  
35 while disturbing the ground for a purpose other than the discovery  
36 of artifacts or burial objects shall do the following:

37 (1) Immediately cease disturbing the ground.

38 (2) Notify the division not later than two (2) business days  
39 after the time of the disturbance.

40 (b) After notification under subsection (a) the division may do  
41 any of the following:

42 (1) Authorize the person to continue the ground disturbing



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activity, with or without conditions.

(2) Require that continued ground disturbance activity be conducted only in accordance with an approved plan. However, this subdivision does not apply after thirty (30) days from the date that the division receives notice.

Sec. 27. The division shall actively encourage all groups of amateur archeologists to establish and maintain a code of ethics as a minimum guide for the conduct of searches for evidence of life and culture of past ages.

Sec. 28. (a) The commission shall adopt rules under IC 4-22-2 to implement sections 21 through 27 of this chapter.

(b) When adopting rules under this section, the commission shall consider the following:

- (1) The rights and interests of landowners.
- (2) The sensitivity of human beings for treating human remains with respect and dignity.
- (3) The value of history and archeology as a guide to human activity.
- (4) The importance of amateur archeologists in making historical, cultural, and archeological discoveries.
- (5) The applicable laws, standards, and guidelines for the conduct of archeology and the codes of ethics for participation in archeology.

Sec. 29. (a) Any person may nominate a site or structure for addition to or removal from the state register. Upon approval of the nomination by the division, all affected persons shall be notified.

(b) If an objection to the action is not filed with the division not less than thirty (30) days after the notification date, the nomination is automatically approved.

(c) If an objection is received not less than thirty (30) days after the notification date, a designated member of the review board shall hold a hearing and make a determination. The review board shall make the final decision regarding a nomination, subject to administrative review by the commission under IC 4-21.5.

Sec. 30. (a) This section does not apply to real property that is owned by a state educational institution (as defined in IC 20-12-0.5-1).

(b) The Indiana department of administration shall notify the division of a proposed transfer of real property owned by the state at the earliest planning stage and not later than ninety (90) days before the date of the proposed transfer.

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1 (c) The division shall inspect the property and notify the Indiana  
2 department of administration of the location of each historic site  
3 or historic structure on the property.

4 (d) Real property owned by the state may not be sold or  
5 transferred until the division has stated in writing that the  
6 property does not, to the best of the division's knowledge, contain  
7 a historic site or historic structure.

8 (e) If the Indiana department of administration receives notice  
9 of a historic site or historic structure on the property, the Indiana  
10 department of administration shall reserve control of the  
11 appropriate historic property by means of a covenant or an  
12 easement contained in the transferring instrument.

13 (f) The division of state museums and historic sites shall  
14 administer property reserved under subsection (e).

15 **Sec. 31. (a) A:**

- 16 (1) historic site or historic structure owned by the state; or  
17 (2) historic site or historic structure listed on the state or  
18 national register;

19 may not be altered, demolished, or removed by a project funded,  
20 in whole or in part, by the state unless the review board has  
21 granted a certificate of approval.

22 (b) An application for a certificate of approval:

- 23 (1) must be filed with the division; and  
24 (2) shall be granted or rejected by the review board after a  
25 public hearing.

26 (c) Subsections (a) and (b) do not apply to real property that is  
27 owned by a state educational institution (as defined in  
28 IC 20-12-0.5-1).

29 (d) The commission for higher education and each state  
30 educational institution, in cooperation with the division of historic  
31 preservation and archeology, shall develop and continuously  
32 maintain a survey of historic sites and historic structures owned by  
33 the state educational institution. Historic sites and historic  
34 structures include buildings, structures, outdoor sculptures,  
35 designed landscapes, gardens, archeological sites, cemeteries,  
36 campus plans, and historic districts. A survey developed under this  
37 subsection must conform with the Indiana Historic Sites and  
38 Structures Survey Manual.

39 (e) The state historic preservation officer not later than one (1)  
40 year after receipt of a ten (10) year capital plan under section 32 of  
41 this chapter (or IC 14-21-1-18.5 before its repeal) shall:

- 42 (1) review a proposed state college or university project that

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1 involves a historic site or historic structure owned by a state  
2 educational institution; and

3 (2) submit an advisory report to the commission for higher  
4 education, the state educational institution, and the general  
5 assembly.

6 (f) Not more than thirty (30) days after a state college or  
7 university, under section 33 of this chapter, (or IC 14-21-1-18.6  
8 before its repeal) submits to the division a description of a  
9 proposed project that involves the substantial alteration,  
10 demolition, or removal of a historic site or historic structure, the  
11 state historic preservation officer shall:

12 (1) review the description of the proposed project; and

13 (2) submit to the state college or university an advisory report  
14 concerning the proposed project.

15 The state college or university shall review and consider the  
16 advisory report before proceeding with the substantial alteration,  
17 demolition, or removal of a historic site or historic structure.

18 **Sec. 32.** When submitting its biennial budget request, a state  
19 college or university must:

20 (1) submit to the division of history, historic preservation, and  
21 archeology a copy of any ten (10) year capital plan of the  
22 college or university that is required by the budget agency or  
23 the commission for higher education; and

24 (2) identify the projects included in the capital plan that may  
25 involve the alteration or demolition of historic sites or  
26 structures.

27 **Sec. 33.** (a) As used in this section, "substantial alteration"  
28 means a conspicuous, exterior material change in a historic site or  
29 historic structure that, in the good faith judgment of a state college  
30 or university, affects the historic character of the historic site or  
31 historic structure.

32 (b) If a proposed project of a state college or university:

33 (1) involves the substantial alteration, demolition, or removal  
34 of a historic site or historic structure; and

35 (2) is not identified in a capital plan submitted to the division  
36 under section 32 of this chapter (or IC 14-21-1-18.5 before its  
37 repeal);

38 the state college or university shall submit a description of the  
39 proposed project to the division and publish a notice describing the  
40 project one (1) time in a newspaper of general circulation in the  
41 county in which the proposed project is located. The submission of  
42 the description and the publication of the notice must occur at least



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1 thirty (30) days before the commencement of the proposed project.

2 Sec. 34. (a) As used in this section, "interested party" means any  
3 of the following:

4 (1) The executive of the:

5 (A) city or town in which the subject property is located;  
6 or

7 (B) county in which the subject property is located, if the  
8 subject property is located in an unincorporated area.

9 (2) A historic preservation commission having jurisdiction  
10 over one (1) or more historic districts in the county in which  
11 the subject property is located.

12 (3) The owner of a historic property located not less than two  
13 thousand six hundred forty (2,640) feet from the subject  
14 property.

15 (4) An association, whether incorporated or unincorporated,  
16 whose principal purpose is preservation of the natural or built  
17 environment that has not less than twenty-five (25) members  
18 who are residents of the county in which the subject property  
19 is located.

20 (5) Historic Landmarks Foundation of Indiana, Inc., or any of  
21 its successors.

22 (b) As used in this section, "proceeding" has the meaning set  
23 forth in IC 4-21.5-1-13.

24 (c) As used in this section, "state action" includes:

25 (1) comment, review, advice, consideration, approval,  
26 issuance, denial, or other action by the commission, the  
27 commissioner, the division, or the review board of a plan,  
28 permit, rule, nomination, certificate of approval, or  
29 determination; and

30 (2) the exercise of or the failure to perform a duty imposed on  
31 the commission, the commissioner, the division, or the review  
32 board by law or regulation.

33 (d) As used in this section, "subject property" means a historic  
34 property or a contributing property that is the subject of a  
35 requested, required, authorized, or pending state action.

36 (e) An interested party may initiate and, with respect to a  
37 pending proceeding, has standing to participate in a proceeding by  
38 the commission, the commissioner, the division, or the review  
39 board that involves, may involve, or could involve state action  
40 concerning a subject property.

41 (f) An interested party has standing to obtain judicial review  
42 under IC 4-21.5-5 of a state action concerning a subject property.

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1 (g) The commission, the commissioner, the division, and the  
 2 review board may not take a state action concerning a subject  
 3 property if the state action would result in a material adverse effect  
 4 on a historic property or a contributing property. The division  
 5 shall make the initial determination of the presence or absence of  
 6 a material adverse effect, subject to review and final determination  
 7 by the review board at the request of:

8 (1) a person with a property interest in the subject property;

9 or

10 (2) an interested party.

11 **Sec. 35. (a) The history and historic preservation review board**  
 12 **is established.**

13 (b) The review board consists of at least eleven (11) members as  
 14 follows:

15 (1) The commissioner.

16 (2) At least five (5) individuals meeting minimum professional  
 17 requirements established by the United States Department of  
 18 the Interior in effect on July 1, 1988.

19 (3) Three (3) professionals, one (1) from each of the following  
 20 disciplines:

21 (A) History.

22 (B) Prehistoric or historic archeology.

23 (C) Architecture or historical architecture.

24 (4) Two (2) individuals with a demonstrated interest in  
 25 Indiana history.

26 (c) The division director is a nonvoting adviser to the review  
 27 board entitled to attend and participate in the proceedings of all  
 28 meetings of the review board.

29 (d) The commissioner shall, with the concurrence of the  
 30 governor, appoint the members of the review board under  
 31 subsection (b)(2), (b)(3), and (b)(4) for terms of three (3) years. The  
 32 terms shall be staggered so that the terms of at least three (3)  
 33 members expire each year. A member may be reappointed.

34 (e) Appointments to the review board shall be made in  
 35 accordance with 36 CFR, Part 60, and 36 CFR, Part 61, as in effect  
 36 on July 1, 1999.

37 **Sec. 36. The commissioner is chairperson of the review board.**  
 38 **The review board may select other officers that the review board**  
 39 **determines necessary.**

40 **Sec. 37. (a) The review board shall carry out the duties:**

41 (1) required by this article; and

42 (2) as required under 16 U.S.C. 470 et seq., as in effect on July



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1           **1, 1999, and the regulations relating to 16 U.S.C. 470 et seq.,**  
2           **as in effect on July 1, 1999.**

3           **(b) The review board shall also advise the division and the**  
4           **department as requested by the commissioner.**

5           **Sec. 38. (a) Each member of the review board who is not a state**  
6           **employee is entitled to the minimum salary per diem as provided**  
7           **under IC 4-10-11-2.1(b) for each day that the member is engaged**  
8           **in the official business of the committee. The member is also**  
9           **entitled to reimbursement for traveling expenses as provided under**  
10           **IC 4-13-1-4 and other expenses actually incurred in connection**  
11           **with the member's duties as provided in the state policies and**  
12           **procedures established by the Indiana department of**  
13           **administration and approved by the budget agency.**

14           **(b) Each member of the review board who is a state employee**  
15           **is entitled to reimbursement for traveling expenses as provided**  
16           **under IC 4-13-1-4 and other expenses actually incurred in**  
17           **connection with the member's duties as provided in the state**  
18           **policies and procedures established by the Indiana department of**  
19           **administration and approved by the budget agency.**

20           **Sec. 39. (a) The history and historic preservation review board**  
21           **established by this chapter is a continuation of the historic**  
22           **preservation review board established by IC 14-21-1 (before its**  
23           **repeal).**

24           **(b) After July 1, 2001, a reference to the historic preservation**  
25           **review board in a statute or law shall be treated as a reference to**  
26           **the history and historic preservation review board.**

27           **(c) After July 1, 2001, the register of Indiana historic sites and**  
28           **structures maintained by the historic preservation review board**  
29           **under IC 14-21-1-15 (before its repeal) shall be maintained by the**  
30           **history and historic preservation review board under this chapter.**

31           **(d) A certificate of approval granted by the historic preservation**  
32           **review board under IC 14-21-1-18 (before its repeal) shall be**  
33           **treated after June 30, 2001, as a certificate of approval granted by**  
34           **the history and historic preservation review board under this**  
35           **chapter.**

36           **(e) A preservation plan for the state adopted by the historic**  
37           **preservation review board under IC 14-21-1-12 (before its repeal)**  
38           **shall be treated after June 30, 2001, as a plan adopted by the**  
39           **history and historic preservation review board under section 15(2)**  
40           **of this chapter.**

41           **Sec. 40. The division shall do the following concerning historical**  
42           **publications:**

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1 (1) Edit and publish documentary and other material relating  
 2 to the history of the state of Indiana and promote the study of  
 3 Indiana history.

4 (2) As appropriate, work with the Indiana historical society,  
 5 the county historical societies, and any other person, agency,  
 6 or organization concerned with Indiana history.

7 Sec. 41. The division may do the following concerning historical  
 8 publications:

9 (1) Compile and publish digests, reports, and bulletins of  
 10 purely informational or statistical character on any question  
 11 the commissioner considers to be of interest or value to the  
 12 people of the state.

13 (2) Cooperate with any of the educational institutions of the  
 14 state or with other institutions, organizations, or individuals  
 15 to meet its responsibilities in any manner and to any extent  
 16 approved by the review board.

17 Sec. 42. All expenses incurred in the preparation, compilation,  
 18 printing, binding, and publication of the volumes of source and  
 19 other historical material issued by the division shall be defrayed  
 20 from funds of the department or the division that are appropriated  
 21 by law for that purpose.

22 Sec. 43. Historical publications issued by the division shall be  
 23 printed by the division of public records, under the terms of a  
 24 contract that the state executes and enters into for public printing,  
 25 and under the direction and supervision of the division.

26 Sec. 44. The division shall furnish one (1) copy of each  
 27 publication it issues to each public library in Indiana. With the  
 28 approval of the director, the division may furnish free copies to  
 29 certain other persons, institutions, or departments. The division  
 30 shall make remaining copies available for sale to the public at a  
 31 price that shall be fixed by the director.

32 Sec. 45. (a) The historical publications and educational fund is  
 33 established as a dedicated fund to be administered by the division.  
 34 Money in the fund may be expended by the director of the division  
 35 exclusively for the publication of:

36 (1) historical documents; and

37 (2) other material to:

38 (A) promote the study of Indiana history; and

39 (B) inform the people of Indiana concerning the history of  
 40 their state.

41 (b) The fund consists of the following items, which shall be  
 42 deposited in the fund:



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1           **(1) Proceeds from the sale of:**

2               **(A) publications of the select committee on the centennial**  
 3               **history of the Indiana general assembly; and**

4               **(B) other items as directed by law or by the director of the**  
 5               **division.**

6           **(2) Gifts of money and the proceeds from the sale of gifts**  
 7           **donated to the fund.**

8           **(3) Investment earnings from any part of the fund.**

9           **(c) Money accruing to the historical publications fund is**  
 10           **appropriated continuously for purposes specified in this section.**

11           **(d) Money remaining in the fund does not revert to the state**  
 12           **general fund at the end of a state fiscal year. However, if the fund**  
 13           **is abolished, its contents revert to the state general fund.**

14           **Sec. 46. The division shall establish the Indiana historical**  
 15           **marker program for marking historical sites in Indiana.**

16           **Sec. 47. (a) The division shall fix a state format for historical**  
 17           **markers. The state format selected under this section may be the**  
 18           **same as the state format established by the historical bureau under**  
 19           **IC 4-23-7.2-11(a) (before its repeal).**

20           **(b) Except as provided in section 51 of this chapter, a person**  
 21           **may not erect a historical marker in the state format without the**  
 22           **approval of the division.**

23           **(c) All historical markers in the state format shall be provided**  
 24           **by the division (or by the historical bureau under IC 4-23-7.2-11(a)**  
 25           **before its repeal) using appropriated funds, local matching funds,**  
 26           **donations, grants, or any other funds provided for that purpose**  
 27           **according to the guidelines and rules of the historical marker**  
 28           **program.**

29           **Sec. 48. The commissioner may appoint a historical marker**  
 30           **advisory committee to serve without compensation. The committee**  
 31           **may advise the director concerning the following:**

32               **(1) Guidelines and rules for the historical marker program.**

33               **(2) Appropriate sites to be marked.**

34               **(3) Other matters concerning the historical marker program**  
 35               **as requested by the director.**

36           **Sec. 49. Historical markers approved under this section become**  
 37           **the property of the state. Maintenance of state historical markers**  
 38           **is part of the historical marker program. The division may**  
 39           **cooperate with individuals, local and state agencies, and private**  
 40           **institutions and organizations for the maintenance of the historical**  
 41           **markers. Funds made available to the historical marker program,**  
 42           **as approved by the director, may be used for necessary**



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1 maintenance.

2 **Sec. 50.** Except as provided in section 51 of this chapter, a  
3 historical marker may not be erected on a highway of the state  
4 highway system without the approval of the division as to the  
5 geographical and historical accuracy of the marker. This provision  
6 is in addition to any other requirement of law.

7 **Sec. 51.** Approval from the division is not required for historical  
8 markers approved by the historical bureau under IC 4-23-7.2-11  
9 (before its repeal).

10 **Sec. 52.** The governor portraits collection is placed in the  
11 custody of the division. The collection shall be permanently  
12 displayed in public areas of the state capitol building under the  
13 supervision of the division, which is charged with the care and  
14 maintenance of the collection.

15 **Sec. 53.** The director shall inspect each painting in the collection  
16 annually in the company of one (1) or more experts in the field of  
17 art conservation selected by the director.

18 **Sec. 54.** After the inauguration of each governor, the director,  
19 with the concurrence of the governor and the commissioner, shall  
20 select and commission an artist to paint the governor's portrait.  
21 The portrait must be hung in the permanent collection immediately  
22 following the completion and acceptance of the portrait by the  
23 director and the governor.

24 **Sec. 55.** The division shall include in its budget requests for  
25 amounts it considers necessary to provide for the proper care,  
26 maintenance, and display of the governor portraits collection and  
27 amounts necessary for commissioning an oil portrait of each  
28 governor. The division may use appropriated funds or any other  
29 funds provided for these purposes.

30 **Sec. 56.** The director, in discharging the duties under this  
31 chapter, shall use the appropriate cultural and technical resources  
32 of the state, including the other divisions of the department and the  
33 Indiana department of administration.

34 **Sec. 57. (a)** The governor portraits fund is established as a  
35 dedicated fund to be administered by the division. Money in the  
36 fund may be expended by the director of the division exclusively  
37 for the preservation and exhibition of the state owned portraits of  
38 former governors of Indiana.

39 **(b)** The governor portraits fund consists of the following items,  
40 which shall be deposited in the fund:

41 **(1)** Proceeds from the sale of items as directed by law or by  
42 the director of the division.

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1           (2) Gifts of money and the proceeds from the sale of gifts  
2           donated to the fund.

3           (3) Investment earnings from any part of the fund.

4           (c) Money accruing to the governor portraits fund is  
5           appropriated continuously for purposes specified in this section.

6           (d) Money remaining in the fund does not revert to the state  
7           general fund at the end of a state fiscal year. However, if the fund  
8           is abolished, its contents revert to the state general fund.

9           **Sec. 58.** The division shall have custody of all unsold  
10          commemorative medallions and other items that were acquired for  
11          sale to the public by the Indiana historical commission, the Indiana  
12          sesquicentennial commission, or the Indiana American revolution  
13          bicentennial commission when that commission is abolished. These  
14          medallions and other commemorative items shall be offered for  
15          sale to the public at a price determined by the director of the  
16          division. The proceeds from the sale of the items shall be deposited  
17          in the governor portraits fund.

18          **Sec. 59.** The division shall celebrate the memory of George  
19          Rogers Clark in a manner fitting each occasion of George Rogers  
20          Clark Day, every twenty-fifth day of February, established by  
21          IC 1-1-13-1.

22          SECTION 2. IC 4-23-7-1 IS AMENDED TO READ AS FOLLOWS  
23          [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) There is hereby created and  
24          established a department of the state government which shall be known  
25          as **within the department of Indiana heritage established by**  
26          **IC 4-35-2-1** the Indiana state library and historical department:  
27          division.

28          (b) As used in this chapter, "commissioner" refers to the  
29          commissioner of the department of Indiana heritage.

30          (c) As used in this chapter, "director" refers to the director of  
31          the Indiana state library division, who is the director of the Indiana  
32          state library appointed under IC 4-23-7.1-37.

33          (d) As used in this chapter, "division" refers to the Indiana state  
34          library division created by this section.

35          SECTION 3. IC 4-23-7-1.5 IS ADDED TO THE INDIANA CODE  
36          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
37          1, 2001]: Sec. 1.5. (a) On July 1, 2001, the Indiana library and  
38          historical board is abolished and ceases to exist.

39          (b) Except as provided in IC 4-35-5-20, the Indiana library and  
40          historical board's rulemaking authority is transferred to the  
41          Indiana state library division.

42          (c) Except as provided in IC 4-35-5-20, rules of the Indiana

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1 library and historical board that were filed with the secretary of  
 2 state before July 1, 2001, shall be treated after June 30, 2001, as  
 3 though they had been adopted by the Indiana state library division.

4 (d) Except as provided in IC 4-35-5-20, on July 1, 2001, all  
 5 powers, duties, assets, and liabilities of the:

6 (1) Indiana library and historical board; and

7 (2) Indiana library and historical department;

8 are transferred to the Indiana state library division of the  
 9 department of Indiana heritage.

10 (e) Except as provided in IC 4-35-5-20, after July 1, 2001,  
 11 reference in a statute or rule to:

12 (1) the Indiana library and historical board; and

13 (2) the Indiana library and historical department;

14 shall be treated as a reference to the Indiana state library division  
 15 of the department of Indiana heritage.

16 SECTION 4. IC 4-23-7-2 IS AMENDED TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 2001]: Sec. 2. The management and control of

18 the Indiana library and historical department is hereby vested in a  
 19 board which shall be known as the Indiana library and historical board;  
 20 and which shall consist of five (5) members; who shall be appointed by  
 21 the governor; as hereinafter provided: In the first instance, one (1) of  
 22 such members shall be appointed for a term of one (1) year; one (1)  
 23 member for a term of two (2) years; one (1) member for a term of three  
 24 (3) years; and two (2) members for a term of four (4) years: Thereafter  
 25 all members shall be appointed for terms of four (4) years: No person  
 26 shall be appointed as a member of the Indiana library and historical  
 27 board unless he is a citizen of high standing and probity and has a  
 28 known and active interest in library or historical work: One (1) member  
 29 of the library and historical board shall be appointed on  
 30 recommendation of the state board of education; one (1) member shall  
 31 be appointed on recommendation of the Indiana library; trustee  
 32 association; one (1) member shall be appointed on recommendation of  
 33 the Indiana library association; one (1) member shall be appointed on  
 34 recommendation of the Indiana historical society; and one (1) member  
 35 shall be selected and appointed by the governor: The members of the  
 36 board shall serve without compensation; but shall be entitled to receive  
 37 their actual expenses necessarily incurred in attending the meetings and  
 38 transacting the business of the board; and in participating in such other  
 39 activities as may be in the interest of the department: Any vacancy  
 40 which may occur in the membership of the board for any cause shall be  
 41 filled by appointment by the governor for the unexpired term; either on  
 42 recommendation of the board; association or society hereinbefore



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1 authorized to make recommendations, or by selection by the governor,  
 2 as hereinbefore provided. The **board division** may prepare plans  
 3 subject to the approval of the **governor commissioner** and advise with  
 4 the proper officials in the construction of alterations and additions to  
 5 the building and provide necessary equipment and furnishings within  
 6 the appropriations of funds for these purposes. The **board division** may  
 7 receive and administer any state or federal aid which may become  
 8 available for the improvement and development of library and  
 9 historical services in Indiana.

10 SECTION 5. IC 4-23-7-5.2 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.2. The **Indiana library**  
 12 **and historical board division** may accept gifts, bequests, and devises  
 13 of personal and real property for the maintenance, use, or benefit of the  
 14 **Indiana library and historical department division** under such terms and  
 15 conditions and with such obligations, liabilities, and burdens as in the  
 16 judgment of the **board director** and the **governor is commissioner are**  
 17 in the best interest of the **Indiana library and historical department;**  
 18 **division.** However, no obligation, liability, or burden shall be assumed  
 19 that is in excess of appropriations made by law for the payment of such  
 20 obligations, liabilities, and burdens.

21 SECTION 6. IC 4-23-7-5.4 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.4. (a) The **Indiana**  
 23 **state library and historical department division** fund is established as  
 24 a dedicated fund to be administered by the **Indiana library and**  
 25 **historical board. The monies division. Money** in the fund may be  
 26 expended by the **board division** exclusively for the maintenance, use,  
 27 or benefit of the **Indiana library and historical department. division.**

28 (b) The proceeds from the sale of items as directed by law or by the  
 29 **Indiana library and historical board; division,** from gifts of money or  
 30 the proceeds from the sale of gifts donated to the fund, and from  
 31 investment earnings from any portion of the fund, shall be deposited in  
 32 the fund.

33 (c) ~~All monies~~ **Money** accruing in the fund ~~are hereby is~~  
 34 appropriated continuously for the purposes specified in this section.

35 (d) No portion of the fund shall revert to the general fund of the  
 36 state at the end of a fiscal year; however, if the fund is abolished, its  
 37 contents shall revert to the general fund of the state.

38 SECTION 7. IC 4-23-7.1-1 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this  
 40 chapter:

41 (1) "Advisory council" refers to the Indiana state library advisory  
 42 council established by section 39 of this chapter.

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- 1 (2) "Agency" means any state administration, agency, authority,  
 2 board, bureau, commission, committee, council, department,  
 3 division, institution, office, service, or other similar body of state  
 4 government.  
 5 (3) "Board" means the Indiana library and historical board  
 6 established by IC 4-23-7-2.  
 7 (4) "Department" means the Indiana library and historical  
 8 department established by IC 4-23-7-1.  
 9 (5) (3) "Commissioner" refers to the commissioner of the  
 10 department of Indiana heritage.  
 11 (4) "Director" means director of the Indiana state library and the  
 12 Indiana state library division.  
 13 (6) "Historical bureau" means the Indiana historical bureau  
 14 established by IC 4-23-7-3.  
 15 (5) "Division" refers to the Indiana state library division  
 16 created by IC 4-23-7-1.  
 17 (7) (6) "Public library" has the meaning set forth in IC 20-14-1-2.  
 18 (8) (7) "State library" means the Indiana state library established  
 19 by IC 4-23-7-3. IC 4-23-7.1-2.  
 20 (9) (8) "Statewide library card program" refers to the program  
 21 established by section 5.1 of this chapter.

22 SECTION 8. IC 4-23-7.1-2 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) **The Indiana**  
 24 **state library is established. The library is operated by the Indiana**  
 25 **state library division created under IC 4-23-7-1. The director of the**  
 26 **Indiana state library is the director of the Indiana state library**  
 27 **division.**

28 (b) The state library is responsible for executing the policy of the  
 29 state of Indiana:

- 30 (1) to develop and provide library service to state government, its  
 31 branches, its departments and its officials and employees;  
 32 (2) to provide for the individual citizens of the state those  
 33 specialized library services not generally appropriate, economical  
 34 or available in other libraries of the state;  
 35 (3) to encourage and support the development of the library  
 36 profession; and  
 37 (4) to strengthen services of all types of publicly and privately  
 38 supported special, school, academic, and public libraries.

39 SECTION 9. IC 4-23-7.1-4 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The state library  
 41 shall initiate or participate in plans or programs for ~~historical~~ or library  
 42 development in Indiana that are considered appropriate by the ~~Indiana~~

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1 ~~library and historical board: director and commissioner, with the~~  
2 ~~advice of the advisory council.~~

3 SECTION 10. IC 4-23-7.1-21 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 21. The ~~board~~ **Indiana**  
5 **heritage commission** shall determine the days and hours the library  
6 and its subdivisions will be open for public use; however, the  
7 provisions of the laws governing the length of the working day, the  
8 hours of public business, and the observance of legal holidays shall be  
9 observed.

10 SECTION 11. IC 4-23-7.1-29 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 29. (a) The Indiana  
12 state library shall distribute to each eligible public library district the  
13 amount the district is entitled to under this section not later than August  
14 1 of each year. The ~~board~~ **Indiana heritage commission** shall  
15 determine each district's distribution, which may be based on:

- 16 (1) the population served by each eligible public library district;
- 17 (2) the level of services offered; and
- 18 (3) the loans made by the public library district to others outside  
19 the public library's taxing district.

20 (b) To be eligible for payment under this section, a public library  
21 district shall:

- 22 (1) comply with the standards and rules established under section  
23 11 of this chapter;
- 24 (2) comply with IC 20-14; and
- 25 (3) submit an application on a form prescribed by the Indiana  
26 state library, including a summary of loan data for the previous  
27 year, to the Indiana state library no later than May 1 of each year.

28 (c) Any expenses incurred by the Indiana state library in the  
29 administration and distribution of funds under this section may not be  
30 charged against funds appropriated for the purposes of this section.

31 (d) The governing body of a public library district which receives  
32 funds under this section may appropriate the funds for library materials  
33 or expenses associated with the sharing of resources.

34 SECTION 12. IC 4-23-7.1-36 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 36. The state library  
36 shall be organized in such manner as determined by the director with  
37 the approval of the ~~board: commissioner~~. The duties of the state library  
38 established by law may be supplemented by the ~~board commissioner~~  
39 according to ~~its~~ **the commissioner's** discretion.

40 SECTION 13. IC 4-23-7.1-37 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 37. (a) The ~~board~~  
42 **commissioner** shall appoint a director to be the chief administrative

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1 officer of the state library **and of the division.**

2 (b) To qualify for the position of director, a person must:

3 (1) ~~be have~~ a graduate of a college or university of recognized  
4 ~~standing;~~ **degree in library science or management;**

5 (2) have ~~had special training in the technique and organization of~~  
6 **not less than five (5) years of professional experience in library**  
7 **service; management; and**

8 (3) possess such other qualifications as the ~~board; in its discretion;~~  
9 **may deem commissioner considers** necessary.

10 (c) The **commissioner may remove the** director ~~may be removed~~  
11 ~~by the board~~ at any time. ~~for cause:~~

12 SECTION 14. IC 4-23-7.1-38 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 38. (a) All state library  
14 employees, except the director, shall be selected by the director with  
15 the approval of the ~~board commissioner~~ and may be removed by the  
16 director for cause at any time with the approval of the ~~board:~~  
17 **commissioner.**

18 (b) In making selections for employment recognition shall be given  
19 to the fact that all certified librarians are under ~~the Library Certification~~  
20 **Act IC 20-14-12** and that other staff personnel are under IC 4-15-2.

21 (c) Any or all of the state library employees must have had such  
22 academic preparation and special training for the work which they are  
23 required to perform as may be prescribed in rules ~~promulgated~~ **adopted**  
24 by the ~~board:~~ **division.**

25 (d) The ~~board commissioner~~ may provide that appointments may  
26 be made only after the applicant has successfully passed an  
27 examination given by the ~~board director~~ or some person designated by  
28 the ~~board:~~ **director.**

29 (e) No employee of the state library may directly or indirectly solicit  
30 subscription or contribution for any political party or political purpose,  
31 or be forced in any way to make such contribution, or be required to  
32 participate in any form of political activity.

33 (f) The state budget agency shall fix the compensation of the  
34 director. The director shall fix the compensation of the employees of  
35 the state library with the approval of the ~~board commissioner~~ and the  
36 ~~state~~ budget agency.

37 SECTION 15. IC 4-23-7.1-39 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 39. (a) The Indiana  
39 state library advisory council is established for the purpose of advising  
40 the ~~board commissioner~~ and the ~~state librarian director~~ concerning:

41 (1) general policies of the state library;

42 (2) plans or programs for library development and interlibrary

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- 1 cooperation;
- 2 (3) library research;
- 3 (4) professional development for librarians;
- 4 (5) standards and rules for library services;
- 5 (6) administration and distribution of state and federal funds; and
- 6 (7) other matters as requested by the ~~board~~ **commissioner** and the
- 7 ~~state librarian~~ **director**.

8 (b) The advisory council consists of no fewer than fifteen (15)  
9 members.

10 (c) The membership of the council must be broadly representative  
11 and comply with the requirements established by the federal  
12 Department of Education under ~~34 CFR 770~~ **34 CFR 461.51, as in**  
13 **effect on July 1, 1999.**

14 (d) The ~~board~~ **commissioner** shall appoint the members of the  
15 council with nominations for appointment from library organizations  
16 and the ~~state librarian~~ **director**.

17 (e) Members of the advisory council shall serve two (2) year terms.

18 (f) A member of the advisory council **who is not a state employee**  
19 ~~is not~~ entitled to ~~(+) the~~ minimum salary per diem provided by  
20 IC 4-10-11-2.1(b). ~~or~~

21 ~~(g)~~ **(g) A member of the advisory council is entitled to**  
22 **reimbursement from state funds for traveling expenses travel, lodging,**  
23 **meals, and other expenses actually incurred in connection with the**  
24 **member's duties: as provided in the state travel policies and**  
25 **procedures established by the Indiana department of**  
26 **administration and approved by the budget agency.**

27 **(h) The commissioner of the department of Indiana heritage, or**  
28 **a person designated by the commissioner, shall serve as the**  
29 **chairperson for the advisory council.**

30 SECTION 16. IC 5-15-5.1-1, AS AMENDED BY P.L.1-1999,  
31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2001]: Sec. 1. As used in this chapter:

33 **"Commissioner" means the commissioner of the department of**  
34 **Indiana heritage.**

35 ~~"Commission"~~ **"Division"** means the ~~commission on~~ **division of**  
36 **public records created by this chapter.**

37 "Record" means all documentation of the informational,  
38 communicative or decisionmaking processes of state government, its  
39 agencies and subdivisions made or received by any agency of state  
40 government or its employees in connection with the transaction of  
41 public business or government functions, which documentation is  
42 created, received, retained, maintained, or filed by that agency or its



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1 successors as evidence of its activities or because of the informational  
2 value of the data in the documentation, and which is generated on:

- 3 (1) paper or paper substitutes;
- 4 (2) photographic or chemically based media;
- 5 (3) magnetic or machine readable media; or
- 6 (4) any other materials, regardless of form or characteristics.

7 "Nonrecord materials" means all identical copies of forms, records,  
8 reference books, and exhibit materials which are made, or acquired,  
9 and preserved solely for reference use, exhibition purposes, or  
10 publication and which are not included within the definition of record.

11 "Personal records" means:

- 12 (1) all documentary materials of a private or nonpublic character  
13 which do not relate to or have an effect upon the carrying out of  
14 the constitutional, statutory, or other official or ceremonial duties  
15 of a public official, including: diaries, journals, or other personal  
16 notes serving as the functional equivalent of a diary or journal  
17 which are not prepared or utilized for, or circulated or  
18 communicated in the course of, transacting government business;  
19 or  
20 (2) materials relating to private political associations, and having  
21 no relation to or effect upon the carrying out of constitutional,  
22 statutory, or other official or ceremonial duties of a public official  
23 and are not deemed public records.

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

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

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

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

42 "Forms management" means the program maintained by the

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1 ~~commission~~ **division** to provide continuity of forms design procedures  
 2 from the form's origin up to its completion as a record by determining  
 3 the form's size, style and size of type; format; type of construction;  
 4 number of plies; quality, weight and type of paper and carbon; and by  
 5 determining the use of the form for data entry as well as the  
 6 distribution.

7 "Information management" means the program maintained by the  
 8 ~~commission~~ **division** for the application of management techniques to  
 9 the purchase, creation, utilization, maintenance, retention, preservation,  
 10 and disposal of forms and records undertaken to improve efficiency and  
 11 reduce costs of recordkeeping; including management of filing and  
 12 microfilming equipment and supplies, filing and information retrieval  
 13 systems, files, correspondence, reports and forms management,  
 14 historical documentation, micrographic retention programming, and  
 15 critical records protection.

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

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

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

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

30 "Records coordinator" means a person designated by an agency to  
 31 serve as an information liaison person between the agency and the  
 32 ~~commission~~ **division**.

33 SECTION 17. IC 5-15-5.1-3 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. ~~There is created the~~  
 35 ~~commission on~~ **The division of public records is created within the**  
 36 **department of Indiana heritage established by IC 4-35-2-1** to  
 37 administer this chapter for the administrative and executive branches  
 38 of state government. The ~~commission~~ **division** shall adopt a seal, which  
 39 shall be the seal of the state of Indiana. The ~~commission~~ **division** shall  
 40 offer its services to the legislative and judicial branches of state  
 41 government.

42 SECTION 18. IC 5-15-5.1-4 IS AMENDED TO READ AS

SB 239—LS 6729/DI 77+



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1 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The ~~governor~~  
 2 **commissioner** shall appoint a director as the executive head of the  
 3 ~~commission~~ **division**. The director must:

4 (1) **have a graduate degree in history, archives management,**  
 5 **or a closely related field; and**

6 (2) be versed in the principles of information and forms  
 7 management, archives, and the affairs and organization of state  
 8 government.

9 The director shall serve a term of four (4) years: However, The director  
 10 may be removed for cause by the governor. It is the intent of the  
 11 general assembly that the director be a person who is qualified by  
 12 training and experience to administer the affairs of the commission and  
 13 that the director's tenure of office is limited only by the director's ability  
 14 and the proper performance of the director's duties. **The commissioner**  
 15 **may remove the director at any time.**

16 (b) The director, subject to the approval of ~~the governor~~, **the**  
 17 **commissioner** and the budget agency, shall appoint such staff as  
 18 necessary to implement this chapter. **Members of the staff are**  
 19 **employees of the department of Indiana heritage.**

20 (c) The salary of the director is subject to the approval of the  
 21 ~~governor commissioner~~ and the budget agency. Salaries of the staff are  
 22 subject to the approval of the state personnel department and the  
 23 budget agency. The provisions of IC 4-15-2 apply to the staff of the  
 24 ~~commission~~ **division**.

25 SECTION 19. IC 6-3.1-16-1 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The definitions set  
 27 forth in:

28 (1) ~~IC 14-8-2~~ **IC 4-35-1** that apply to ~~IC 14-21-1~~; **IC 4-35-5**; and

29 (2) ~~IC 14-21-1~~; **IC 4-35-5**;

30 apply throughout this chapter.

31 SECTION 20. IC 6-3.1-16-2 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this  
 33 chapter, "division" means the ~~division~~ of historic preservation, ~~and~~  
 34 archaeology, **and history division** of the department of ~~natural~~  
 35 ~~resources~~ **Indiana heritage**.

36 SECTION 21. IC 10-7-2-34 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 34. (a) The commission  
 38 shall employ an individual who is responsible for the care and  
 39 preservation of all personal property owned by the commission that has  
 40 historic significance.

41 (b) The individual employed by the commission under subsection  
 42 (a) must meet the qualifications set by the division of state museums



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1 and historic sites of the department of ~~natural resources~~. **Indiana**  
2 **heritage.**

3 SECTION 22. IC 14-8-2-48.2 IS ADDED TO THE INDIANA  
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
5 [EFFECTIVE JULY 1, 2001]: **Sec. 48.2. "Commissioner", for**  
6 **purposes of IC 14-20, refers to the commissioner of the department**  
7 **of Indiana heritage.**

8 SECTION 23. IC 14-8-2-61 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 61. "Council" has the  
10 following meaning:

11 (1) For purposes of IC 14-13-1-22, the meaning set forth in  
12 IC 14-13-1-22.

13 (2) For purposes of IC 14-13-1-23, the meaning set forth in  
14 IC 14-13-1-23.

15 (3) For purposes of IC 14-13-1-24, the meaning set forth in  
16 IC 14-13-1-24.

17 (4) For purposes of IC 14-13-1-25, the meaning set forth in  
18 IC 14-13-1-25.

19 ~~(5) For purposes of IC 14-21-1, the meaning set forth in~~  
20 ~~IC 14-21-1-5.~~

21 SECTION 24. IC 14-8-2-67 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 67. **(a)** "Department",  
23 **except as provided in subsection (b),** refers to the department of  
24 natural resources.

25 **(b) "Department", for purposes of IC 14-20, refers to the**  
26 **department of Indiana heritage.**

27 SECTION 25. IC 14-8-2-77 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 77. "Division" has the  
29 following meaning:

30 (1) For purposes of IC 14-9-8, the meaning set forth in  
31 IC 14-9-8-2.

32 (2) For purposes of IC 14-20-1, the meaning set forth in  
33 IC 14-20-1-2.

34 ~~(3) For purposes of IC 14-21-1, the meaning set forth in~~  
35 ~~IC 14-21-1-6.~~

36 ~~(4)~~ **(3)** For purposes of IC 14-22, the division of fish and wildlife.

37 ~~(5)~~ **(4)** For purposes of IC 14-24, the division of entomology and  
38 plant pathology.

39 ~~(6)~~ **(5)** For purposes of IC 14-31-2, the meaning set forth in  
40 IC 14-31-2-4.

41 ~~(7)~~ **(6)** For purposes of IC 14-37, the division of oil and gas.

42 SECTION 26. IC 14-8-2-124 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 124. "Historic  
2 property", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means:

- 3 (1) historic site;  
4 (2) historic structure; or  
5 (3) other personal or real property located on or in a historic site  
6 or historic structure.

7 SECTION 27. IC 14-8-2-125 IS AMENDED TO READ AS  
8 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 125. "Historic site", for  
9 purposes of IC 14-20-1, ~~and IC 14-21-1~~, means a site that is important  
10 to the general, archeological, agricultural, economic, social, political,  
11 architectural, industrial, or cultural history of Indiana. The term  
12 includes adjacent property that is necessary for the preservation or  
13 restoration of the site.

14 SECTION 28. IC 14-8-2-126 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 126. "Historic  
16 structure", for purposes of IC 14-20-1, ~~and IC 14-21-1~~, means a  
17 structure that is important to the general, archeological, agricultural,  
18 economic, social, political, architectural, industrial, or cultural history  
19 of Indiana. The term includes adjacent property that is necessary for the  
20 preservation or restoration of the structure.

21 SECTION 29. IC 14-8-2-202 IS AMENDED TO READ AS  
22 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 202. (a) "Person"  
23 means, except as provided in subsections (b) through (j), an individual,  
24 a partnership, an association, a fiduciary, an executor or administrator,  
25 a limited liability company, or a corporation.

26 (b) "Person", for purposes of IC 14-12-2, has the meaning set forth  
27 in IC 14-12-2-3.

28 (c) "Person", for purposes of IC 14-16, IC 14-24, IC 14-26-2,  
29 IC 14-28-1, IC 14-28-3, IC 14-29-6, and IC 14-38-2, means an  
30 individual, a partnership, an association, a fiduciary, an executor or  
31 administrator, a limited liability company, a corporation, other legal  
32 entity, the state, or an agency, a political subdivision, or another  
33 instrumentality of the state.

34 (d) "Person", for purposes of IC 14-12-1, IC 14-12-2, IC 14-20-1,  
35 ~~IC 14-21~~, IC 14-25 through IC 14-29, except as otherwise provided in  
36 this section, IC 14-33, IC 14-34, and IC 14-37, means an individual, a  
37 partnership, an association, a fiduciary, an executor or administrator,  
38 a limited liability company, a corporation, or a governmental entity.

39 (e) "Person", for purposes of IC 14-22-31.5, has the meaning set  
40 forth in IC 14-22-31.5-2.

41 (f) "Person", for purposes of IC 14-25-3, has the meaning set forth  
42 in IC 14-25-3-1.



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1 (g) "Person", for the purposes of IC 14-25-7, has the meaning set  
2 forth in IC 14-25-7-5.

3 (h) "Person", for purposes of IC 14-34, means an individual, a  
4 partnership, a limited liability company, an association, a society, a  
5 joint stock company, a firm, a company, a corporation, or other  
6 business organization.

7 (i) "Person", for purposes of IC 14-38-1, has the meaning set forth  
8 in IC 14-38-1-2.

9 (j) "Person", for purposes of IC 14-24-12, has the meaning set forth  
10 in IC 14-24-12-4.

11 SECTION 30. IC 14-8-2-206 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 206. "Plan", ~~has the~~  
13 ~~following meaning~~

14 ~~(1) For purposes of IC 14-21-1, the meaning set forth in~~  
15 ~~IC 14-21-1-8.~~

16 ~~(2) for purposes of IC 14-30-2, has the meaning set forth in~~  
17 ~~IC 14-30-2-5.~~

18 SECTION 31. IC 14-8-2-258 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 258. "Site", for  
20 purposes of IC 14-20-1, ~~and IC 14-21~~, includes the following:

21 (1) An aboriginal mound, a fort, an earthwork, a village location,  
22 a burial ground, a ruin, a mine, a cave, a battleground, a  
23 shipwreck, or other similar location on land or under water.

24 (2) A location that contains or did contain a structure.

25 SECTION 32. IC 14-9-4-1 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The following  
27 divisions are established within the department:

28 (1) Accounting.

29 (2) Administrative support services.

30 (3) Budget.

31 (4) Engineering.

32 (5) Entomology and plant pathology.

33 (6) Fish and wildlife.

34 (7) Forestry.

35 ~~(8) Historic preservation and archeology.~~

36 ~~(9) (8) Human resources.~~

37 ~~(10) (9) Internal audit.~~

38 ~~(11) (10) Land acquisition.~~

39 ~~(12) (11) Law enforcement.~~

40 ~~(13) (12) Management information systems.~~

41 ~~(14) (13) Nature preserves.~~

42 ~~(15) (14) Oil and gas.~~

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- 1           ~~(16)~~ **(15)** Outdoor recreation.
- 2           ~~(17)~~ **(16)** Public information and education.
- 3           ~~(18)~~ **(17)** Reclamation.
- 4           ~~(19)~~ **(18)** Reservoir management.
- 5           ~~(20)~~ **(19)** Safety and training.
- 6           ~~(21)~~ **(20)** Soil conservation.
- 7           ~~(22)~~ **State museums and historic sites:**
- 8           ~~(23)~~ **(21)** State parks.
- 9           ~~(24)~~ **(22)** Water.
- 10          SECTION 33. IC 14-10-2-1 IS AMENDED TO READ AS
- 11          FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The commission may
- 12          do the following:
- 13           (1) Take the action that is necessary to enable the state to
- 14           participate in the programs set forth in ~~16~~ U.S.C. 470 et seq.
- 15           (2) Promulgate and maintain a state register of districts; sites;
- 16           buildings; structures; and objects significant in American or
- 17           Indiana history, architecture, archeology, and culture and expend
- 18           money for the purpose of preparing comprehensive statewide
- 19           historic surveys and plans; in accordance with criteria established
- 20           by the commission; that comply with the standards and
- 21           regulations promulgated by the United States Secretary of the
- 22           Interior for the preservation, acquisition, and development of the
- 23           properties.
- 24           (3) Establish in accordance with criteria established by the United
- 25           States Secretary of the Interior a program of matching
- 26           grants-in-aid to public agencies for projects having as their
- 27           purpose the preservation for public benefit of properties that are
- 28           significant in American or Indiana history, architecture,
- 29           archeology, and culture.
- 30           (4) accept grants from public and private sources. including those
- 31           provided under ~~16~~ U.S.C. 470 et seq.
- 32          SECTION 34. IC 14-10-2-5 IS AMENDED TO READ AS
- 33          FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The department
- 34          may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties
- 35          of the department under the following:
- 36           (1) IC 14-9.
- 37           (2) This article.
- 38           (3) IC 14-11.
- 39           (4) IC 14-12-2.
- 40           (5) IC 14-14.
- 41           (6) IC 14-17-3.
- 42           (7) IC 14-18, except IC 14-18-6 and IC 14-18-8.

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- 1 (8) IC 14-19-1, IC 14-19-4, and IC 14-19-5.  
 2 ~~(9) IC 14-20-1.~~  
 3 ~~(10) IC 14-21.~~  
 4 ~~(11)~~ (9) IC 14-22-3, IC 14-22-4, and IC 14-22-5.  
 5 ~~(12)~~ (10) IC 14-23-1.  
 6 ~~(13)~~ (11) IC 14-25, except IC 14-25-8-3, IC 14-25-11, and  
 7 IC 14-25-13.  
 8 ~~(14)~~ (12) IC 14-26.  
 9 ~~(15)~~ (13) IC 14-27.  
 10 ~~(16)~~ (14) IC 14-28.  
 11 ~~(17)~~ (15) IC 14-29.  
 12 ~~(18)~~ (16) IC 14-35-1, IC 14-35-2, and IC 14-35-3.

13 (b) A rule adopted under subsection (a) expires not later than one  
 14 (1) year after the rule is accepted for filing by the secretary of state.

15 SECTION 35. IC 14-10-3-1 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. This chapter applies  
 17 to the property managers of **the following**:

18 (1) Each of the following divisions of the department:

- 19 ~~(1)~~ (A) State parks.  
 20 ~~(2)~~ (B) Forestry.  
 21 ~~(3)~~ (C) Fish and wildlife.  
 22 ~~(4)~~ (D) Reservoir management.

23 ~~(5)~~ (2) **The division of state museums and historic sites of the**  
 24 **department of Indiana heritage.**

25 SECTION 36. IC 14-11-3-1 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) As used in this  
 27 section, "license" means a license, a franchise, a permit, a certification,  
 28 an approval, a registration, a charter, or a similar form of authorization  
 29 that may be issued to a person by:

- 30 (1) the department;  
 31 (2) the commission; or  
 32 (3) the director;

33 under Indiana law. ~~The term does not include a license issued by the~~  
 34 ~~historic preservation review board established by IC 14-21-1-20.~~

35 (b) Notwithstanding any other law, the director shall issue all  
 36 licenses.

37 (c) A designee of the director may issue licenses. A designee of the  
 38 director must be a full-time employee of the department.

39 SECTION 37. IC 14-12-2-14 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) The Indiana  
 41 heritage trust project committee is established.

42 (b) The project committee consists of the following sixteen (16)



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- 1 members:
- 2 (1) The director of the division of fish and wildlife.
- 3 (2) The director of the division of forestry.
- 4 (3) The director of the division of nature preserves.
- 5 (4) The director of the division of state parks.
- 6 (5) The director of the division of outdoor recreation.
- 7 (6) The director of the division of state museums and historic sites
- 8 **of the department of Indiana heritage.**
- 9 (7) Ten (10) individuals appointed by the governor:
- 10 (A) who are residents of Indiana;
- 11 (B) who have a demonstrated interest or experience in:
- 12 (i) conservation of natural resources; or
- 13 (ii) management of public property;
- 14 (C) each of whom resides in a different congressional district;
- 15 and
- 16 (D) who represent the following:
- 17 (i) The environmentalist community.
- 18 (ii) The academic community.
- 19 (iii) Organized hunting and fishing groups.
- 20 (iv) The forest products community.
- 21 (v) The parks and recreation community.
- 22 SECTION 38. IC 14-20-1-2 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this
- 24 chapter, "division" refers to the division of state museums and historic
- 25 sites **of the department of Indiana heritage.**
- 26 SECTION 39. IC 14-20-1-7.5 IS ADDED TO THE INDIANA
- 27 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
- 28 [EFFECTIVE JULY 1, 2001]: **Sec. 7.5. (a) The commissioner shall**
- 29 **appoint a director as the executive head of the division.**
- 30 **(b) The director must have:**
- 31 **(1) a graduate degree in museum studies, history, historic**
- 32 **preservation, or a closely related discipline; and**
- 33 **(2) at least five (5) years professional experience in managing**
- 34 **a historic site or a museum.**
- 35 **(c) The commissioner may remove the director at any time.**
- 36 SECTION 40. IC 14-20-1-16 IS AMENDED TO READ AS
- 37 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The board of
- 38 trustees for the division of state museums and historic sites is
- 39 established.
- 40 (b) The trustees consist of thirteen (13) members as follows:
- 41 (1) The **director commissioner** of the department, who shall serve
- 42 as chairman.

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- 1 (2) Twelve (12) members appointed by the governor as follows:  
 2 (A) One (1) member of the Indiana State Museum Society  
 3 nominated by the Society.  
 4 (B) One (1) member of the Indiana State Museum Volunteers  
 5 nominated by the volunteers.  
 6 (C) Two (2) members must be recognized supporters of  
 7 historic sites.  
 8 (D) Not more than seven (7) members may be members of the  
 9 same political party.  
 10 (E) Not more than two (2) members may be from the same  
 11 county.  
 12 (F) Each congressional district in Indiana must be represented  
 13 by at least one (1) member.

14 (c) The terms of the appointed members shall be staggered.

15 SECTION 41. IC 14-20-1-22 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. The trustees shall  
 17 do the following:

- 18 ~~(1) Nominate, when the position of division director is vacant, a~~  
 19 ~~person to be appointed by the director to that position. If the~~  
 20 ~~director rejects a nominee's appointment, the trustees shall~~  
 21 ~~nominate another person.~~  
 22 ~~(2) Recommend, when appropriate, the dismissal of a division~~  
 23 ~~director.~~  
 24 ~~(3) (1) Make recommendations concerning the salary ranges of~~  
 25 ~~the administrative, professional, and technical staff of the~~  
 26 ~~division.~~  
 27 ~~(4) (2) Review the budget needs and requests of the division and~~  
 28 ~~make recommendations concerning the needs and requests to the~~  
 29 ~~governor through the director. commissioner.~~  
 30 ~~(5) (3) Recommend that the department accept or reject, hold, or~~  
 31 ~~dispose of grants of property to be administered by the division~~  
 32 ~~for the purpose of preservation, research, or interpretation of~~  
 33 ~~significant areas, events, or grants to citizens of Indiana for the~~  
 34 ~~purpose of preserving, studying, and interpreting archeological~~  
 35 ~~and natural phenomena, cultural trends, and accomplishments.~~  
 36 ~~(6) (4) Review, guide, and assist in the development of statewide~~  
 37 ~~outreach programs.~~  
 38 ~~(7) (5) Review, guide, and assist in the development of~~  
 39 ~~professionalism of the staff and operations.~~  
 40 ~~(8) (6) Review, recommend, and devise methods to enable the~~  
 41 ~~division to do the following:~~  
 42 (1) Increase the division's physical plant.



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- 1 (2) Expand the educational areas.
- 2 (3) Meet storage needs.
- 3 ~~(9)~~ (7) Develop a plan of growth to meet physical, program, and
- 4 financial needs for both the immediate and long range future,
- 5 monitor the plan at regular intervals, and ensure that the
- 6 institution stays within the developed plan.
- 7 ~~(10)~~ (8) Recommend policies, procedures, and practices that the
- 8 commission, the ~~director~~, **commissioner**, and the ~~secretary~~
- 9 **director of the division** shall consider.
- 10 ~~(11)~~ (9) Give advice or make recommendations to the governor
- 11 and the general assembly when requested or on the initiative of
- 12 the trustees.
- 13 ~~(12)~~ (10) Review the conduct of the work of the division. To
- 14 implement this duty, the trustees have access at any reasonable
- 15 time to copies of all records pertaining to the work of the division.
- 16 ~~(13)~~ (11) Adopt bylaws consistent with this chapter for the
- 17 division's internal control and management and file a copy of the
- 18 bylaws with the ~~director~~, **commissioner**.
- 19 ~~(14)~~ (12) Hold meetings at the times and places in Indiana that are
- 20 prescribed by the bylaws, but at least quarterly.
- 21 ~~(15)~~ (13) Keep minutes of the transactions of each regular and
- 22 special meeting and file the minutes with the ~~director~~,
- 23 **commissioner**. The minutes are public records.
- 24 ~~(16)~~ (14) Promote the welfare of the division.
- 25 ~~(17)~~ (15) Make recommendations concerning the administration
- 26 of the fund established by section 24 of this chapter.

27 SECTION 42. IC 14-20-4-10 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. The commission  
 29 shall do the following:

- 30 (1) Recommend legislation to do the following:
  - 31 (A) Protect the area from the environmental degradation.
  - 32 (B) Assure development of the historic, scenic, aesthetically
  - 33 pleasing, cultural, educational, and recreational nature of the
  - 34 community.
- 35 (2) Conduct a survey of New Harmony memorabilia that is in
- 36 existence and establish a plan for restoring the memorabilia to the
- 37 community.
- 38 (3) Conduct other activities that are necessary for promotion and
- 39 enhancement of the area of New Harmony.
- 40 (4) Cooperate with the department, **the department of natural**
- 41 **resources**, and **the** Indiana department of transportation on
- 42 recommending access and egress from New Harmony.

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1 SECTION 43. IC 14-20-6-3 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. The real property  
 3 shall be administered, maintained, managed, and controlled by the  
 4 department in the same manner as the state parks **are managed and**  
 5 **controlled by the department of natural resources** and shall be  
 6 known as The James F.D. Lanier Home.

7 SECTION 44. IC 14-20-12-3 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. Thousands of  
 9 Hoosiers all over the nation have contributed toward the moving and  
 10 restoration of this historic house and because the house has already  
 11 proven to be an outstanding tourist attraction and in keeping with our  
 12 great American heritage, it is the intent of this chapter that the  
 13 department of commerce, the department **of Indiana heritage, the**  
 14 **department of natural resources**, and other appropriate state boards  
 15 and agencies give widespread publicity to this memorial by brochure,  
 16 pamphlet, or other means.

17 SECTION 45. IC 14-29-1-8 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) A person, other  
 19 than a public or municipal water utility, may not:

- 20 (1) place, fill, or erect a permanent structure in;
- 21 (2) remove water from; or
- 22 (3) remove material from;

23 a navigable waterway without a permit from the department.

24 (b) An application for a permit under this section must be made in  
 25 a manner prescribed by rule.

26 (c) The department shall issue a permit if the issuance of the permit  
 27 will not do any of the following:

- 28 (1) Unreasonably impair the navigability of the waterway.
- 29 (2) Cause significant harm to the environment.
- 30 (3) Pose an unreasonable hazard to life or property.

31 (d) A separate permit is not required under this section for an  
 32 activity permitted under any of the following:

- 33 ~~(1) IC 14-21-1.~~
- 34 ~~(2)~~ (1) IC 14-28-1.
- 35 ~~(3)~~ (2) IC 14-29-3.
- 36 ~~(4)~~ (3) IC 14-29-4.
- 37 ~~(5)~~ (4) IC 14-34.
- 38 ~~(6)~~ (5) IC 14-37.

39 However, a permit issued under a statute specified in this subsection  
 40 must also apply the requirements of this section with respect to an  
 41 activity within a navigable waterway.

42 (e) A separate permit is not required under this section for an

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1 activity for which a permit has been issued under any of the following:

2 (1) 16 U.S.C. 1451 et seq. (the federal Coastal Zone Management  
3 Act).

4 (2) 33 U.S.C. 1344 (the federal Clean Water Act).

5 (3) 42 U.S.C. 9601 et seq. (the federal Comprehensive  
6 Environmental Response, Compensation, and Liability Act).

7 (f) The department shall adopt rules under IC 4-22-2 to implement  
8 this section.

9 (g) A person who violates this section commits a Class B infraction.

10 SECTION 46. IC 14-34-4-10 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) The director  
12 may not approve a permit application unless, in addition to the findings  
13 required by section 7 of this chapter, the director states in writing that  
14 the director has ~~considered~~ **consulted with the commissioner of the**  
15 **department of Indiana heritage concerning** the effects of the  
16 proposed mining operation on a place listed on or eligible for listing on  
17 the National Register of Historic Places or the Indiana state register of  
18 historic sites and structures.

19 (b) If the director considers it appropriate in accordance with rules  
20 adopted by the commission under this section, the director may impose  
21 conditions on a permit for the protection of properties or sites listed on  
22 or eligible for listing on the National Register of Historic Places or the  
23 Indiana state register of historic sites and structures requiring that:

24 (1) mining operations not occur in the areas occupied by the  
25 properties or sites; or

26 (2) measures be implemented to mitigate the effects of the  
27 operation upon those properties or sites before mining.

28 (c) The commission shall adopt rules under IC 4-22-2 to implement  
29 this section consistent with the following general principles:

30 (1) The commission's rules may not prohibit the use of  
31 information from any source and shall recognize the  
32 responsibilities of the state historic preservation officer under  
33 ~~IC 14-21-1-12~~ **IC 4-35-5-11** and ~~IC 14-21-1-15~~ **IC 4-35-5-15**.

34 (2) The commission's rules must provide for participation by  
35 professional and amateur archeologists, anthropologists,  
36 historians, or related experts in any:

37 (A) field investigations;

38 (B) studies; or

39 (C) records searches;

40 required by the director under this section.

41 (3) The commission's rules must strive to ensure that field  
42 investigations and studies are required only where a substantial

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1 likelihood exists that important and significant archeological or  
2 historic sites are present.

3 (4) In considering the effect of proposed surface coal mining and  
4 reclamation operations on a property or site eligible for listing on  
5 the National Register of Historic Places, the director shall  
6 consider the following:

7 (A) Based on information available from the ~~division of~~  
8 historic preservation, ~~and archeology, and history division of~~  
9 **the department of Indiana heritage**, the relative importance  
10 of the property or site compared to other properties or sites in  
11 Indiana listed on or eligible for listing on the National Register  
12 of Historic Places.

13 (B) The cost of an investigation of the permit area or site as  
14 estimated by the applicant. A decision that an investigation is  
15 not required may not be based on cost alone.

16 (5) This section does not authorize rules that impair the ownership  
17 of artifacts or other material found on private land.

18 (d) The director may do the following:

19 (1) Investigate the possibility of obtaining available federal or  
20 private:

- 21 (A) grants;  
22 (B) subsidies; or  
23 (C) aid;

24 to defer the cost to private individuals of measures required by the  
25 director under this section.

26 (2) Apply for any:

- 27 (A) grants;  
28 (B) aid; or  
29 (C) subsidies;

30 that the director determines are available.

31 (e) In making the finding required by this section, the director shall  
32 take into account the general principles set forth in subsection (c).

33 SECTION 47. IC 20-11-3-5.5 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.5. (a) As used in this  
35 section, "concerned state agency" includes the following state agencies  
36 that are inherently concerned with the mission of the coalition as stated  
37 in section 1 of this chapter:

- 38 (1) The **Indiana** state library ~~and historical society: division~~.  
39 (2) The department of workforce development.  
40 (3) The department of correction.  
41 (4) The office of the secretary of family and social services.  
42 (5) The department of commerce.



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1 (6) The department of education.

2 (b) The director of a concerned state agency shall:

3 (1) appoint an ex officio member to serve on the coalition; and

4 (2) provide appropriate support to the coalition.

5 SECTION 48. IC 20-14-12-1.1 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.1. As used in this  
7 chapter, "~~board~~" "**division**" refers to the Indiana **state** library ~~and~~  
8 ~~historical board~~ **division** established under ~~IC 4-23-7-2~~ **IC 4-23-7-1**.

9 SECTION 49. IC 20-14-12-3 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. The ~~board~~ **division**  
11 shall do the following:

12 (1) Prescribe and define grades of public library service and  
13 prescribe the qualifications that persons must possess who are  
14 employed in each of the grades of public library service, giving  
15 due consideration to the population served, the income, and the  
16 salary schedule of each library.

17 (2) Make available the requirements for certification of all grades  
18 upon request and without charge to all prospective applicants.

19 (3) Issue certificates to candidates who apply for them, and who,  
20 by reason of their academic or technical training and experience,  
21 are found to be suitable persons to certify.

22 (4) Prescribe and define what constitutes a library director, a head  
23 of a department or branch, or a professional assistant of a public  
24 library.

25 (5) Adopt under IC 4-22-2 rules that the ~~board~~ **division**  
26 determines are necessary to administer this chapter.

27 SECTION 50. IC 20-14-12-7, AS AMENDED BY P.L.1-1999,  
28 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2001]: Sec. 7. (a) A person who:

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

32 (2) possesses the qualifications prescribed in the rules of the  
33 ~~board~~ **division** as essential to enable a person to apply for a  
34 certificate;

35 may apply to the ~~board~~ **division** for a certificate in any grade or grades  
36 of public library service.

37 (b) The application must be:

38 (1) made on a form prescribed and supplied by the ~~board~~;  
39 **division**; and

40 (2) accompanied by the fee set by the ~~board~~ **division** under  
41 section 11 of this chapter.

42 (c) If the application is found to be satisfactory, the applicant is

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1 entitled to a certificate in the grade or grades of public library service  
2 for which applied.

3 SECTION 51. IC 20-14-12-9 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. The **board division**  
5 may adopt rules necessary for the reciprocal recognition of certificates  
6 for librarians issued by other states whose qualifications for library  
7 service are at least as high as the qualifications in Indiana, in order to  
8 prevent unjust and arbitrary exclusions by other states of certified  
9 librarians who have complied with the requirements of Indiana law. In  
10 order to effect this section, the **board division** shall consider the  
11 recommendations of the American Library Association.

12 SECTION 52. IC 20-14-12-11 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The **board**  
14 **division** shall adopt rules under IC 4-22-2 to set fees to be paid by an  
15 individual who applies for certification under section 7 of this chapter.  
16 If the **board division** has not set a fee by rule for a particular type of  
17 application, the fee is one dollar (\$1).

18 (b) Payment of fees set under this section may be made by any of the  
19 following:

- 20 (1) Cash.
- 21 (2) A draft.
- 22 (3) A money order.
- 23 (4) A cashier's check.
- 24 (5) A certified check.
- 25 (6) A personal check.

26 If an individual pays a fee with an uncertified personal check and the  
27 check does not clear the bank, the **board division** may void the  
28 certificate for which the check was received.

29 (c) Unless specified by the rules of the **board; division**, a fee is not  
30 refundable or transferable.

31 (d) Fees shall be paid to the library certification account established  
32 under section 10 of this chapter.

33 SECTION 53. IC 20-14-12-14 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. All complaints  
35 concerning a practitioner must be written, signed by the complainant,  
36 and initially filed with the director. Except for an employee of the  
37 attorney general's office acting in an official capacity, a complaint may  
38 be filed by any person, including a **member an employee** of the **board;**  
39 **division.**

40 SECTION 54. IC 20-14-12-15 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. The director has the  
42 following duties and powers:

SB 239—LS 6729/DI 77+



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- 1 (1) The director shall make an initial determination as to the merit  
 2 of a complaint. ~~The director shall submit a copy of a complaint~~  
 3 ~~having merit to the board. Except as otherwise provided by this~~  
 4 ~~chapter, the board acquires jurisdiction over the complaint upon~~  
 5 ~~submission of the complaint to the board by the director.~~  
 6 (2) The director shall notify the practitioner of the nature and  
 7 ramifications of the complaint and of the duty of the ~~board~~  
 8 **division** to attempt to resolve the complaint through negotiation.  
 9 (3) The director shall report any pertinent information regarding  
 10 the status of the complaint to the complainant.  
 11 (4) The director may investigate any written complaint against a  
 12 practitioner. The director shall limit the investigation to areas that  
 13 appear to be in violation of this chapter or rules adopted under  
 14 this chapter.  
 15 (5) The director may:  
 16 (A) subpoena witnesses; or  
 17 (B) send for and compel the production of books, records,  
 18 papers, and documents;  
 19 in relation to an investigation under this chapter. The circuit or  
 20 superior court located in the county where a subpoena is to be  
 21 issued shall enforce the subpoena.  
 22 SECTION 55. IC 20-14-12-19 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. If there has not  
 24 been a statement filed under section 17 of this chapter, and if after  
 25 conducting an investigation the director believes the practitioner should  
 26 be subject to disciplinary sanctions by the ~~board~~, **division**, the director  
 27 shall file a report with the attorney general. Upon receiving the  
 28 director's report, the attorney general may prosecute the matter before  
 29 the ~~board division~~ on behalf of the state.  
 30 SECTION 56. IC 20-14-12-21 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 21. (a) IC 4-21.5  
 32 applies to proceedings to discipline a practitioner under this chapter.  
 33 (b) The ~~board division~~ is the ultimate authority under IC 4-21.5.  
 34 SECTION 57. IC 20-14-12-22 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. (a) A complaint and  
 36 information pertaining to the complaint are confidential until the  
 37 attorney general files notice with the ~~board division~~ of intent to  
 38 prosecute the practitioner.  
 39 (b) Unless required to do so under law or in furtherance of an  
 40 investigation, a person employed by the office of the attorney general,  
 41 the ~~board~~, **division**, or the director may not disclose or further the  
 42 disclosure of information concerning a complaint.

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1 SECTION 58. IC 20-14-12-23 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. A practitioner may  
 3 be disciplined under section 26 of this chapter if, after a hearing, the  
 4 **board division** finds any of the following:

5 (1) The practitioner has:

6 (A) employed or knowingly cooperated in fraud or material  
 7 deception in order to obtain a certificate issued under this  
 8 chapter;

9 (B) engaged in fraud or material deception in the course of  
 10 professional services or activities; or

11 (C) advertised services in a false or misleading manner.

12 (2) The practitioner has been convicted of a crime that has a  
 13 direct bearing on the practitioner's ability to practice competently.

14 (3) The practitioner has knowingly violated a rule adopted by the  
 15 **board division**.

16 (4) The practitioner has continued to practice although the  
 17 practitioner has become unfit to practice due to:

18 (A) professional incompetence;

19 (B) failure to keep abreast of current professional theory or  
 20 practice;

21 (C) physical or mental disability; or

22 (D) addiction or severe dependency upon alcohol or other  
 23 drugs which endangers the public by impairing a practitioner's  
 24 ability to practice safely.

25 (5) The practitioner has engaged in a course of lewd or immoral  
 26 conduct in connection with the practitioner's practice.

27 SECTION 59. IC 20-14-12-24 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 24. The **board division**  
 29 may order a practitioner to submit to a reasonable physical or mental  
 30 examination if the practitioner's physical or mental capacity to practice  
 31 safely is at issue in a disciplinary proceeding.

32 SECTION 60. IC 20-14-12-25 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 25. Failure of a  
 34 practitioner to comply with a **board division** order to submit to a  
 35 physical or mental examination renders the practitioner liable to the  
 36 summary revocation procedures under section 27 of this chapter.

37 SECTION 61. IC 20-14-12-26 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 26. The **board division**  
 39 may impose any of the following sanctions, singly or in combination,  
 40 if the **board division** finds a practitioner has committed an offense  
 41 under section 23 of this chapter:

42 (1) Permanently revoke the practitioner's certificate.



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- 1 (2) Suspend the practitioner's certificate.  
 2 (3) Censure the practitioner.  
 3 (4) Issue a letter of reprimand.  
 4 (5) Place the practitioner on probation status and require the  
 5 practitioner to:  
 6 (A) report regularly to the **board division** upon the matters that  
 7 are the basis of the probation;  
 8 (B) limit practice to those areas prescribed by the ~~board;~~  
 9 **division;** or  
 10 (C) continue or renew professional education under a  
 11 practitioner approved by the **board division** until a satisfactory  
 12 degree of skill has been attained in those areas that are the  
 13 basis of the probation.

14 The **board division** may withdraw the probation if the **board division**  
 15 finds that the deficiency that required disciplinary action has been  
 16 remedied.

17 SECTION 62. IC 20-14-12-27 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 27. The **board division**  
 19 may summarily suspend a practitioner's certificate for ninety (90) days  
 20 in advance of final adjudication or during the appeals process if the  
 21 **board division** finds that the practitioner represents a clear and  
 22 immediate danger to the public health and safety if the practitioner is  
 23 allowed to continue to practice. The summary suspension may be  
 24 renewed upon a hearing before the ~~board;~~ **division,** and each renewal  
 25 may be for ninety (90) days or less.

26 SECTION 63. IC 20-14-12-28 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 28. The **board division**  
 28 may reinstate a certificate that has been suspended under this chapter  
 29 if, after a hearing, the **board division** is satisfied that the applicant is  
 30 able to practice with reasonable skill and safety. As a condition of  
 31 reinstatement, the **board division** may impose disciplinary or corrective  
 32 measures authorized under this chapter.

33 SECTION 64. IC 20-14-12-29 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 29. The **board division**  
 35 shall seek to achieve consistency in the application of sanctions  
 36 authorized in this chapter, and significant departures from prior  
 37 decisions involving similar conduct shall be explained in the ~~board's~~  
 38 **division's** findings or orders.

39 SECTION 65. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 40 JULY 1, 2001]: IC 4-13-12; IC 4-23-7-2.1; IC 4-23-7-3; IC 4-23-7-3.2;  
 41 IC 4-23-7-5.3; IC 4-23-7.1-23; IC 4-23-7.2; IC 4-23-8; IC 14-8-2-5;  
 42 IC 14-8-2-16; IC 14-8-2-30; IC 14-8-2-31; IC 14-8-2-127;

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1 IC 14-8-2-236; IC 14-8-2-244; IC 14-8-2-266.8; IC 14-8-2-268;  
2 IC 14-8-2-268.5; IC 14-21; IC 20-14-12-16; IC 20-14-12-18;  
3 IC 20-14-12-20.

4 SECTION 66. [EFFECTIVE JULY 1, 2001] (a) **Notwithstanding**  
5 **IC 4-35-4-3(a), as added by this act, the initial terms of office for**  
6 **the six (6) individuals appointed to the Indiana heritage**  
7 **commission by the governor under IC 4-35-4-1(9) are as follows:**

8 (1) **Two (2) members for terms of one (1) year each.**

9 (2) **Two (2) members for terms of two (2) years each.**

10 (3) **Two (2) members for terms of three (3) years each.**

11 (b) **The initial terms begin July 1, 2001.**

12 (c) **This SECTION expires July 1, 2004.**

13 SECTION 67. [EFFECTIVE JULY 1, 2001] (a) **The division of**  
14 **state museums and historic sites established within the department**  
15 **of Indiana heritage by this act is a continuation of the division of**  
16 **state museums and historic sites of the department of natural**  
17 **resources.**

18 (b) **The rules adopted by the natural resources commission**  
19 **concerning the division of state museums and historic sites of the**  
20 **department of natural resources shall be treated, after June 30,**  
21 **2001, as rules of the Indiana heritage commission.**

22 (c) **On July 1, 2001, all powers, duties, assets, and liabilities of**  
23 **the department of natural resources that are attributable to the**  
24 **division of state museums and historic sites are transferred to the**  
25 **department of Indiana heritage.**

26 (d) **After June 30, 2001, a reference to the department of natural**  
27 **resources in a statute or rule concerning the division of state**  
28 **museums and historic sites shall be treated as a reference to the**  
29 **department of Indiana heritage.**

30 (e) **After June 30, 2001, a reference to the director of the**  
31 **department of natural resources in a statute or rule concerning the**  
32 **division of state museums and historic sites shall be treated as a**  
33 **reference to the commissioner of the department of Indiana**  
34 **heritage.**

35 SECTION 68. [EFFECTIVE JULY 1, 2001] (a) **The division of**  
36 **public records renamed by this act is a continuation of the**  
37 **commission on public records.**

38 (b) **The rules adopted by the commission on public records shall**  
39 **be treated, after June 30, 2001, as rules of the division of public**  
40 **records.**

41 (c) **On July 1, 2001, all powers, duties, assets, and liabilities of**  
42 **the commission on public records are transferred to the division of**

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1 public records.

2 (d) After June 30, 2001, a reference to the commission on public  
3 records in a statute or rule shall be treated as a reference to the  
4 division of public records.

5 SECTION 69. [EFFECTIVE JULY 1, 2001] (a) A member of the  
6 historic preservation review board appointed under IC 14-21-1  
7 (before its repeal by this act) shall continue to serve as a member  
8 of the history and historic preservation review board established  
9 by IC 4-35-5-35, as added by this act, until the end of the term for  
10 which the member was appointed.

11 (b) Notwithstanding IC 4-35-5-35(d), as added by this act, the  
12 commissioner may appoint one (1) or both of the members of the  
13 history and historic preservation review board under  
14 IC 4-35-5-35(b)(4), as added by this act, to an initial term of less  
15 than three (3) years.

16 (c) This SECTION expires July 1, 2004.

17 SECTION 70. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding  
18 the repeal of IC 4-23-7.2-7 by this act, funds that are in the  
19 historical bureau publications and educational fund as of June 30,  
20 2001, are transferred to the historical publications and educational  
21 fund established by IC 4-35-5-45, as added by this act.

22 (b) Notwithstanding the repeal of IC 4-23-7.2-9 by this act,  
23 funds that are in the governor portraits fund as of June 30, 2001,  
24 are transferred to the governor portraits fund established by  
25 IC 4-35-5-57, as added by this act.

26 (c) This SECTION expires July 1, 2002.

27 SECTION 71. [EFFECTIVE JULY 1, 2000] (a) The legislative  
28 services agency shall prepare legislation for introduction in the  
29 2002 regular session of the general assembly to organize and  
30 correct statutes affected by the transfer of responsibilities to the  
31 department of Indiana heritage by this act.

32 (b) This SECTION expires June 30, 2003.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 239, 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 and be reassigned to the Senate Committee on Finance.

(Reference is made to Senate Bill 239 as introduced.)

GARTON, Chairperson

Committee Vote: Yeas 7, Nays 0.

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