January 21, 2000

SENATE BILL No. 239

DIGEST OF SB 239 (Updated January 20, 2000 11:47 AM - DI 44)

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, Hume

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.
January 20, 2000, reported favorably — Do Pass.

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January 21, 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.

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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:

SECTION 1. IC 4-35 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

ARTICLE 35. DEPARTMENT OF INDIANA HERITAGE

Chapter 1. Definitions

Sec. 1. "Agricultural purpose", for purposes of IC 4-35-5-10, has the meaning set forth in IC 4-35-5-9.

Sec. 2. "Artifact", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-2.

Sec. 3. "Burial ground", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-3.

Sec. 4. "Burial object", for purposes of IC 4-35-5, has the meaning set forth in IC 4-35-5-4.

Sec. 5. "Commission", for purposes of this article, refers to the Indiana heritage commission.

Sec. 6. "Commissioner", for purposes of this article, refers to the commissioner of the department of Indiana heritage.

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

(1) contributes materially to the significance of a historic property; or

(2) would, if altered from its present condition or converted to a proposed use, have a material adverse effect on a historic property.

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

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

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

(1) Indiana history and folklore;

(2) Indiana architecture, engineering, landscape design, and planning;

(3) physical features created or shaped by human hand that have value and meaning to the people of the state; and

(4) surviving remains of prehistoric and historic cultures.

(b) The term includes manifestations that are:

(1) tangible or intangible;

(2) in handwritten, printed, audio-visual, oral, or electronic form;

(3) designed and constructed or accrued over the passage of time; and

(4) located above or below ground.

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

(1) a historic site;

(2) a historic structure; or

(3) other personal or real property located on or in a historic site or historic structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 2. General Provisions

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

Sec. 2. The department consists of the following:

(1) The office of the commissioner.

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

(3) The division of state museums and historic sites

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established by IC 14-20.

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

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

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

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

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

(2) perform other educational functions.

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

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

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

(b) The fund consists of the following:

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

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

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

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

Chapter 3. Office of the Commissioner of the Department

Sec. 1. The office of the commissioner of the department is established.

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

(b) The commissioner must have:

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

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(A) Archeology or a closely related field.
(B) Museum studies, history, historic preservation, or a closely related discipline.
(C) Library science or management.
(D) History, archives management, or a closely related field; and
(2) at least ten (10) years of professional experience in one (1) or more of the following disciplines:
(A) Historic preservation or archeology.
(B) Managing a historic site or museum.
(C) Library management.
(D) Information and forms management or archives management.

Sec. 3. The commissioner is entitled to compensation in an amount to be fixed by the Indiana department of administration with the approval of the governor.

Sec. 4. The commissioner may do the following:
(1) Appoint and remove the director of the:
(A) historic preservation, archeology, and history division;
(B) state museums and historic sites division;
(C) Indiana state library division (under IC 4-23-7.1-37); and
(D) division of public records;
of the department.
(2) Upon the recommendation of a division director, appoint and remove all officers and employees of a division.
(3) Adopt rules under IC 4-22-2 concerning matters within the authority of the commissioner and the department.
(4) Delegate authority to appropriate department staff.
(5) Create other offices and divisions.
(6) Appoint advisory commissions to consult and advise on the work of the department and its divisions.

Sec. 5. The commissioner shall supervise the work of the department and of each of the divisions of the department.

Sec. 6. (a) Employees of each division, except the director, shall be selected by the director of the division with the approval of the commissioner and may be removed by the director for cause at any time with the approval of the commissioner.

(b) The commissioner may adopt rules under IC 4-22-2 prescribing academic preparation and special training required for employees of the department who hold certain positions.

(c) The commissioner may provide that appointments may be

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

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

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

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

Chapter 4. Indiana Heritage Commission

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The chairperson:

(1) may call a special meeting; and

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

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

(1) the operation of the department;

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

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

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

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

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

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

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

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

(1) receives the notice; and

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

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

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

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

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

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

Chapter 5. Historic Preservation, Archeology, and History Division

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

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

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

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

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

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

(1) stage of decomposition; or

(2) state of preservation.

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

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

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

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

(1) Surface coal mining regulated under IC 14-34.

(2) Cemeteries and human remains subject to IC 23-14.

(3) Disturbing the earth for an agricultural purpose.

(4) Collecting an object other than human remains that is visible in whole or in part on the surface of the ground, regardless of the time the object was made or shaped.

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

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

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

(b) The director must have:

(1) a graduate degree in historic preservation, archeology, or a closely related field; and

(2) not less than three (3) years of professional experience in either historic preservation or archeology.

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

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time.

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

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

Sec. 15. The division shall do the following:

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

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

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

(B) approved by the commission after public hearing.

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

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

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

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

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

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

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

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

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

(1) oral;

(2) by letter or circular; or

(3) by forms provided to the officer to complete.

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

(1) the Indiana historical bureau established under IC 4-23-7.2 (before its repeal) as a division of the Indiana library and historical department; and

(2) the division of historic preservation and archeology of the department of natural resources.

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

(1) concern the Indiana historical bureau; and

(2) were filed with the secretary of state before July 1, 2001;

shall be treated after June 30, 2001, as though they had been adopted by the Indiana heritage commission.

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

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

(1) the Indiana historical bureau established under IC 4-23-7.2 (before its repeal); and

(2) the division of historic preservation and archeology of the department of natural resources;

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

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

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

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

(1) Indiana library and historical board; and

(2) Indiana library and historical department;

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

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

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

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

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

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

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

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

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

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

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

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

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

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approved by:

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

(2) the department of natural resources under:

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

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

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

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

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

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

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

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

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

(1) without a plan approved by:

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

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

(2) in violation of a plan described in subdivision (1);

commits a Class D felony.

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

(1) Immediately cease disturbing the ground.

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

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

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

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

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

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

Sec. 31. (a) A:

(1) historic site or historic structure owned by the state; or

(2) historic site or historic structure listed on the state or national register;

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

(b) An application for a certificate of approval:

(1) must be filed with the division; and

(2) shall be granted or rejected by the review board after a public hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The executive of the:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) an interested party.

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

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

(1) The commissioner.

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

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

(A) History.

(B) Prehistoric or historic archeology.

(C) Architecture or historical architecture.

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

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

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

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

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

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

(1) required by this article; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) historical documents; and

(2) other material to:

(A) promote the study of Indiana history; and

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

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

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(1) Proceeds from the sale of:

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

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

(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 to the historical publications fund is appropriated continuously for purposes specified in this section.

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

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

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

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

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

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

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

(2) Appropriate sites to be marked.

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

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

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maintenance.

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

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

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

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

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

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

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

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

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

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

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(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 to the governor portraits fund is appropriated continuously for purposes specified in this section.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Indiana library and historical board; and

(2) Indiana library and historical department;

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

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

(1) the Indiana library and historical board; and

(2) the Indiana library and historical department;

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

SECTION 4. IC 4-23-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. ~~The management and control of the Indiana library and historical department is hereby vested in a board which shall be known as the Indiana library and historical board, and which shall consist of five (5) members, who shall be appointed by the governor, as hereinafter provided. In the first instance, one (1) of such members shall be appointed for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and two (2) members for a term of four (4) years. Thereafter all members shall be appointed for terms of four (4) years. No person shall be appointed as a member of the Indiana library and historical board unless he is a citizen of high standing and probity and has a known and active interest in library or historical work. One (1) member of the library and historical board shall be appointed on recommendation of the state board of education, one (1) member shall be appointed on recommendation of the Indiana library, trustee association, one (1) member shall be appointed on recommendation of the Indiana library association, one (1) member shall be appointed on recommendation of the Indiana historical society, and one (1) member shall be selected and appointed by the governor. The members of the board shall serve without compensation, but shall be entitled to receive their actual expenses necessarily incurred in attending the meetings and transacting the business of the board, and in participating in such other activities as may be in the interest of the department. Any vacancy which may occur in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term, either on recommendation of the board, association or society hereinbefore~~

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

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

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

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

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

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

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

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

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(2) "Agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government.

~~(3) "Board" means the Indiana library and historical board established by IC 4-23-7-2.~~

~~(4) "Department" means the Indiana library and historical department established by IC 4-23-7-1.~~

~~(5)~~ **(3) "Commissioner" refers to the commissioner of the department of Indiana heritage.**

(4) "Director" means director of the Indiana state library **and the Indiana state library division.**

~~(6) "Historical bureau" means the Indiana historical bureau established by IC 4-23-7-3.~~

(5) "Division" refers to the Indiana state library division created by IC 4-23-7-1.

~~(7)~~ **(6)** "Public library" has the meaning set forth in IC 20-14-1-2.

~~(8)~~ **(7)** "State library" means the Indiana state library established by ~~IC 4-23-7-3.~~ **IC 4-23-7.1-2.**

~~(9)~~ **(8)** "Statewide library card program" refers to the program established by section 5.1 of this chapter.

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

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

(1) to develop and provide library service to state government, its branches, its departments and its officials and employees;

(2) to provide for the individual citizens of the state those specialized library services not generally appropriate, economical or available in other libraries of the state;

(3) to encourage and support the development of the library profession; and

(4) to strengthen services of all types of publicly and privately supported special, school, academic, and public libraries.

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

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~~library and historical board.~~ **director and commissioner, with the advice of the advisory council.**

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

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

(1) the population served by each eligible public library district;

(2) the level of services offered; and

(3) the loans made by the public library district to others outside the public library's taxing district.

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

(1) comply with the standards and rules established under section 11 of this chapter;

(2) comply with IC 20-14; and

(3) submit an application on a form prescribed by the Indiana state library, including a summary of loan data for the previous year, to the Indiana state library no later than May 1 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) general policies of the state library;

(2) plans or programs for library development and interlibrary

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cooperation;

(3) library research;

(4) professional development for librarians;

(5) standards and rules for library services;

(6) administration and distribution of state and federal funds; and

(7) other matters as requested by the ~~board~~ **commissioner** and the ~~state librarian.~~ **director.**

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

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

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

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

(f) A member of the advisory council **who is not a state employee** is ~~not~~ entitled to ~~(1)~~ the minimum salary per diem provided by IC 4-10-11-2.1(b). ~~or~~

~~(2)~~ **(g) A member of the advisory council is entitled to** reimbursement ~~from state funds~~ for ~~traveling expenses~~ **travel, lodging, meals,** and other expenses ~~actually incurred in connection with the member's duties.~~ **as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.**

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

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

"Commissioner" means the commissioner of the department of Indiana heritage.

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

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

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

(1) paper or paper substitutes;

(2) photographic or chemically based media;

(3) magnetic or machine readable media; or

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

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

"Personal records" means:

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

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

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

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

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

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

"Forms management" means the program maintained by the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

apply throughout this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) historic site;

(2) historic structure; or

(3) other personal or real property located on or in a historic site or historic structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Accounting.

(2) Administrative support services.

(3) Budget.

(4) Engineering.

(5) Entomology and plant pathology.

(6) Fish and wildlife.

(7) Forestry.

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

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

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

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

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

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

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

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

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~~(16)~~ **(15)** Outdoor recreation.
~~(17)~~ **(16)** Public information and education.
~~(18)~~ **(17)** Reclamation.
~~(19)~~ **(18)** Reservoir management.
~~(20)~~ **(19)** Safety and training.
~~(21)~~ **(20)** Soil conservation.
~~(22) State museums and historic sites.~~
~~(23)~~ **(21)** State parks.
~~(24)~~ **(22)** Water.

SECTION 33. IC 14-10-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The commission may ~~do the following:~~

~~(1) Take the action that is necessary to enable the state to participate in the programs set forth in 16 U.S.C. 470 et seq.~~
~~(2) Promulgate and maintain a state register of districts, sites, buildings, structures, and objects significant in American or Indiana history, architecture, archeology, and culture and expend money for the purpose of preparing comprehensive statewide historic surveys and plans, in accordance with criteria established by the commission, that comply with the standards and regulations promulgated by the United States Secretary of the Interior for the preservation, acquisition, and development of the properties.~~
~~(3) Establish in accordance with criteria established by the United States Secretary of the Interior a program of matching grants-in-aid to public agencies for projects having as their purpose the preservation for public benefit of properties that are significant in American or Indiana history, architecture, archeology, and culture.~~
~~(4)~~ accept grants from public and private sources. ~~including those provided under 16 U.S.C. 470 et seq.~~

SECTION 34. IC 14-10-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) The department may adopt emergency rules under IC 4-22-2-37.1 to carry out the duties of the department under the following:

(1) IC 14-9.
(2) This article.
(3) IC 14-11.
(4) IC 14-12-2.
(5) IC 14-14.
(6) IC 14-17-3.
(7) IC 14-18, except IC 14-18-6 and IC 14-18-8.

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

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

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

(1) Each of the following divisions of the department:
~~(1)~~ **(A)** State parks.
~~(2)~~ **(B)** Forestry.
~~(3)~~ **(C)** Fish and wildlife.
~~(4)~~ **(D)** Reservoir management.

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

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

(1) the department;
(2) the commission; or
(3) the director;

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

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

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

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

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

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members:

(1) The director of the division of fish and wildlife.

(2) The director of the division of forestry.

(3) The director of the division of nature preserves.

(4) The director of the division of state parks.

(5) The director of the division of outdoor recreation.

(6) The director of the division of state museums and historic sites **of the department of Indiana heritage.**

(7) Ten (10) individuals appointed by the governor:

(A) who are residents of Indiana;

(B) who have a demonstrated interest or experience in:

(i) conservation of natural resources; or

(ii) management of public property;

(C) each of whom resides in a different congressional district; and

(D) who represent the following:

(i) The environmentalist community.

(ii) The academic community.

(iii) Organized hunting and fishing groups.

(iv) The forest products community.

(v) The parks and recreation community.

SECTION 38. IC 14-20-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this chapter, "division" refers to the division of state museums and historic sites **of the department of Indiana heritage.**

SECTION 39. IC 14-20-1-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7.5. (a) The commissioner shall appoint a director as the executive head of the division.**

(b) The director must have:

(1) a graduate degree in museum studies, history, historic preservation, or a closely related discipline; and

(2) at least five (5) years professional experience in managing a historic site or a museum.

(c) The commissioner may remove the director at any time.

SECTION 40. IC 14-20-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The board of trustees for the division of state museums and historic sites is established.

(b) The trustees consist of thirteen (13) members as follows:

(1) The ~~director~~ **commissioner** of the department, who shall serve as chairman.

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(2) Twelve (12) members appointed by the governor as follows:

(A) One (1) member of the Indiana State Museum Society nominated by the Society.

(B) One (1) member of the Indiana State Museum Volunteers nominated by the volunteers.

(C) Two (2) members must be recognized supporters of historic sites.

(D) Not more than seven (7) members may be members of the same political party.

(E) Not more than two (2) members may be from the same county.

(F) Each congressional district in Indiana must be represented by at least one (1) member.

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

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

~~(1) Nominate, when the position of division director is vacant, a person to be appointed by the director to that position. If the director rejects a nominee's appointment, the trustees shall nominate another person.~~

~~(2) Recommend, when appropriate, the dismissal of a division director.~~

~~(3)~~ **(1)** Make recommendations concerning the salary ranges of the administrative, professional, and technical staff of the division.

~~(4)~~ **(2)** Review the budget needs and requests of the division and make recommendations concerning the needs and requests to the governor through the ~~director.~~ **commissioner.**

~~(5)~~ **(3)** Recommend that the department accept or reject, hold, or dispose of grants of property to be administered by the division for the purpose of preservation, research, or interpretation of significant areas, events, or grants to citizens of Indiana for the purpose of preserving, studying, and interpreting archeological and natural phenomena, cultural trends, and accomplishments.

~~(6)~~ **(4)** Review, guide, and assist in the development of statewide outreach programs.

~~(7)~~ **(5)** Review, guide, and assist in the development of professionalism of the staff and operations.

~~(8)~~ **(6)** Review, recommend, and devise methods to enable the division to do the following:

(1) Increase the division's physical plant.

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(2) Expand the educational areas.

(3) Meet storage needs.

~~(9)~~ **(7)** Develop a plan of growth to meet physical, program, and financial needs for both the immediate and long range future, monitor the plan at regular intervals, and ensure that the institution stays within the developed plan.

~~(10)~~ **(8)** Recommend policies, procedures, and practices that the commission, the ~~director,~~ **commissioner,** and the ~~secretary~~ **director of the division** shall consider.

~~(11)~~ **(9)** Give advice or make recommendations to the governor and the general assembly when requested or on the initiative of the trustees.

~~(12)~~ **(10)** Review the conduct of the work of the division. To implement this duty, the trustees have access at any reasonable time to copies of all records pertaining to the work of the division.

~~(13)~~ **(11)** Adopt bylaws consistent with this chapter for the division's internal control and management and file a copy of the bylaws with the ~~director.~~ **commissioner.**

~~(14)~~ **(12)** Hold meetings at the times and places in Indiana that are prescribed by the bylaws, but at least quarterly.

~~(15)~~ **(13)** Keep minutes of the transactions of each regular and special meeting and file the minutes with the ~~director.~~ **commissioner.** The minutes are public records.

~~(16)~~ **(14)** Promote the welfare of the division.

~~(17)~~ **(15)** Make recommendations concerning the administration of the fund established by section 24 of this chapter.

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

(1) Recommend legislation to do the following:

(A) Protect the area from the environmental degradation.

(B) Assure development of the historic, scenic, aesthetically pleasing, cultural, educational, and recreational nature of the community.

(2) Conduct a survey of New Harmony memorabilia that is in existence and establish a plan for restoring the memorabilia to the community.

(3) Conduct other activities that are necessary for promotion and enhancement of the area of New Harmony.

(4) Cooperate with the department, **the department of natural resources,** and **the** Indiana department of transportation on recommending access and egress from New Harmony.

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

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

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

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

a navigable waterway without a permit from the department.

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

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

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

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

~~(1) IC 14-21-1.~~
~~(2)~~ **(1)** IC 14-28-1.
~~(3)~~ **(2)** IC 14-29-3.
~~(4)~~ **(3)** IC 14-29-4.
~~(5)~~ **(4)** IC 14-34.
~~(6)~~ **(5)** IC 14-37.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) field investigations;

(B) studies; or

(C) records searches;

required by the director under this section.

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

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

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

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

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

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

(d) The director may do the following:

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

(A) grants;

(B) subsidies; or

(C) aid;

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

(2) Apply for any:

(A) grants;

(B) aid; or

(C) subsidies;

that the director determines are available.

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

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

(1) The **Indiana** state library ~~and historical society.~~ **division.**

(2) The department of workforce development.

(3) The department of correction.

(4) The office of the secretary of family and social services.

(5) The department of commerce.

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(6) The department of education.

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

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

(2) provide appropriate support to the coalition.

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

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

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

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

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

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

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

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

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

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

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

(b) The application must be:

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

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

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

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

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

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

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

(1) Cash.
(2) A draft.
(3) A money order.
(4) A cashier's check.
(5) A certified check.
(6) A personal check.

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

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

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

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

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

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(1) The director shall make an initial determination as to the merit of a complaint. ~~The director shall submit a copy of a complaint having merit to the board. Except as otherwise provided by this chapter, the board acquires jurisdiction over the complaint upon submission of the complaint to the board by the director.~~

(2) The director shall notify the practitioner of the nature and ramifications of the complaint and of the duty of the ~~board~~ **division** to attempt to resolve the complaint through negotiation.

(3) The director shall report any pertinent information regarding the status of the complaint to the complainant.

(4) The director may investigate any written complaint against a practitioner. The director shall limit the investigation to areas that appear to be in violation of this chapter or rules adopted under this chapter.

(5) The director may:

(A) subpoena witnesses; or

(B) send for and compel the production of books, records, papers, and documents;

in relation to an investigation under this chapter. The circuit or superior court located in the county where a subpoena is to be issued shall enforce the subpoena.

SECTION 55. IC 20-14-12-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19. If there has not been a statement filed under section 17 of this chapter, and if after conducting an investigation the director believes the practitioner should be subject to disciplinary sanctions by the ~~board,~~ **division,** the director shall file a report with the attorney general. Upon receiving the director's report, the attorney general may prosecute the matter before the ~~board~~ **division** on behalf of the state.

SECTION 56. IC 20-14-12-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 21. (a) IC 4-21.5 applies to proceedings to discipline a practitioner under this chapter.

(b) The ~~board~~ **division** is the ultimate authority under IC 4-21.5.

SECTION 57. IC 20-14-12-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 22. (a) A complaint and information pertaining to the complaint are confidential until the attorney general files notice with the ~~board~~ **division** of intent to prosecute the practitioner.

(b) Unless required to do so under law or in furtherance of an investigation, a person employed by the office of the attorney general, the ~~board,~~ **division,** or the director may not disclose or further the disclosure of information concerning a complaint.

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

(1) The practitioner has:

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

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

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

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

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

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

(A) professional incompetence;

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

(C) physical or mental disability; or

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

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

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

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

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

(1) Permanently revoke the practitioner's certificate.

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

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

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

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

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

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

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

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

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

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

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

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

(c) This SECTION expires July 1, 2004.

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

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

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

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

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

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

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

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

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public records.

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

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

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

(c) This SECTION expires July 1, 2004.

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

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

(c) This SECTION expires July 1, 2002.

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

(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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SENATE MOTION

Mr. President: I move that Senator Hume be added as coauthor of Senate Bill 239.

MERRITT

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, 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.

(Reference is made to Senate Bill 239 as printed January 13, 2000.)

BORST, Chairperson

Committee Vote: Yeas 12, Nays 1.

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