

## SENATE BILL No. 257

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** Various provisions throughout the Indiana Code.

**Synopsis:** Title 10 recodification. Recodifies Title 10 concerning state police, civil defense, emergency management, military affairs, veterans affairs, and war memorials to reorganize and restate the law without substantive change. Makes amendments to Indiana Code provisions outside Title 10 to conform to the Title 10 recodification. Repeals current Title 10 provisions.

**Effective:** July 1, 2003.

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### Kenley, Bowser, Landske

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January 9, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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## SENATE BILL No. 257



A BILL FOR AN ACT to amend the Indiana Code concerning state police, civil defense and military affairs.

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

1 SECTION 1. IC 10-10 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2003]:

4 **ARTICLE 10. EFFECT OF RECODIFICATION OF TITLE 10**  
5 **Chapter 1. Effect of Recodification by the Act of the 2003**  
6 **Regular Session of the General Assembly**

7 **Sec. 1. As used in this chapter, "prior law" refers to the statutes**  
8 **concerning state police, civil defense, emergency management,**  
9 **military affairs, veterans affairs, and war memorials that are**  
10 **repealed or amended in the recodification act of the 2003 regular**  
11 **session of the general assembly as the statutes existed before the**  
12 **effective date of the applicable or corresponding provision of the**  
13 **recodification act of the 2003 regular session of the general**  
14 **assembly.**

15 **Sec. 2. The purpose of the recodification act of the 2003 regular**  
16 **session of the general assembly is to recodify prior law in a style**  
17 **that is clear, concise, and easy to interpret and apply. Except to the**



1 extent that:

2 (1) the recodification act of the 2003 regular session of the  
3 general assembly is amended to reflect the changes made in a  
4 provision of another bill that adds to, amends, or repeals a  
5 provision in the recodification act of the 2003 regular session  
6 of the general assembly; or

7 (2) the minutes of meetings of the code revision commission  
8 during 2002 expressly indicate a different purpose;

9 the substantive operation and effect of the prior law continue  
10 uninterrupted as if the recodification act of the 2003 regular  
11 session of the general assembly had not been enacted.

12 Sec. 3. Subject to section 2 of this chapter, sections 4 through 9  
13 of this chapter shall be applied to the statutory construction of the  
14 recodification act of the 2003 regular session of the general  
15 assembly.

16 Sec. 4. (a) The recodification act of the 2003 regular session of  
17 the general assembly does not affect:

18 (1) any rights or liabilities accrued;

19 (2) any penalties incurred;

20 (3) any violations committed;

21 (4) any proceedings begun;

22 (5) any bonds, notes, loans, or other forms of indebtedness  
23 issued, incurred, or made;

24 (6) any tax levies made or authorized;

25 (7) any funds established;

26 (8) any patents issued;

27 (9) the validity, continuation, or termination of any contracts,  
28 easements, or leases executed;

29 (10) the validity, continuation, scope, termination, suspension,  
30 or revocation of:

31 (A) permits;

32 (B) licenses;

33 (C) certificates of registration;

34 (D) grants of authority; or

35 (E) limitations of authority; or

36 (11) the validity of court decisions entered regarding the  
37 constitutionality of any provision of the prior law;

38 before the effective date of the recodification act of the 2003  
39 regular session of the general assembly (July 1, 2003). Those rights,  
40 liabilities, penalties, violations, proceedings, bonds, notes, loans,  
41 other forms of indebtedness, tax levies, funds, patents, contracts,  
42 easements, leases, permits, licenses, certificates of registration,

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1 grants of authority, and limitations of authority continue and shall  
 2 be imposed and enforced under prior law as if the recodification  
 3 act of the 2003 regular session of the general assembly had not  
 4 been enacted.

5 (b) The recodification act of the 2003 regular session of the  
 6 general assembly does not:

7 (1) extend or cause to expire a permit, license, certificate of  
 8 registration, or other grant or limitation of authority; or

9 (2) in any way affect the validity, scope, or status of a license,  
 10 permit, certificate of registration, or other grant or limitation  
 11 of authority;

12 issued under the prior law.

13 (c) The recodification act of the 2003 regular session of the  
 14 general assembly does not affect the revocation, limitation, or  
 15 suspension of a permit, license, certificate of registration, or other  
 16 grant or limitation of authority based in whole or in part on  
 17 violations of the prior law or the rules adopted under the prior law.

18 **Sec. 5.** The recodification act of the 2003 regular session of the  
 19 general assembly shall be construed as a recodification of prior  
 20 law. Except as provided in section 2(1) and 2(2) of this chapter, if  
 21 the literal meaning of the recodification act of the 2003 regular  
 22 session of the general assembly (including a literal application of  
 23 an erroneous change to an internal reference) would result in a  
 24 substantive change in the prior law, the difference shall be  
 25 construed as a typographical, spelling, or other clerical error that  
 26 must be corrected by:

27 (1) inserting, deleting, or substituting words, punctuation, or  
 28 other matters of style in the recodification act of the 2003  
 29 regular session of the general assembly; or

30 (2) using any other rule of statutory construction;

31 as necessary or appropriate to apply the recodification act of the  
 32 2003 regular session of the general assembly in a manner that does  
 33 not result in a substantive change in the law. The principle of  
 34 statutory construction that a court must apply the literal meaning  
 35 of an act if the literal meaning of the act is unambiguous does not  
 36 apply to the recodification act of the 2003 regular session of the  
 37 general assembly to the extent that the recodification act of the  
 38 2003 regular session of the general assembly is not substantively  
 39 identical to the prior law.

40 **Sec. 6.** Subject to section 9 of this chapter, a reference in a  
 41 statute or rule to a statute that is repealed and replaced in the same  
 42 or a different form in the recodification act of the 2003 regular

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1 session of the general assembly shall be treated after the effective  
2 date of the new provision as a reference to the new provision.

3 **Sec. 7. A citation reference in the recodification act of the 2003**  
4 **regular session of the general assembly to another provision of the**  
5 **recodification act of the 2003 regular session of the general**  
6 **assembly shall be treated as including a reference to the provision**  
7 **of prior law that is substantively equivalent to the provision of the**  
8 **recodification act of the 2003 regular session of the general**  
9 **assembly that is referred to by the citation reference.**

10 **Sec. 8. (a) As used in the recodification act of the 2003 regular**  
11 **session of the general assembly, a reference to rules adopted under**  
12 **any provision of this title or under any other provision of the**  
13 **recodification act of the 2003 regular session of the general**  
14 **assembly refers to either:**

15 (1) rules adopted under the recodification act of the 2003  
16 regular session of the general assembly; or

17 (2) rules adopted under the prior law until those rules have  
18 been amended, repealed, or superseded.

19 (b) Rules adopted under the prior law continue in effect after  
20 June 30, 2003, until the rules are amended, repealed, or suspended.

21 **Sec. 9. (a) A reference in the recodification act of the 2003**  
22 **regular session of the general assembly to a citation in the prior**  
23 **law before its repeal is added in certain sections of the**  
24 **recodification act of the 2003 regular session of the general**  
25 **assembly only as an aid to the reader.**

26 (b) The inclusion or omission in the recodification act of the  
27 2003 regular session of the general assembly of a reference to a  
28 citation in the prior law before its repeal does not affect:

29 (1) any rights or liabilities accrued;

30 (2) any penalties incurred;

31 (3) any violations committed;

32 (4) any proceedings begun;

33 (5) any bonds, notes, loans, or other forms of indebtedness  
34 issued, incurred, or made;

35 (6) any tax levies made;

36 (7) any funds established;

37 (8) any patents issued;

38 (9) the validity, continuation, or termination of contracts,  
39 easements, or leases executed;

40 (10) the validity, continuation, scope, termination, suspension,  
41 or revocation of:

42 (A) permits;

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- 1           **(B) licenses;**  
 2           **(C) certificates of registration;**  
 3           **(D) grants of authority; or**  
 4           **(E) limitations of authority; or**

5           **(11) the validity of court decisions entered regarding the**  
 6           **constitutionality of any provision of the prior law;**  
 7           **before the effective date of the recodification act of the 2003**  
 8           **regular session of the general assembly (July 1, 2003). Those rights,**  
 9           **liabilities, penalties, violations, proceedings, bonds, notes, loans,**  
 10           **other forms of indebtedness, tax levies, funds, patents, contracts,**  
 11           **easements, leases, permits, licenses, certificates of registration,**  
 12           **grants of authority, and limitations of authority continue and shall**  
 13           **be imposed and enforced under prior law as if the recodification**  
 14           **act of the 2003 regular session of the general assembly had not**  
 15           **been enacted.**

16           **(c) The inclusion or omission in the recodification act of the**  
 17           **2003 regular session of the general assembly of a citation to a**  
 18           **provision in the prior law does not affect the use of a prior**  
 19           **conviction, violation, or noncompliance under the prior law as the**  
 20           **basis for revocation of a license, permit, certificate of registration,**  
 21           **or other grant of authority under the recodification act of the 2003**  
 22           **regular session of the general assembly, as necessary or**  
 23           **appropriate to apply the recodification act of the 2003 regular**  
 24           **session of the general assembly in a manner that does not result in**  
 25           **a substantive change in the law.**

26           **SECTION 2. IC 10-11 IS ADDED TO THE INDIANA CODE AS**  
 27           **A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 28           **2003]:**

29           **ARTICLE 11. STATE POLICE**

30           **Chapter 1. Definitions**

31           **Sec. 1. The definitions in this chapter apply throughout this**  
 32           **article.**

33           **Sec. 2. "Board" refers to the state police board established by**  
 34           **IC 10-11-2-5.**

35           **Sec. 3. "Department" refers to the state police department**  
 36           **established by IC 10-11-2-4.**

37           **Sec. 4. "Superintendent" refers to the superintendent of the**  
 38           **department appointed under IC 10-11-2-6.**

39           **Chapter 2. State Police Department**

40           **Sec. 1. As used in this chapter, "civilian employee" means an**  
 41           **employee assigned to a position other than a position having police**  
 42           **rank as a peace officer.**



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1           **Sec. 2. (a)** As used in this chapter, "employee" means an  
2 employee of the department.

3           **(b)** The term includes police employees.

4           **Sec. 3.** As used in this chapter, "police employee" means an  
5 employee who is assigned police work as a peace officer under  
6 section 21 of this chapter.

7           **Sec. 4.** The state police department is established.

8           **Sec. 5. (a)** The state police board is established. The board shall  
9 administer, manage, and control the department.

10           **(b)** The board consists of six (6) members appointed by the  
11 governor, not more than three (3) of whom may belong to the same  
12 political party. A member of the board appointed by the governor  
13 shall serve for a term of four (4) years except when appointed to fill  
14 a vacancy for an unexpired term. In making appointments to the  
15 board, the governor shall select one (1) member from each of six  
16 (6) geographical regions in Indiana as described in subsection (d).  
17 Each member must be a permanent resident of the region from  
18 which the member is appointed.

19           **(c)** As vacancies occur, the governor shall select new members  
20 by region, beginning with the lowest numbered region that is not  
21 represented and continuing in that manner until each region is  
22 represented.

23           **(d)** For purposes of appointments to the state police board, the  
24 geographical regions described in subsections (b) and (c) are as  
25 follows:

26           **(1)** Region I is comprised of Lake, Porter, LaPorte, Newton,  
27 Jasper, Starke, Pulaski, Benton, White, Warren, and Fountain  
28 counties.

29           **(2)** Region II is comprised of St. Joseph, Elkhart, LaGrange,  
30 Steuben, Marshall, Kosciusko, Noble, DeKalb, Whitley, and  
31 Allen counties.

32           **(3)** Region III is comprised of Fulton, Cass, Miami, Wabash,  
33 Huntington, Wells, Adams, Carroll, Howard, Grant,  
34 Blackford, Tippecanoe, Clinton, Tipton, Madison,  
35 Montgomery, Boone, Hamilton, and Jay counties.

36           **(4)** Region IV is comprised of Hendricks, Marion, and  
37 Hancock counties.

38           **(5)** Region V is comprised of Vermillion, Parke, Putnam,  
39 Morgan, Vigo, Clay, Owen, Monroe, Brown, Sullivan, Greene,  
40 Knox, Daviess, Martin, Lawrence, Gibson, Pike, Dubois,  
41 Orange, Crawford, Posey, Vanderburgh, Warrick, Spencer,  
42 and Perry counties.

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1           **(6) Region VI is comprised of Delaware, Randolph, Henry,**  
 2           **Wayne, Johnson, Shelby, Rush, Fayette, Union, Bartholomew,**  
 3           **Decatur, Franklin, Jackson, Jennings, Ripley, Dearborn,**  
 4           **Ohio, Washington, Scott, Jefferson, Switzerland, Clark,**  
 5           **Harrison, and Floyd counties.**

6           **(e) Members appointed to the board shall serve during their**  
 7           **respective terms and until their respective successors have been**  
 8           **appointed and qualified. A member of the board may be removed**  
 9           **by the governor for inefficiency, incompetency, or neglect of duty**  
 10           **after the member has been accorded a hearing by the governor**  
 11           **upon reasonable notice of the charge being made against the**  
 12           **member.**

13           **(f) As compensation for service on the board, each member of**  
 14           **the board is entitled to receive the following:**

15           **(1) Twenty-five dollars (\$25) per day for each day or part of**  
 16           **a day during which the member is engaged in transacting the**  
 17           **business of the board.**

18           **(2) The member's actual traveling and other expenses**  
 19           **necessarily incurred in discharging the duties of the member's**  
 20           **office.**

21           **(g) The members of the board shall organize by the election of**  
 22           **a president and a secretary from among their own membership,**  
 23           **each of whom shall serve a term of one (1) year.**

24           **(h) Four (4) members of the board constitute a quorum for the**  
 25           **transaction of business. The board shall hold regular monthly**  
 26           **meetings and special meetings throughout the year as necessary to**  
 27           **transact the business of the department.**

28           **Sec. 6. (a) The governor shall appoint a superintendent of the**  
 29           **department.**

30           **(b) The superintendent:**

31           **(1) shall be selected on the basis of training and experience;**  
 32           **and**

33           **(2) must:**

34           **(A) have:**

35           **(i) served at least five (5) years as a police executive; or**

36           **(ii) had five (5) years experience in the management of**  
 37           **military, semi-military, or police bodies;**

38           **to equip the superintendent for the position; and**

39           **(B) have been trained in police affairs or public**  
 40           **administration.**

41           **(c) The superintendent:**

42           **(1) is the executive officer; and**

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(2) has general charge of the work of the department.

(d) The superintendent shall serve at the pleasure of the governor.

(e) The governor shall fix the salary of the superintendent.

(f) The superintendent may be removed by the governor with or without cause.

Sec. 7. The department shall be organized in conformity with the rules adopted by the board.

Sec. 8. (a) The state purchasing agent shall purchase all personal property, supplies, and equipment the department needs.

(b) All capital expenditures shall be made with the approval of the budget committee.

(c) The salaries and compensation of police employees and other employees shall be fixed by the board with the approval of the governor.

Sec. 9. The superintendent, with the approval of the board, may adopt rules for the government of the department.

Sec. 10. (a) The superintendent, with the approval of the board, shall establish a classification of ranks, grades, and positions in the department.

(b) For each rank, grade, and position established, the superintendent shall designate the authority and responsibility within the limits of this chapter.

(c) For each rank, grade, and position established, the superintendent shall set standards of qualifications in conformity with the plans and standards most widely adopted in other states, dominions, and provinces. The superintendent shall fix the prerequisites of training, education, and experience for each rank, grade, and position.

(d) The board, with the approval of the budget agency and the governor, shall prescribe the salaries to be paid for each rank, grade, and position.

(e) The superintendent, with the approval of the board and in accordance with the rules adopted by the superintendent, shall designate the rank, grade, and position held by each employee of the department until the superintendent designates an employee to hold another rank, grade, or position. The superintendent may assign and reassign each employee of the department to serve at stations and to perform within the limits of this chapter the duties the superintendent designates to the employee. The superintendent may determine the conditions and amounts of bonds required in appropriate cases.

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1           **Sec. 11. (a)** The superintendent, with the approval of the board  
 2 and the budget agency, may accept for use by the department a  
 3 motor vehicle forfeited under IC 16-42-20-5.

4           **(b)** If the department accepts a vehicle described in subsection  
 5 **(a)**, the department shall pay all proper expenses of the  
 6 proceedings for forfeiture and sale, including expenses of seizure,  
 7 maintenance of custody, and advertising and court costs.

8           **Sec. 12. (a)** The superintendent:

9               **(1)** with the approval of the board;

10              **(2)** within the limits of any appropriation made available for  
 11 the purpose; and

12              **(3)** subject to section 14 of this chapter;

13 shall appoint personnel to the ranks, grades, and positions of the  
 14 department that the superintendent considers necessary for the  
 15 efficient administration of the department.

16           **(b)** The superintendent, consistent with prescribed standards  
 17 and prerequisites, shall make appointments to the ranks, grades,  
 18 and positions of the department in a manner that creates and  
 19 maintains in the ranks, grades, and positions personnel not more  
 20 than fifty percent (50%) of whom belong to any one (1) political  
 21 party. If any of the ranks, grades, or positions contains personnel  
 22 more than fifty percent (50%) of whom belong to any one (1)  
 23 political party, a person who belongs to the party containing more  
 24 than fifty percent (50%) of the personnel may not be appointed or  
 25 promoted to the rank, grade, or position if the condition exists.

26           **(c)** The superintendent shall:

27               **(1)** devise and administer examinations designed to test  
 28 applicants in the qualifications required for each rank, grade,  
 29 or position; and

30               **(2)** appoint only those applicants who best meet the prescribed  
 31 standards and prerequisites.

32           **(d)** An employee appointed to the department is on probation  
 33 for one (1) year from the date of appointment. The board may  
 34 extend the employee's probationary status for cause for a period of  
 35 not more than one (1) additional year.

36           **(e)** An employee may:

37               **(1)** be a candidate for elected office or a political party office  
 38 if permitted under 5 U.S.C. 1502 and serve in that office if  
 39 elected;

40               **(2)** be appointed to or selected for a pro tempore appointment  
 41 to any office and serve in that office if appointed or selected;  
 42 and

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1           **(3) if the employee is not on duty, solicit votes and campaign**  
2           **funds and challenge voters for the office for which the person**  
3           **is a candidate.**

4           **An employee may serve in a part-time local elected office.**  
5           **However, service in a part-time local elected office must be in**  
6           **accordance with IC 4-2-6 and the rules and employee policies of the**  
7           **department. If elected to other than a part-time local elected office,**  
8           **the employee or appointee shall resign as an employee or appointee**  
9           **before assuming elected office.**

10          **Sec. 13. (a) The board shall categorize salaries of police**  
11          **employees within each rank based upon the rank held and the**  
12          **number of years of service in the department through the tenth**  
13          **year. The salary ranges the board assigns to each rank shall be**  
14          **divided into a base salary and ten (10) increments above the base**  
15          **salary, with:**

16               **(1) the base salary in the rank paid to a person with less than**  
17               **one (1) year of service in the department; and**  
18               **(2) the highest salary in the rank paid to a person with at least**  
19               **ten (10) years of service in the department.**

20          **(b) For purposes of creating the salary matrix prescribed by this**  
21          **section, the board may not approve salary ranges for any rank that**  
22          **are less than the salary ranges effective for that rank on January**  
23          **1, 1995.**

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

27          **Sec. 14. (a) The superintendent, with the approval of the board,**  
28          **shall organize and maintain a training school for police employees**  
29          **of the department.**

30          **(b) A police employee may not be assigned to regular active duty**  
31          **until the police employee receives the training and successfully**  
32          **passes the course for probationers prescribed by the**  
33          **superintendent.**

34          **(c) Training courses, other than for probationers, shall be**  
35          **prescribed and conducted by the superintendent for all police**  
36          **employees of the department.**

37          **Sec. 15. (a) The superintendent may discharge, demote, or**  
38          **temporarily suspend an employee of the department for cause,**  
39          **after setting forth charges in writing.**

40          **(b) The charges may be based on any violation of the laws of**  
41          **Indiana or any violation of the rules of the department approved**  
42          **by the board. A copy of the charges shall be personally delivered**

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1 to the employee by the employee's immediate commanding officer.

2 (c) An employee who is charged under this section has a right to  
3 answer the charges in a personal appearance before the  
4 superintendent. The superintendent shall set the appearance not  
5 less than five (5) days after the delivery of the copy of the written  
6 charges to the employee.

7 (d) Under the charges and after the personal appearance under  
8 this section, disciplinary action taken by the superintendent is  
9 subject to review at a public hearing before the board if the  
10 hearing is demanded by the disciplined employee not later than  
11 fifteen (15) days after receiving notice of the disciplinary action.  
12 The notice shall be by certified mail, return receipt requested, and  
13 shall be addressed to the employee at the employee's last known  
14 place of residence. If the employee fails to request a hearing before  
15 the board not later than fifteen (15) days after receiving notice of  
16 disciplinary action, as provided in this section, the decision and  
17 action of the superintendent are final and not subject to review.

18 (e) An employee who requests a hearing before the board under  
19 this section may be represented by counsel. The attorney general  
20 shall appear in the case to represent the interests of the people of  
21 the state.

22 (f) The state has the burden of proving the charges giving rise  
23 to the hearing. The procedure in a hearing before the board is  
24 informal and without recourse to the technical common law rules  
25 of evidence required in proceedings in courts.

26 (g) The board shall:

- 27 (1) designate a reporter for the hearing; and  
28 (2) after all evidence has been introduced, make an informal  
29 finding of facts and a determination based upon the facts.

30 (h) The board shall notify the employee of its findings and  
31 determination by certified mail, return receipt requested,  
32 addressed to the employee at the employee's last known place of  
33 residence. If aggrieved by the determination, an employee may  
34 seek judicial review under IC 4-21.5-5.

35 (i) Probationers may be discharged, demoted, or temporarily  
36 suspended without right to a hearing before the board.

37 (j) An employee may not be discharged, demoted, temporarily  
38 suspended, or disciplined:

- 39 (1) because of political affiliation; or  
40 (2) after the employee's probationary period, except as  
41 provided in this chapter.

42 (k) This chapter may not be construed to prevent the exercise of

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1 disciplinary measures by commanding officers within the  
2 department under the rules approved by the board.

3 Sec. 16. (a) This section applies to the issuance of a citation for  
4 a traffic violation under:

- 5 (1) IC 9; or
- 6 (2) a local ordinance that corresponds to a provision under
- 7 IC 9.

8 (b) The department may not give greater consideration to the  
9 number of citations (as defined in IC 9-28-2-1), including:

- 10 (1) a summons;
- 11 (2) a ticket; or
- 12 (3) any other official document;

13 arising from a parking or standing violation that a law  
14 enforcement officer issues than to any other factor in the  
15 evaluation of the law enforcement officer's performance.

16 Sec. 17. (a) The board shall provide, within amounts  
17 appropriated for the purpose, the uniforms and equipment  
18 necessary for the employees of the department to perform their  
19 respective duties.

20 (b) The uniforms and equipment provided to employees under  
21 this section remain the property of the state.

22 (c) The board may sell uniforms and equipment, with the  
23 consent of the governor, if the uniforms and equipment become  
24 unfit for use. Money received from a sale under this section must  
25 be paid into the state treasury and credited to the state general  
26 fund.

27 (d) The board shall charge against an employee of the  
28 department the value of any property of the department lost or  
29 destroyed through carelessness or neglect of the employee. If the  
30 board determines that the loss or destruction of the department's  
31 property was due to carelessness or neglect of an employee, the  
32 value of the equipment shall be deducted from the pay of the  
33 employee.

34 Sec. 18. (a) The superintendent shall file with the secretary of  
35 state a drawing or photograph and a worded description, including  
36 the color, of the official uniform hat and insignia to be worn by  
37 state police officers while on duty.

38 (b) A person who wears or uses in public the hat or insignia or  
39 any imitation, reproduction, or facsimile of the hat or insignia,  
40 except an appointed member of the department authorized by the  
41 superintendent to wear the hat or insignia, commits a Class C  
42 infraction.

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(c) After the drawing or photograph and worded description of the hat and insignia are filed with the secretary of state, the hat and insignia may not be changed by the department.

Sec. 19. (a) The superintendent may approve vouchers to pay expenses incurred by employees of the department in the discharge of their duties.

(b) The vouchers shall be audited and paid out of the appropriations for the department in the manner provided by law.

(c) Allowances for lodging and subsistence while away from official station may be paid to the employees of the department under the terms and conditions that the superintendent may prescribe. The superintendent may provide lodging and subsistence for employees of the department at their official stations.

Sec. 20. (a) The superintendent shall establish headquarters and stations in localities the superintendent considers advisable for the enforcement of the laws of the state.

(b) Within the limits of appropriations, the superintendent may do the following:

- (1) Purchase, lease, or otherwise acquire suitable places, lands, buildings, or rooms as local headquarters.
- (2) Erect and equip buildings and headquarters as necessary.
- (3) Purchase or otherwise acquire motor equipment, horses, and other services, commodities, and equipment the superintendent considers essential for the needs of the employees of the department in carrying out their duties.
- (4) Discontinue any headquarters or stations if the superintendent considers it desirable for the proper enforcement of the laws of the state.
- (5) Purchase and install any approved standard mechanical devices or equipment for the instantaneous or rapid transmission or broadcasting of any information concerning crime or the apprehension of criminals.

(c) The superintendent, with the approval of the board, may sell, dispose of, or destroy property that becomes unnecessary or unfit for further use by the department. Any money received from a sale under this subsection shall be deposited in the state treasury as a special fund to be used for the purchase of new equipment. The fund does not revert to the state general fund.

(d) Authority vested in the superintendent under this section shall be exercised with the approval of the board.

Sec. 21. (a) The officers and police employees of the department have all necessary police powers:

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- 1           **(1) to enforce the laws of the state for the regulation and use**
- 2           **of vehicles;**
- 3           **(2) for the protection of the surface or other physical part of**
- 4           **the highways in Indiana; and**
- 5           **(3) without writ or warrant, to make an arrest for violation of**
- 6           **the laws of the state for the regulation and use of vehicles**
- 7           **when the violation is committed in their presence.**
- 8           **(b) The police employees of the department shall:**
- 9               **(1) prevent and detect offenses;**
- 10              **(2) apprehend offenders;**
- 11              **(3) enforce the laws; and**
- 12              **(4) perform other duties imposed upon them by law.**
- 13           **(c) Police employees of the department have:**
- 14               **(1) in any part of Indiana, the same powers concerning**
- 15               **criminal matters and the enforcement of related laws as**
- 16               **sheriffs, constables, and police officers have in their respective**
- 17               **jurisdictions; and**
- 18               **(2) power to act as agents for the state on return of parolees,**
- 19               **fugitives from justice, and persons extradited to Indiana for**
- 20               **offenses.**
- 21           **(d) A warrant of arrest or search warrant may be executed by**
- 22           **any police employee of the department in any part of the state,**
- 23           **according to the terms of the warrant without endorsement.**
- 24           **(e) Police employees are subject to the call of the governor. The**
- 25           **governor may assign to the department other police duties that the**
- 26           **executive department considers advisable, including the duties**
- 27           **performed by deputy fire marshals.**
- 28           **(f) Police employees have power to arrest, without warrant, a**
- 29           **person who is committing or attempting to commit in their**
- 30           **presence or view a violation of the laws of the state.**
- 31           **(g) Under order of the superintendent, police employees may**
- 32           **cooperate with any other department of the state or with local**
- 33           **authorities.**
- 34           **(h) Police employees may not:**
- 35               **(1) exercise their powers within the limits of a city in labor**
- 36               **disputes; or**
- 37               **(2) suppress rioting and disorder;**
- 38           **except by direction of the governor or upon the request of the**
- 39           **mayor of the city with the approval of the governor or, if the**
- 40           **governor is not available, with the approval of the lieutenant**
- 41           **governor. Outside the limits of a city, police employees may not**
- 42           **exercise their power in labor disputes except by direction of the**

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1 governor or upon the request of the judge of the circuit court of the  
2 county, with the approval of the governor or, if the governor is not  
3 available, with the approval of the lieutenant governor.

4 (i) The control or direction of the officers or members of the  
5 department may not be transferred or delegated to any other  
6 agency or officer of the state or any subdivision of the state.

7 Sec. 22. (a) The members of the department:

8 (1) shall take fingerprints and any other identification data  
9 prescribed by the superintendent of persons taken into  
10 custody for felonies; and

11 (2) may, if they consider it advisable, take the fingerprints and  
12 other data of persons taken into custody for offenses other  
13 than felonies.

14 (b) Members of the department shall promptly transmit and file  
15 fingerprints and other data collected under this section.

16 Sec. 23. The employees of the department shall cooperate and  
17 exchange information with:

18 (1) any other department or authority of the state or with  
19 other police forces, both within and outside Indiana; and

20 (2) federal police forces;

21 to achieve greater success in preventing and detecting crimes and  
22 apprehending criminals.

23 Sec. 24. (a) Except as provided in subsection (b), a person who  
24 has charge of a jail, prison, correctional facility, or other place of  
25 detention shall:

26 (1) receive a prisoner arrested by a police employee of the  
27 department within the jurisdiction served by the jail; and

28 (2) detain the prisoner in custody until otherwise ordered by  
29 a court or by the superintendent.

30 A person who refuses to receive a prisoner or who releases a  
31 prisoner except as directed may be removed from office by the  
32 governor.

33 (b) A person who has charge of a jail, prison, correctional  
34 facility, or other place of detention may not receive or detain a  
35 prisoner in custody under subsection (a) until the arresting police  
36 employee has had the prisoner examined by a physician or  
37 competent medical personnel if the prisoner appears to be:

38 (1) unconscious;

39 (2) suffering from a serious illness;

40 (3) suffering from a serious injury; or

41 (4) seriously impaired by alcohol, a controlled substance (as  
42 defined in IC 35-48-1-9), a drug other than a controlled

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1 substance, or a combination of alcohol, a controlled substance,  
2 or drugs.

3 (c) Except as provided in subsection (d), the cost of the  
4 examination and resulting treatment under subsection (b) is the  
5 financial responsibility of the prisoner receiving the examination  
6 or treatment.

7 (d) If a prisoner is unable to bear the financial responsibility for  
8 the cost of the examination and treatment under subsection (b), the  
9 prisoner may apply for indigent medical assistance.

10 Sec. 25. All rights, duties, and liabilities of the state police  
11 department and its employees provided by IC 10-1-2 (before its  
12 repeal) and IC 10-12-2 are continued and preserved in the state  
13 police department established by this chapter and in those eligible  
14 to receive its benefits, as though this chapter had not been enacted.

15 Sec. 26. (a) The superintendent may assign qualified persons  
16 who are not state police officers to supervise or operate permanent  
17 or portable weigh stations. A person assigned under this section  
18 may stop, inspect, and issue citations to operators of trucks and  
19 trailers having a declared gross weight of at least eleven thousand  
20 (11,000) pounds and buses at a permanent or portable weigh  
21 station or while operating a clearly marked Indiana state police  
22 vehicle for violations of the following:

- 23 (1) IC 6-1.1-7-10.
- 24 (2) IC 6-6-1.1-1202.
- 25 (3) IC 6-6-2.5.
- 26 (4) IC 6-6-4.1-12.
- 27 (5) IC 8-2.1.
- 28 (6) IC 9-18.
- 29 (7) IC 9-19.
- 30 (8) IC 9-20.
- 31 (9) IC 9-21-7-2 through IC 9-21-7-11.
- 32 (10) IC 9-21-8-41 pertaining to the duty to obey an official  
33 traffic control device for a weigh station.
- 34 (11) IC 9-21-8-45 through IC 9-21-8-48.
- 35 (12) IC 9-21-9.
- 36 (13) IC 9-21-15.
- 37 (14) IC 9-24-1-1 through IC 9-24-1-3.
- 38 (15) IC 9-24-1-7.
- 39 (16) Except as provided in subsection (c), IC 9-24-1-6,  
40 IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial  
41 driver's license.
- 42 (17) IC 9-24-4.

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- 1 (18) IC 9-24-5.
- 2 (19) IC 9-24-11-4.
- 3 (20) IC 9-24-13-3.
- 4 (21) IC 9-24-18-1 through IC 9-24-18-2.
- 5 (22) IC 9-25-4-3.
- 6 (23) IC 9-28-4.
- 7 (24) IC 9-28-5.
- 8 (25) IC 9-28-6.
- 9 (26) IC 9-29-5-11 through IC 9-29-5-13.
- 10 (27) IC 9-29-5-42.
- 11 (28) IC 9-29-6-1.
- 12 (29) IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.
- 13 (30) IC 13-30-2-1.

14 (b) For the purpose of enforcing this section, a person assigned  
 15 under this section may detain a person in the same manner as a law  
 16 enforcement officer under IC 34-28-5-3.

17 (c) A person assigned under this section may not enforce  
 18 IC 9-24-6-14 or IC 9-24-6-15.

19 **Sec. 27. (a)** The board shall categorize salaries of motor carrier  
 20 inspectors within each rank based upon the rank held and the  
 21 number of years of service in the department through the tenth  
 22 year. The salary ranges the board assigns to each rank shall be  
 23 divided into a base salary and ten (10) increments above the base  
 24 salary, with:

- 25 (1) the base salary in the rank paid to a person with less than
- 26 one (1) year of service in the department; and
- 27 (2) the highest salary in the rank paid to a person with at least
- 28 ten (10) years of service in the department.

29 (b) For purposes of creating the salary matrix prescribed by this  
 30 section, the board may not approve salary ranges for any rank that  
 31 are less than the salary ranges effective for that rank on January  
 32 1, 1995.

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

36 (d) The money needed to fund the salaries resulting from the  
 37 matrix prescribed by this section must come from the  
 38 appropriation from the professional and technical equity fund.

39 **Sec. 28. (a)** The department shall maintain security and preserve  
 40 the peace in and about the following:

- 41 (1) The state capitol building.
- 42 (2) A state office building.

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- 1           **(3) A state parking facility.**
- 2           **(4) A state motor pool garage.**
- 3           **(5) A state warehouse.**
- 4           **(6) The Indiana state library.**
- 5           **(7) The governor's residence.**
- 6           **(8) Any other building or property used by the state for any**
- 7           **of the following purposes:**
- 8               **(A) Housing of personnel or activities of an agency or a**
- 9               **branch of state government.**
- 10              **(B) Providing transportation or parking for state**
- 11              **employees or persons having business with state**
- 12              **government.**
- 13              **(b) A special police employee of the department assigned to the**
- 14              **security activities under this section, other than an officer or police**
- 15              **employee of the department who possesses police powers under**
- 16              **section 21 of this chapter, possesses all of the common law and**
- 17              **statutory powers of law enforcement officers except for the service**
- 18              **of civil process.**
- 19              **(c) For purposes of IC 5-2-1, a special police employee assigned**
- 20              **to the security activities under this section, other than a regular**
- 21              **police employee of the department, is a special officer.**
- 22              **(d) Special police employees shall enforce IC 4-20.5 and rules of**
- 23              **the Indiana department of administration.**
- 24              **(e) The superintendent may adopt rules under IC 4-22-2 to do**
- 25              **the following:**
- 26                   **(1) Enforce IC 4-20.5 and rules of the Indiana department of**
- 27                   **administration concerning the security of state property.**
- 28                   **(2) Carry out the responsibilities for security of state property**
- 29                   **under this section.**
- 30              **Sec. 29. The superintendent may assign a special police**
- 31              **employee described in section 28(b) of this chapter to serve as a**
- 32              **gaming agent under an agreement with the Indiana gaming**
- 33              **commission under IC 4-33-4-3.6.**
- 34              **Sec. 30. The department may establish a wellness program for**
- 35              **department employees as set forth in IC 4-15-13.**
- 36              **Chapter 3. Enforcement of Motor Carrier Laws**
- 37              **Sec. 1. There is established within the department an**
- 38              **enforcement section of twenty (20) state police officers who, on**
- 39              **behalf of the department of state revenue, shall enforce strict**
- 40              **compliance with IC 8-2.1.**
- 41              **Sec. 2. (a) The enforcement section established by section 1 of**
- 42              **this chapter consists of the following individuals:**

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- 1           **(1) A chief enforcement officer.**
- 2           **(2) Nineteen (19) subordinate enforcement officers.**
- 3           **(3) Stenographic and clerical personnel needed to carry on the**
- 4           **work of the section.**

5           **(b) The superintendent shall appoint all personnel with the**  
 6 **approval of the board. The members of the enforcement section:**

- 7           **(1) must be state police officers; and**
- 8           **(2) shall be selected, trained, and subject to all the provisions**  
 9 **of and vested with all of the authority granted by IC 22-1-1,**  
 10 **except that they shall be permanently assigned to and**  
 11 **primarily responsible for carrying out the duties imposed by**  
 12 **this chapter.**

13 **Upon call of the superintendent, with the approval of the governor,**  
 14 **the police personnel assigned to the enforcement section**  
 15 **established by this chapter shall be available for general police**  
 16 **duty in emergency situations only.**

17           **Sec. 3. (a) The enforcement officers employed by the**  
 18 **enforcement section:**

- 19           **(1) are vested with all necessary police powers to enforce**  
 20 **IC 8-2.1 and rules adopted under IC 8-2.1; and**
- 21           **(2) may investigate and make arrests for the violation of**  
 22 **IC 8-2.1 or rules adopted under IC 8-2.1.**

23           **(b) This section does not abridge or change the authority,**  
 24 **obligation, or duty of any other law enforcement officer to enforce**  
 25 **this chapter.**

26           **Sec. 4. (a) Funds necessary to implement this chapter shall be**  
 27 **derived from dedicated revenues as implemented under Public**  
 28 **Law 89-170. Public Law 89-170 and the standards for the**  
 29 **operation of interstate motor carriers adopted under Public Law**  
 30 **89-170 are recognized and adopted.**

31           **(b) There is appropriated from sources and other funds**  
 32 **deposited in the motor carrier regulation fund established under**  
 33 **IC 8-2.1-23 to the department of state revenue the sums necessary**  
 34 **for the enforcement section established by this chapter. Operating**  
 35 **and other expenses for the section in the discharge of duties under**  
 36 **this chapter shall be paid from sources by the department of state**  
 37 **revenue upon the presentation of interdepartmental billing to the**  
 38 **department by the superintendent.**

39           **Chapter 4. Defense of Employees in Civil Actions; Duties of**  
 40 **Attorney General**

41           **Sec. 1. As used in this chapter, "member" means the following:**

- 42           **(1) An employee or appointee of the department.**

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- 1           (2) An employee or appointee of the board.
- 2           (3) The superintendent.
- 3           (4) A member of the board.
- 4           **Sec. 2. If a member is sued for civil damages and the board**
- 5 **administratively determines that:**
- 6           (1) the civil action arose out of an act performed within the
- 7           scope of the duties of the member; and
- 8           (2) a lack of defense of the civil action by the state would
- 9           prejudice the enforcement of the laws of the state;
- 10 **the board shall present its written findings to the attorney general.**
- 11           **Sec. 3. (a) Except as provided in subsection (b), if the attorney**
- 12 **general finds the board's determination to be supported by**
- 13 **substantial evidence, the attorney general shall defend the member**
- 14 **in the civil action.**
- 15           **(b) The attorney general may authorize the department to hire**
- 16 **private counsel to defend the member in the civil action.**
- 17           **Sec. 4. The administrative determination by the board or the**
- 18 **determination by the attorney general under this chapter may not**
- 19 **be admitted as evidence in the trial of the civil action for damages.**
- 20           **Sec. 5. (a) This chapter may not be construed to deprive a**
- 21 **member of the right to select defense counsel of the member's**
- 22 **choice at the member's expense.**
- 23           **(b) This chapter may not be construed to relieve any person**
- 24 **from any responsibility for civil damages.**
- 25           **Chapter 5. Disposition of Unclaimed Property**
- 26           **Sec. 1. This chapter does not apply to property:**
- 27           (1) seized upon a search warrant; or
- 28           (2) the custody and disposition of which are otherwise
- 29           provided by law.
- 30           **Sec. 2. If money, goods, or other property that has been stolen,**
- 31 **lost, or abandoned comes into the possession of an employee of the**
- 32 **department by virtue of the employee's office, the employee:**
- 33           (1) shall deliver the money, goods, or other property to
- 34           another employee of the department as designated by the
- 35           superintendent; and
- 36           (2) is relieved from further responsibility for the money,
- 37           goods, or other property.
- 38           **Sec. 3. (a) Except as provided in subsection (c), if:**
- 39           (1) the money, goods, or other property remains unclaimed in
- 40           the possession or control of the employee to whom it was
- 41           delivered for six (6) months; and
- 42           (2) the location of the owner is unknown;

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1 the goods or other property shall be sold at public auction.  
 2 (b) Notice of the sale must be published one (1) time each week  
 3 for two (2) consecutive weeks in a newspaper of general circulation  
 4 printed in the community in which the sale is to be held. The notice  
 5 must include the following information:  
 6 (1) The time and place of the sale.  
 7 (2) A description of the property to be sold.  
 8 (c) Any property that:  
 9 (1) is perishable;  
 10 (2) will deteriorate greatly in value by keeping; or  
 11 (3) the expense of keeping will be likely to exceed the value of  
 12 the property;  
 13 may be sold at public auction in accordance with the rules or  
 14 orders of the superintendent. If the nature of the property requires  
 15 an immediate sale, the superintendent may waive the six (6) month  
 16 period of custody and the notice of sale provided in this section.  
 17 (d) The proceeds of a sale, after deducting all reasonable  
 18 charges and expenses incurred in relation to the property, and all  
 19 money shall be presumed abandoned and shall be delivered to the  
 20 attorney general for deposit into the abandoned property fund for  
 21 disposition as provided by IC 32-34-1-33 and IC 32-34-1-34.  
 22 Chapter 6. Law Enforcement Training Conferences  
 23 Sec. 1. (a) The department may conduct training programs at  
 24 semiannual conferences for law enforcement:  
 25 (1) officers;  
 26 (2) trainees; and  
 27 (3) applicants;  
 28 of cities, towns, and counties.  
 29 (b) A semiannual conference:  
 30 (1) may not last more than three (3) days; and  
 31 (2) shall be conducted at a state police post.  
 32 Sec. 2. (a) The training program courses shall be conducted  
 33 under the supervision and direction of the superintendent.  
 34 (b) The training programs must include courses of instruction  
 35 in the following subjects:  
 36 (1) Detection, pursuit, apprehension, and conviction of  
 37 criminals.  
 38 (2) Safety and first aid assistance.  
 39 (3) Any other subject the superintendent considers  
 40 appropriate.  
 41 Sec. 3. (a) A city council shall appropriate, as necessary,  
 42 sufficient funds to pay for each mile traveled to and from the

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1 conferences, at a rate equal to the rate paid to state officers and  
2 employees. The rate per mile shall change each time the state  
3 government changes its rate per mile. The city council also shall  
4 pay a per diem for expenses of not more than fifteen dollars (\$15)  
5 a day for each day or part of a day an authorized person is in  
6 attendance at a conference.

7 (b) A county council shall appropriate sufficient funds to pay for  
8 each mile traveled to and from the conferences at a rate  
9 determined by the county council. The county council also shall  
10 pay a per diem for expenses of not more than fifteen dollars (\$15)  
11 a day for each day or part of a day an authorized person is in  
12 attendance at a conference.

13 Sec. 4. Authorization for attendance at the conferences by city,  
14 town, or county law enforcement officers, trainees, or applicants  
15 shall be issued by the county auditor on recommendation of the  
16 executive authority of the law enforcement agency, office, or  
17 department to which the officer, trainee, or applicant belongs or  
18 has applied for membership.

19 Chapter 7. Drug Interdiction Program

20 Sec. 1. The drug interdiction fund is established.

21 Sec. 2. (a) The department shall administer the fund.

22 (b) Expenditures from the fund may be made only in accordance  
23 with the appropriations made by the general assembly.

24 Sec. 3. The department may use money from the fund to do the  
25 following:

- 26 (1) Provide additional persons to conduct investigations into
- 27 violations of drug and controlled substances statutes.
- 28 (2) Purchase laboratory equipment and other equipment
- 29 necessary to assist in the effort to control illegal drug activity.
- 30 (3) Provide technical and investigative assistance to local law
- 31 enforcement agencies to combat illegal drug activity.
- 32 (4) Fund other programs designed to reduce illegal drug
- 33 activity.

34 Sec. 4. The treasurer of state shall invest the money in the fund  
35 not currently needed to meet the obligations of the fund in the same  
36 manner as other public funds may be invested.

37 Sec. 5. Money in the fund at the end of a fiscal year does not  
38 revert to the state general fund.

39 SECTION 3. IC 10-12 IS ADDED TO THE INDIANA CODE AS  
40 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
41 2003]:

42 ARTICLE 12. STATE POLICE PENSIONS AND BENEFITS

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- 1           **Chapter 1. Definitions**  
2           **Sec. 1. The definitions in this chapter apply throughout this**  
3 **article.**  
4           **Sec. 2. "Department" refers to the state police department**  
5 **established by IC 10-11-2-4.**  
6           **Sec. 3. "Eligible employee" means a regular police employee of**  
7 **the department.**  
8           **Sec. 4. "Employee beneficiary" means an eligible employee who:**  
9           **(1) completes an application to become an employee**  
10 **beneficiary; and**  
11           **(2) makes or causes to be made the proper deductions from**  
12 **wages as required by the pension trust.**  
13           **Sec. 5. "Internal Revenue Code":**  
14           **(1) means the Internal Revenue Code of 1954, as in effect on**  
15 **September 1, 1974, if permitted with respect to governmental**  
16 **plans; or**  
17           **(2) to the extent not inconsistent with subdivision (1), has the**  
18 **meaning set forth in IC 6-3-1-11.**  
19           **Sec. 6. "Net amount paid into the trust fund from the wages of**  
20 **an employee beneficiary" means:**  
21           **(1) the amount of money paid into the trust fund from the**  
22 **wages of an employee beneficiary, plus interest at the rate of**  
23 **three percent (3%) or more compounded annually; less**  
24           **(2) any sums, plus interest at the same rate, paid from the**  
25 **trust fund to:**  
26           **(A) the employee beneficiary;**  
27           **(B) any person claiming by, through, or under the**  
28 **employee beneficiary; or**  
29           **(C) any government fund for the credit or benefit of the**  
30 **employee beneficiary.**  
31           **Sec. 7. "Pension consultants" means an individual, a firm, or a**  
32 **corporation of technical consultants competent and qualified to**  
33 **supervise and assist in the establishment, maintenance, and**  
34 **operation of a pension plan on an actuarially sound basis.**  
35           **Sec. 8. "Pension trust" means the agreement between the**  
36 **department and the trustee under the terms of which an actuarially**  
37 **sound retirement pension plan is established and operated for the**  
38 **exclusive benefit of the employee beneficiaries subject to the**  
39 **limitations specified in IC 10-12-2, IC 10-12-3, and IC 10-12-4.**  
40           **Sec. 9. "Supplementary trust agreement" means an agreement**  
41 **that has the force and effect of law between the department and the**  
42 **trustee concerning the police benefit fund (as described in**

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1 IC 10-12-2-7).

2 Sec. 10. "Trustee" refers to the trustee of the pension trust, who  
3 may be:

- 4 (1) one (1) or more corporate trustees; or  
5 (2) the treasurer of state serving under bond.

6 Sec. 11. "Trust fund" means the assets of the pension trust,  
7 including the following:

- 8 (1) Contributions from the department.  
9 (2) Contributions from employee beneficiaries.  
10 (3) Any other payments or contributions made to the pension  
11 trust.  
12 (4) The income and proceeds derived from the investment of  
13 the assets of the pension trust.

14 Chapter 2. Pension, Death, Disability, Survivor, and Other  
15 Benefits

16 Sec. 1. (a) If an eligible employee retires after at least twenty  
17 (20) years of service, the employee may:

- 18 (1) retain the employee's issued service weapon; and  
19 (2) receive a "Retired" badge in recognition of the employee's  
20 service to the department and the public.

21 (b) Upon an eligible employee's retirement, the department shall  
22 issue to the employee an identification card that:

- 23 (1) gives the employee's name and rank;  
24 (2) signifies that the employee is retired; and  
25 (3) notes the employee's authority to retain the employee's  
26 service weapon.

27 Sec. 2. (a) The department may:

- 28 (1) establish and operate an actuarially sound pension plan  
29 governed by a pension trust; and  
30 (2) make the necessary annual contribution in order to  
31 prevent any deterioration in the actuarial status of the trust  
32 fund.

33 (b) The department shall make contributions to the trust fund.  
34 An employee beneficiary shall make contributions to the trust fund  
35 through authorized monthly deductions from wages.

36 (c) The trust fund:

- 37 (1) may not be commingled with any other funds; and  
38 (2) shall be invested only in accordance with state laws for the  
39 investment of trust funds, together with other investments as  
40 are specifically designated in the pension trust.

41 Subject to the terms of the pension trust, the trustee, with the  
42 approval of the department and the pension advisory board, may

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establish investment guidelines and limits on all types of investments, including stocks and bonds, and take other action necessary to fulfill its duty as a fiduciary for the trust fund.

(d) The trustee shall invest the trust fund assets with the same care, skill, prudence, and diligence that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a similar character with similar aims.

(e) The trustee shall diversify the trust fund's investments in accordance with prudent investment standards. The investment of the trust fund is subject to section 3 of this chapter.

(f) The trustee shall receive and hold as trustee for the uses and purposes set forth in the pension trust the funds paid by the department, the employee beneficiaries, or any other person or persons.

(g) The trustee shall engage pension consultants to supervise and assist in the technical operation of the pension plan so that there is no deterioration in the actuarial status of the plan.

(h) Before October 1 of each year, the trustee, with the aid of the pension consultants, shall prepare and file a report with the department and the state board of accounts. The report must include the following with respect to the fiscal year ending on the preceding June 30:

**SCHEDULE I. Receipts and disbursements.**

**SCHEDULE II. Assets of the pension trust, listing investments as to book value and current market value at the end of the fiscal year.**

**SCHEDULE III. List of terminations, showing cause and amount of refund.**

**SCHEDULE IV. The application of actuarially computed "reserve factors" to the payroll data, properly classified for the purpose of computing the reserve liability of the trust fund as of the end of the fiscal year.**

**SCHEDULE V. The application of actuarially computed "current liability factors" to the payroll data, properly classified for the purpose of computing the liability of the trust fund for the end of the fiscal year.**

**SCHEDULE VI. An actuarial computation of the pension liability for all employees retired before the close of the fiscal year.**

(i) The minimum annual contribution by the department must be of sufficient amount, as determined by the pension consultants, to prevent any deterioration in the actuarial status of the pension

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1 plan during that year. If the department fails to make the  
2 minimum contribution for five (5) successive years, the pension  
3 trust terminates and the trust fund shall be liquidated.

4 (j) Except as provided by applicable federal law, in the event of  
5 liquidation, the department shall take the following actions:

- 6 (1) All expenses of the pension trust must be paid.
- 7 (2) Adequate provision must be made for continuing pension  
8 payments to retired persons.
- 9 (3) Each employee beneficiary must receive the net amount  
10 paid into the trust fund from the employee beneficiary's  
11 wages.
- 12 (4) Any amount remaining in the pension trust after the  
13 department makes the payments described in subdivisions (1)  
14 through (3) must be equitably divided among the employee  
15 beneficiaries in proportion to the net amount paid from each  
16 employee beneficiary's wages into the trust fund.

17 Sec. 3. (a) The pension trust shall satisfy the qualification  
18 requirements in Section 401 of the Internal Revenue Code, as  
19 applicable to the pension trust. In order to meet those  
20 requirements, the pension trust is subject to the following  
21 provisions, notwithstanding any other provision of this chapter,  
22 IC 10-12-3, or IC 10-12-4:

- 23 (1) The pension advisory board shall distribute the corpus and  
24 income of the pension trust to participants and their  
25 beneficiaries in accordance with this chapter, IC 10-12-3, and  
26 IC 10-12-4.
- 27 (2) A part of the corpus or income of the pension trust may  
28 not be used or diverted to any purpose other than the  
29 exclusive benefit of the participants and their beneficiaries.
- 30 (3) Forfeitures arising from severance of employment, death,  
31 or any other reason may not be applied to increase the  
32 benefits any participant would otherwise receive under this  
33 chapter, IC 10-12-3, or IC 10-12-4.
- 34 (4) If the pension trust is terminated or if all contributions to  
35 the pension trust are completely discontinued, the rights of  
36 each affected participant to the benefits accrued at the date of  
37 the termination or discontinuance, to the extent then funded,  
38 are nonforfeitable.
- 39 (5) All benefits paid from the pension trust shall be  
40 distributed in accordance with the requirements of Section  
41 401(a)(9) of the Internal Revenue Code and the regulations  
42 under that section. To meet those requirements, the pension

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- 1 trust is subject to the following provisions:
- 2 (A) The life expectancy of a participant, the participant's
- 3 spouse, or the participant's beneficiary shall not be
- 4 recalculated after the initial determination for purposes of
- 5 determining benefits.
- 6 (B) If a participant dies before the distribution of the
- 7 participant's benefits has begun, distributions to
- 8 beneficiaries must begin no later than December 31 of the
- 9 calendar year immediately following the calendar year in
- 10 which the participant died.
- 11 (C) The amount of an annuity paid to a participant's
- 12 beneficiary may not exceed the maximum determined
- 13 under the incidental death benefit requirement of the
- 14 Internal Revenue Code.
- 15 (6) The pension advisory board may not:
- 16 (A) determine eligibility for benefits;
- 17 (B) compute rates of contribution; or
- 18 (C) compute benefits of participants or beneficiaries;
- 19 in a manner that discriminates in favor of participants who
- 20 are considered officers, supervisors, or highly compensated,
- 21 as provided under Section 401(a)(4) of the Internal Revenue
- 22 Code.
- 23 (7) Benefits paid under this chapter, IC 10-12-3, or IC 10-12-4
- 24 may not exceed the maximum benefit specified by Section 415
- 25 of the Internal Revenue Code.
- 26 (8) The salary taken into account under this chapter,
- 27 IC 10-12-3, or IC 10-12-4 may not exceed the applicable
- 28 amount under Section 401(a)(17) of the Internal Revenue
- 29 Code.
- 30 (9) The trustee may not engage in a transaction prohibited by
- 31 Section 503(b) of the Internal Revenue Code.
- 32 (b) Notwithstanding any other provision of this chapter or
- 33 IC 10-12-3, and solely for the purposes of the benefits provided
- 34 under IC 10-12-3, the benefit limitations of Section 415 of the
- 35 Internal Revenue Code shall be determined by applying the
- 36 provisions of Section 415(b)(10) of the Internal Revenue Code, as
- 37 amended by the Technical and Miscellaneous Revenue Act of 1988.
- 38 This section constitutes an election under Section 415(b)(10)(C) of
- 39 the Internal Revenue Code to have Section 415(b) of the Internal
- 40 Revenue Code, other than Section 415(b)(2)(G) of the Internal
- 41 Revenue Code, applied without regard to Section 415(b)(2)(F) of
- 42 the Internal Revenue Code to anyone who did not first become a

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1 participant before January 1, 1990.

2 **Sec. 4.** The department may establish, operate, and make  
3 necessary contributions to a mortality reserve account for the  
4 payment of supplementary death benefits to deceased employee  
5 beneficiaries. However, a supplementary death benefit may not  
6 exceed fourteen thousand five hundred dollars (\$14,500).

7 **Sec. 5. (a)** The department may establish, operate, and make  
8 necessary contributions to a disability reserve account for the  
9 payment of disability expense reimbursements and disability  
10 pensions to disabled employee beneficiaries. The department also  
11 may do the following:

12 (1) Establish, under the terms of a supplementary trust  
13 agreement, disability expense reimbursements and disability  
14 pensions to be paid to employee beneficiaries who incur a  
15 disability in the line of duty.

16 (2) Establish, under the terms of a supplementary trust  
17 agreement, disability expense reimbursements and disability  
18 pensions to be paid to employee beneficiaries who incur a  
19 disability not in the line of duty.

20 (3) Seek rulings from the Internal Revenue Service as to the  
21 federal tax treatment for the line of duty disability benefits  
22 authorized by this section.

23 Except as provided in subsection (d), a monthly disability pension  
24 may not exceed the maximum basic pension amount. However, in  
25 the case of disability incurred in the line of duty, an employee  
26 beneficiary may receive not more than forty dollars (\$40) per  
27 month for each dependent parent and dependent child less than  
28 eighteen (18) years of age, in addition to the monthly disability  
29 pension payment under this chapter. Time in disability pension  
30 status is considered qualifying active service for purposes of  
31 calculating a retirement pension.

32 (b) This section shall be administered in a manner that is  
33 consistent with the Americans with Disabilities Act (42 U.S.C.  
34 12101, et seq.) and the regulations and amendments related to that  
35 act, to the extent required by that act.

36 (c) A disability payment made under this chapter is worker's  
37 compensation instead of a payment under IC 22-3-2 through  
38 IC 22-3-7.

39 (d) A regular, paid police employee of the state police  
40 department who is permanently and totally disabled by a  
41 catastrophic personal injury that:

42 (1) is sustained in the line of duty after January 1, 2001; and

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1           (2) permanently prevents the employee from performing any  
2           gainful work;  
3           shall receive a disability pension equal to the employee's regular  
4           salary at the commencement of the disability. The disability  
5           pension provided under this subsection is provided instead of the  
6           regular monthly disability pension. The disability pension provided  
7           under this subsection must be increased at a rate equal to any  
8           salary increases the employee would have received if the employee  
9           remained in active service.

10          Sec. 6. (a) The department may establish, operate, and make  
11          necessary contributions to a dependent's pension reserve account  
12          for the payment of pensions to dependent parents, surviving  
13          spouses, and dependent unmarried children of employee  
14          beneficiaries who are killed in the line of duty.

15          (b) The maximum monthly pension amount payable to  
16          dependent mothers, dependent fathers, and surviving spouses:

17               (1) may not exceed the then current basic monthly pension  
18               amount paid to retirees; and

19               (2) shall cease with the last payment before the dependent  
20               parent's or surviving spouse's death.

21          (c) Except as provided in subsections (d) through (f), the  
22          maximum monthly pension amount payable to each dependent  
23          unmarried child may not exceed thirty percent (30%) of the  
24          current basic monthly pension amount paid to retirees. The  
25          payment shall cease with the last payment before the child's  
26          marriage or nineteenth birthday, whichever occurs first.

27          (d) The total monthly pension amount paid to all dependent  
28          unmarried children of an employee beneficiary may not exceed the  
29          current basic monthly amount paid to retirees.

30          (e) Each unmarried dependent child who is at least nineteen (19)  
31          years of age but less than twenty-three (23) years of age is eligible  
32          to receive a pension payment while enrolled as a full-time student  
33          in a school, college, or university.

34          (f) A dependent child, married or unmarried, of an employee  
35          beneficiary who is killed in the line of duty is eligible to attend any  
36          Indiana state supported college or university tuition free.

37          (g) All dependent mothers, dependent fathers, surviving spouses,  
38          and dependent children who received a dependent pension on June  
39          30, 1969, shall receive a pension calculated as provided by this  
40          section beginning on July 1, 1969. Any surviving spouse electing to,  
41          or who has previously elected to, receive joint survivorship benefits  
42          instead of pension payments is eligible to receive the full pension

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benefit.

Sec. 7. (a) The:

- (1) mortality reserve account referred to in section 4 of this chapter;
- (2) disability reserve account referred to in section 5 of this chapter; and
- (3) dependent pension reserve account referred to in section 6 of this chapter;

may be commingled and operated as one (1) fund, known as the police benefit fund, under the terms of a supplementary trust agreement between the department and the trustee for the exclusive benefit of employee beneficiaries and their dependents.

(b) The trustee shall receive and hold as trustee for the uses and purposes set out in the supplementary trust agreement all funds paid to it as the trustee by the department or by any other person or persons.

(c) The trustee shall hold, invest, and reinvest the police benefit fund in:

- (1) investments that trust funds are permitted to invest in under Indiana law; and
- (2) other investments as may be specifically designated in the supplementary trust agreement.

(d) The trustee, with the assistance of the pension engineers, shall, not more than ninety (90) days after the close of the fiscal year, prepare and file with the department and the department of insurance a detailed annual report showing receipts, disbursements, case histories, and recommendations as to the contributions required to keep the program in operation.

(e) Contributions by the department to the police benefit fund shall be provided in the general appropriations to the department.

Sec. 8. (a) The department of insurance shall approve the actuarial soundness of the pension trust and the general method of operation of the police benefit fund before the police benefit fund begins operation.

(b) In addition to the annual report required by subsection (d), the department's books, reports, and accounts shall be open to inspection by the department of insurance at all times.

Sec. 9. (a) Except as provided in subsection (b), a member of the department may not accept:

- (1) a fee for the performance of an act in the line of duty; or
- (2) a reward offered for the apprehension or conviction of any person or persons or for the recovery of any property.

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1           (b) Any fee or reward to which a member of the department  
2 would be entitled except for the provisions of subsection (a) shall  
3 be paid to the police benefit fund.

4           Sec. 10. (a) A person entitled to, having an interest in, or sharing  
5 a pension or benefit from the trust funds does not, before the actual  
6 payment of the pension or benefit, have the right to anticipate, sell,  
7 assign, pledge, mortgage, or otherwise dispose of or encumber the  
8 pension or benefit.

9           (b) A person's interest, share, pension, or benefit, before the  
10 actual payment of the interest, share, pension, or benefit, may not  
11 be:  
12           (1) used to satisfy the debts or liabilities of the person entitled  
13 to the interest, share, pension, or benefit;  
14           (2) subject to attachment, garnishment, execution, or levy or  
15 sale on judicial proceedings; or  
16           (3) transferred by any means, voluntarily or involuntarily.

17           (c) The trustee may pay from the trust fund the amounts that  
18 the trustee determines are proper and necessary expenses of the  
19 trust fund.

20           Sec. 11. The child or spouse of an employee beneficiary who is  
21 permanently and totally disabled by a catastrophic personal injury  
22 that was sustained in the line of duty and permanently prevents the  
23 employee beneficiary from performing any gainful work may not  
24 be required to pay tuition or mandatory fees at any state supported  
25 college, university, or technical school if:  
26           (1) the child is less than twenty-three (23) years of age and is  
27 a full-time student pursuing a prescribed course of study; or  
28           (2) the spouse is pursuing a prescribed course of study toward  
29 an undergraduate degree.

30           **Chapter 3. The State Police Pre-1987 Benefit System**

31           Sec. 1. This chapter applies only to an employee beneficiary  
32 who:  
33           (1) is hired for the first time before July 1, 1987; and  
34           (2) does not choose coverage by IC 10-12-4 under  
35 IC 10-12-4-1.

36           Sec. 2. The pension trust for employee beneficiaries covered by  
37 this chapter is subject to the limitations specified in this chapter.

38           Sec. 3. (a) The normal retirement age for a regular police  
39 employee of the department may not be later than seventy (70)  
40 years of age.

41           (b) The department may not enforce a mandatory retirement  
42 age against its civilian employees.

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1           **Sec. 4. The monthly deductions from the employee beneficiary's**  
 2 **wages for the trust fund may not exceed six percent (6%) of the**  
 3 **employee beneficiary's average monthly wages (excluding**  
 4 **payments for overtime and determined without regard to any**  
 5 **salary reduction agreement established under Section 125 of the**  
 6 **Internal Revenue Code).**

7           **Sec. 5. If an employee beneficiary ceases to be an eligible**  
 8 **employee for any reason, including death, disability,**  
 9 **unemployment, or retirement:**

- 10           **(1) the employee beneficiary;**  
 11           **(2) the employee beneficiary's beneficiary; or**  
 12           **(3) the employee beneficiary's estate;**

13 **is entitled to receive at least the net amount paid into the trust fund**  
 14 **from the wages of the employee beneficiary, either in a lump sum**  
 15 **or in monthly installments not less than the basic pension amount.**

16           **Sec. 6. If an employee beneficiary is retired for old age, the**  
 17 **employee beneficiary is entitled to receive a lifelong monthly**  
 18 **income as specified in section 7 of this chapter. However, to be**  
 19 **entitled to the full amount of the basic pension amount, an**  
 20 **employee beneficiary must have completed at least twenty (20)**  
 21 **years of service to the department before retirement. Otherwise,**  
 22 **the employee beneficiary is entitled to receive a proportionate**  
 23 **pension based on the employee beneficiary's years of service to the**  
 24 **department.**

25           **Sec. 7. (a) Benefits provided under this section are subject to**  
 26 **IC 10-12-2-3.**

27           **(b) The basic monthly pension amount may not exceed by more**  
 28 **than twenty dollars (\$20) one-half (1/2) the amount of the employee**  
 29 **beneficiary's average monthly wage (excluding payments for**  
 30 **overtime and determined without regard to any salary reduction**  
 31 **agreement established under Section 125 of the Internal Revenue**  
 32 **Code) received during the highest paid consecutive twelve (12)**  
 33 **months before retirement. Salary that exceeds the monthly wage**  
 34 **received by a police employee in the grade of trooper at the**  
 35 **beginning of the trooper's third year of service may not be**  
 36 **considered when the basic pension amount is computed.**

37           **(c) An employee beneficiary in the active service of the**  
 38 **department who has completed twenty (20) years of service after**  
 39 **July 1, 1937, and who continues after July 1, 1937, in the service of**  
 40 **the department is entitled to add to the basic monthly pension**  
 41 **amount, at retirement, the following:**

- 42           **(1) Two percent (2%) of the basic amount for each of the next**

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1 two (2) full years of service over twenty (20) years.

2 (2) Three percent (3%) of the basic amount for each of the  
3 next two (2) full years over twenty-two (22) years.

4 (3) Four percent (4%) of the basic amount for each of the next  
5 two (2) full years over twenty-four (24) years.

6 (4) Five percent (5%) of the basic amount for each of the next  
7 two (2) full years over twenty-six (26) years.

8 (5) Six percent (6%) of the basic amount for each of the next  
9 two (2) full years over twenty-eight (28) years.

10 (6) Seven percent (7%) of the basic amount for each of the  
11 next two (2) full years over thirty (30) years.

12 (7) Eight percent (8%) of the basic amount for each of the  
13 next two (2) full years over thirty-two (32) years.

14 However, the total of the additional amount may not exceed  
15 seventy percent (70%) of the basic pension amount. These  
16 additional benefits are subject to the compulsory retirement age  
17 provided by the pension trust.

18 **Chapter 4. The State Police 1987 Benefit System**

19 **Sec. 1. (a) This chapter applies only to an employee beneficiary**  
20 **who:**

21 (1) is hired for the first time after June 30, 1987; or

22 (2) chooses coverage by this chapter under subsection (b).

23 (b) Subject to subsection (c), an employee beneficiary who is  
24 hired for the first time before July 1, 1987, may choose to be  
25 covered by this chapter instead of IC 10-12-3 if the employee files  
26 an election with the trustee before July 1, 1988. An election filed  
27 under this subsection is irrevocable and, except as provided in  
28 subsection (d), takes effect after twelve (12) months of service as an  
29 eligible employee following the filing of the election.

30 (c) This chapter is applicable only if the general assembly  
31 provides sufficient funding for the increased cost of the benefits  
32 provided by this chapter. If this chapter is not applicable, then  
33 IC 10-12-3 applies to all employee beneficiaries regardless of when  
34 hired for the first time.

35 (d) If an employee beneficiary's mandatory retirement date  
36 occurs during the twelve (12) months following the filing of an  
37 election under subsection (b), the election takes effect only if:

38 (1) the employee beneficiary serves as an eligible employee  
39 until the mandatory retirement date; and

40 (2) the employee beneficiary pays to the trust fund a lump  
41 sum equal to the remaining deductions that would have been  
42 made from the employee beneficiary's wages under this

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1 chapter during the twelve (12) months following the election  
2 if the employee beneficiary had not retired.

3 The election takes effect on the mandatory retirement date or the  
4 date when the lump sum payment is made, whichever is later.

5 Sec. 2. The pension trust for employee beneficiaries covered by  
6 this chapter is subject to limitations specified in this chapter.

7 Sec. 3. The normal retirement age for an employee beneficiary  
8 must be established by the pension trust.

9 Sec. 4. An employee beneficiary shall contribute to the trust  
10 fund, by monthly deduction, six percent (6%) of the employee  
11 beneficiary's wages (excluding payments for overtime and  
12 determined without regard to any salary reduction agreement  
13 established under Section 125 of the Internal Revenue Code).

14 Sec. 5. (a) An employee beneficiary who has completed  
15 twenty-five (25) years of service with the department is entitled to  
16 the full amount of the basic pension amount specified in section 7  
17 of this chapter.

18 (b) An employee beneficiary who has completed less than  
19 twenty-five (25) years of service is entitled to a proportionate  
20 amount of the basic pension amount specified in section 7 of this  
21 chapter, based upon the employee beneficiary's years of service to  
22 the department. However, benefit payments to an employee  
23 beneficiary with less than twenty-five (25) years of service may not  
24 begin until the first day of the month on or after the date on which:

25 (1) the employee beneficiary becomes fifty (50) years of age;  
26 or

27 (2) the employee beneficiary retires;

28 whichever is later.

29 Sec. 6. If an employee beneficiary ends employment for any  
30 reason before qualifying for a benefit under this chapter, the  
31 trustee shall pay to:

32 (1) the employee beneficiary;

33 (2) the employee beneficiary's beneficiary; or

34 (3) the employee beneficiary's estate;

35 the net amount paid into the trust fund from the employee  
36 beneficiary's wages. This amount may be paid in a lump sum or in  
37 monthly installments not less than the basic pension amount.

38 Sec. 7. (a) Benefits provided under this section are subject to  
39 IC 10-12-2-3.

40 (b) Except as provided in subsection (c), the basic monthly  
41 pension amount of an employee beneficiary may not exceed  
42 one-half (1/2) of the employee beneficiary's average monthly wage

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1 (excluding payments for overtime and determined without regard  
2 to any salary reduction agreement established under Section 125  
3 of the Internal Revenue Code) received during the highest paid  
4 consecutive thirty-six (36) months before retirement.

5 (c) For an employee beneficiary who retires after June 30, 1987,  
6 and before July 1, 1988, the basic monthly pension may not exceed  
7 the lesser of:

- 8 (1) the pension under subsection (b); or  
9 (2) one-half (1/2) the maximum salary of a first sergeant.

10 (d) For an employee beneficiary who retires after June 30, 1988,  
11 and before July 1, 1989, the basic monthly pension may not exceed  
12 the lesser of:

- 13 (1) the pension under subsection (b); or  
14 (2) one-half (1/2) the maximum salary of a captain.

15 (e) An employee beneficiary in the active service of the  
16 department who has completed twenty-five (25) years of service  
17 after July 1, 1937, and who continues after July 1, 1937, in the  
18 service of the department is entitled to add to the basic monthly  
19 pension amount, at retirement, the following:

- 20 (1) Five percent (5%) of the basic amount for each of the next  
21 three (3) full years over twenty-five (25) years.  
22 (2) Six percent (6%) of the basic amount for each of the next  
23 two (2) full years over twenty-eight (28) years.  
24 (3) Seven percent (7%) of the basic amount for each of the  
25 next two (2) full years over thirty (30) years.  
26 (4) Eight percent (8%) of the basic amount for each of the  
27 next two (2) full years over thirty-two (32) years.

28 However, the total of these additional amounts may not exceed  
29 seventy percent (70%) of the basic pension amount. These  
30 additional benefits are subject to any compulsory retirement age  
31 provided by the pension trust.

32 Sec. 8. (a) The basic monthly pension payable under section 7 of  
33 this chapter after June 30, 1995, to a member of the pension trust  
34 who retired after June 30, 1987, and before July 1, 1990, shall be  
35 increased by thirty-nine dollars (\$39).

36 (b) The department shall pay into the trust fund an amount  
37 sufficient to pay the increased benefits granted under this section.  
38 The trustee shall pay the increase in the monthly benefit required  
39 by this section from money in the trust fund.

40 Chapter 5. Supplemental Pension Benefits

41 Sec. 1. This chapter is intended to be a supplement to IC 10-12-3  
42 and does not repeal, impair, or otherwise adversely affect the

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pension fund or pension benefits provided for in IC 10-12-3 for eligible employees of the department.

**Sec. 2. To become eligible for any supplemental benefits provided in this chapter, an employee of the department must:**

- (1) be at least fifty-five (55) years of age;**
- (2) have completed at least twenty (20) years of service with the department or be retired by virtue of becoming fifty-five (55) years of age; and**
- (3) be eligible to receive retirement benefits under IC 10-12-3.**

**Sec. 3. (a) The pension advisory board that administers the pension under IC 10-12-3 shall direct and supervise the supplemental benefits provided in this chapter.**

**(b) The pension advisory board shall annually:**

- (1) provide a schedule showing the number of retirees receiving pension benefits under IC 10-12-3; and**
- (2) add to the regular pension benefit or annuity a supplemental benefit equal to fifty percent (50%) of the difference between:**
  - (A) the retiree's pension amount; and**
  - (B) the pension benefits received by an employee retiring from the department after July 1, 1970, with twenty (20) years of active service.**

**Sec. 4. As an incentive to all employees of the department, the supplemental pension benefits of this chapter shall be increased by more than the fifty percent (50%) increase provided in section 3 of this chapter, at the rate of five percent (5%) per year for each year of active service over twenty (20) years up to thirty (30) years of service, to provide that retired employees with thirty (30) years of service are entitled to one hundred percent (100%) of the regular pension benefits of employees who retire with twenty (20) years of active service after July 1, 1970.**

**Sec. 5. (a) The pension advisory board shall make the necessary computations required by this chapter on or before August 1 of each year preceding a session of the general assembly.**

**(b) The general assembly shall appropriate and the budget agency shall make available an amount sufficient to provide the funds necessary for supplemental pension benefits for eligible retirees under this chapter.**

**Sec. 6. The treasurer of state:**

- (1) is the trustee for the funds allocated to the supplemental pension benefits; and**
- (2) shall keep the supplemental pension benefit funds in a**

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1 separate account that the treasurer of state may designate as  
2 the state police department supplemental pension benefit  
3 fund.

4 **Sec. 7. The supplemental pension benefits provided for in this**  
5 **chapter shall be paid at the same time and along with the regular**  
6 **pension benefits.**

7 **Chapter 6. Special Death Benefit for Motor Carrier Inspectors**  
8 **and Special Police Employees**

9 **Sec. 1. As used in this chapter, "dies in the line of duty" refers**  
10 **to a death that occurs as a direct result of personal injury or illness**  
11 **resulting from any action that:**

- 12 (1) a motor carrier inspector; or
  - 13 (2) a special police employee of the department who is not a
  - 14 regular police employee of the department;
- 15 is obligated or authorized by rule, regulation, condition of
- 16 employment or service, or law to perform in the course of the
- 17 inspector's or special police employee's regular duties.

18 **Sec. 2. A special death benefit of one hundred fifty thousand**  
19 **dollars (\$150,000) for a motor carrier inspector or special police**  
20 **employee who dies in the line of duty shall be paid in a lump sum**  
21 **from the special death benefit fund established by IC 5-10-10-5 to**  
22 **the following relative of a motor carrier inspector or special police**  
23 **employee who dies in the line of duty:**

- 24 (1) The surviving spouse.
- 25 (2) If there is no surviving spouse, the surviving children (to
- 26 be shared equally).
- 27 (3) If there is no surviving spouse and there are no surviving
- 28 children, the parent or parents in equal shares.

29 SECTION 4. IC 10-13 IS ADDED TO THE INDIANA CODE AS  
30 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
31 2003]:

32 **ARTICLE 13. STATE POLICE DATA AND INFORMATION**  
33 **PROGRAMS**

34 **Chapter 1. Definitions**

35 **Sec. 1. The definitions in this chapter apply throughout this**  
36 **article.**

37 **Sec. 2. "Department" refers to the state police department**  
38 **established by IC 10-11-2-4.**

39 **Sec. 3. "Superintendent" refers to the superintendent of the**  
40 **department appointed under IC 10-11-2-6.**

41 **Chapter 2. Criminal Justice Data Division**

42 **Sec. 1. As used in this chapter, "division" refers to the criminal**

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justice data division established by section 2 of this chapter.

Sec. 2. (a) The criminal justice data division is established within the department.

(b) The division is under the administrative control and jurisdiction of the superintendent.

(c) The superintendent may:

(1) staff the division with personnel necessary for its efficient operation; and

(2) adopt rules to carry out the purposes of this chapter.

Sec. 3. (a) The division shall use the most current equipment, methods, and systems for the rapid storage and retrieval of criminal justice data necessary for an effective criminal justice system within Indiana.

(b) The superintendent may hire consultants to advise the superintendent in the most efficient means of establishing, funding, and maintaining the criminal justice data system with the ultimate purpose of extending the services and benefits of the system to all governmental agencies of the state and its political subdivisions having a need for the data.

Sec. 4. The division shall be organized and administered to fulfill the following purposes:

(1) To inform the public and responsible governmental officials as to the nature of the crime problem, its magnitude, and its trend over time.

(2) To measure the effects of prevention and deterrence programs, ranging from community action to police patrol.

(3) To find out who commits crimes by age, sex, family status, income, ethnic and residential background, and other social attributes, to find the proper focus of crime prevention programs.

(4) To measure the workload and effectiveness of all agencies of the criminal justice system, both individually and as an integrated system.

(5) To analyze the factors contributing to success and failure of probation, parole, and other correctional alternatives for various kinds of offenders.

(6) To provide criminal justice agencies with comparative norms of performance.

(7) To furnish baseline data for research.

(8) To compute the costs of crime in terms of economic injury inflicted upon communities and individuals, as well as to assess the direct public expenditures by criminal justice

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agencies.

(9) To project expected crime rates and their consequences into the future for more enlightened government planning.

**Sec. 5. (a) The division, under the supervision and direction of the superintendent and in accordance with the rules adopted under this chapter, shall do the following:**

(1) Collect data necessary for the accomplishment of the purposes of this chapter from all persons and agencies mentioned in section 6 of this chapter.

(2) Prepare and distribute to all the persons and agencies the forms to be used in reporting data to the division. The forms also must provide for items of information needed by federal bureaus, agencies, or departments engaged in the development of national criminal statistics.

(3) Prescribe the form and content of records to be kept by the persons and agencies to ensure the correct reporting of data to the division.

(4) Instruct the persons and agencies in the installation, maintenance, and use of records and equipment and in the manner of reporting to the division.

(5) Tabulate, analyze, and interpret the data collected.

(6) Supply data, upon request, to federal bureaus, agencies, or departments engaged in collecting and analyzing national criminal statistics.

(7) Present the following to the governor:

(1) Before July 1 of each year, a printed report containing the criminal statistics of the preceding calendar year.

(2) At other times the superintendent considers necessary or the governor requests, reports on public aspects of criminal statistics in a sufficiently general distribution for public enlightenment.

(b) The division may not obtain data under this chapter except that which is a public record, and all laws regulating privacy or restricting use of the data apply to any data collected.

(c) The division may accept data and reports from agencies other than those required to report under this chapter if the data and reports are consistent with the purposes of this chapter.

**Sec. 6. (a) If requested by the division, a public official or public agency dealing with crime or criminals or with delinquency or delinquents shall do the following:**

(1) Install and maintain records needed for reporting data required by the division.

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**(2) Report to the division, as and when prescribed, all data requested.**

**(3) Give the accredited agents of the division access to the records for the purpose of inspection.**

**(4) Cooperate with the division to the end that its duties may be properly performed.**

**(b) An official required under this chapter to furnish reports, information, or statistics to the criminal justice data division or a person employed by the official is not liable in any action arising out of having furnished the information in a manner as may be required by this chapter or the rules adopted under this chapter.**

**Sec. 7. As far as is practicable, the equipment methods and systems used by the criminal justice data division must be compatible with those used by similar agencies in other states and the federal government so that data necessary for interstate, national, and international criminal justice is readily available.**

**Sec. 8. In the administration of the division, the superintendent shall have the advice and assistance of the criminal justice commission and advisory council and the criminal justice planning agency.**

**Sec. 9. (a) The superintendent shall adopt rules necessary to accomplish the purposes of this chapter.**

**(b) In formulating the rules, the superintendent shall have the advice and assistance of the criminal justice advisory committee established by section 10 of this chapter.**

**Sec. 10. (a) The criminal justice advisory committee is established.**

**(b) The committee consists of the following persons or their designated representatives:**

- (1) The superintendent, who shall act as chairman.**
- (2) The attorney general.**
- (3) The executive director of the criminal justice planning agency.**
- (4) The commissioner of corrections.**
- (5) One (1) county sheriff serving in the sheriff's second or subsequent term of office.**
- (6) One (1) chief of police with at least two (2) years of experience as chief.**
- (7) One (1) prosecuting attorney in the prosecuting attorney's second or subsequent term of office.**
- (8) One (1) judge of a court of general criminal jurisdiction.**
- (9) The executive director of the law enforcement training**

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1 academy.

2 (10) A criminologist or forensic scientist.

3 (c) A member of the committee:

4 (1) must be appointed by the governor on a nonpartisan basis;  
5 and

6 (2) shall serve at the pleasure of the governor.

7 (d) A member of the committee serves without compensation  
8 except per diem as provided by law.

9 (e) The committee shall meet as often as is considered necessary  
10 by the superintendent, to formulate or revise rules for the  
11 statewide operation of the criminal justice data division.

12 Sec. 11. The division shall, within the limits of time and  
13 manpower, comply with all reasonable requests for periodic  
14 reports and analysis of data as may be made by any officer or  
15 agency required to report data that is necessary for the proper  
16 performance of the duties of the officer or agency.

17 Sec. 12. (a) It is the intent of the general assembly in enacting  
18 this chapter to provide information and data with reference to the  
19 total criminal justice system that will be equally beneficial to all  
20 officers, agencies, and components of the criminal justice system to  
21 better perform their respective duties for the overall improvement  
22 of criminal justice. Rules adopted under this chapter shall be  
23 drafted to express this intent.

24 (b) If a public official:

25 (1) is required by the rules to report to the division; and

26 (2) fails to comply with:

27 (A) the requests of the superintendent for information or  
28 data; or

29 (B) the rules governing records and systems and  
30 equipment and their maintenance;

31 the director of the criminal justice planning agency may deny the  
32 public official the benefits of the system until the public official  
33 complies with the rules.

34 (c) An official who knowingly makes a false return of  
35 information to the division commits a Class A misdemeanor.

### 36 Chapter 3. Criminal History Information

37 Sec. 1. As used in this chapter, "bias crime" means an offense in  
38 which the person who commits the offense knowingly or  
39 intentionally:

40 (1) selected the person who was injured; or

41 (2) damaged or otherwise affected property;

42 by the offense because of the color, creed, disability, national

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1 origin, race, religion, or sexual orientation of the injured person or  
 2 of the owner or occupant of the affected property or because the  
 3 injured person or owner or occupant of the affected property was  
 4 associated with any other recognizable group or affiliation.

5 **Sec. 2.** As used in this chapter, "care" means the provision of  
 6 care, treatment, education, training, instruction, supervision, or  
 7 recreation to children less than eighteen (18) years of age.

8 **Sec. 3.** As used in this chapter, "certificated employee" has the  
 9 meaning set forth in IC 20-7.5-1-2.

10 **Sec. 4.** As used in this chapter, "council" means the security and  
 11 privacy council established by section 34 of this chapter.

12 **Sec. 5. (a)** As used in this chapter, "criminal history data"  
 13 means information collected by criminal justice agencies, the  
 14 United States Department of Justice for the department's  
 15 information system, or individuals.

16 (b) The term consists of the following:

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

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

22 (3) Any disposition, including sentencing, and correctional  
 23 system intake, transfer, and release.

24 **Sec. 6. (a)** As used in this chapter, "criminal justice agency"  
 25 means any agency or department of any level of government whose  
 26 principal function is:

27 (1) the apprehension, prosecution, adjudication,  
 28 incarceration, probation, rehabilitation, or representation of  
 29 criminal offenders;

30 (2) the location of parents with child support obligations  
 31 under 42 U.S.C. 653;

32 (3) the licensing and regulating of riverboat gambling  
 33 operations; or

34 (4) the licensing and regulating of pari-mutuel horse racing  
 35 operations.

36 (b) The term includes the following:

37 (1) The office of the attorney general.

38 (2) The Medicaid fraud control unit, for the purpose of  
 39 investigating offenses involving Medicaid.

40 (3) A nongovernmental entity that performs as its principal  
 41 function the:

42 (A) apprehension, prosecution, adjudication, incarceration,

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1 or rehabilitation of criminal offenders;  
 2 (B) location of parents with child support obligations  
 3 under 42 U.S.C. 653;  
 4 (C) licensing and regulating of riverboat gambling  
 5 operations; or  
 6 (D) licensing and regulating of pari-mutuel horse racing  
 7 operations;  
 8 under a contract with an agency or department of any level of  
 9 government.

10 Sec. 7. As used in this chapter, "disposition" means information  
 11 disclosing that criminal proceedings have been concluded or  
 12 indefinitely postponed.

13 Sec. 8. As used in this chapter, "inspection" means visual  
 14 perusal and includes the right to make memoranda abstracts of the  
 15 information.

16 Sec. 9. As used in this chapter, "institute" means the Indiana  
 17 criminal justice institute established by IC 5-2-6-3.

18 Sec. 10. (a) As used in this chapter, "law enforcement agency"  
 19 means an agency or a department of any level of government  
 20 whose principal function is the apprehension of criminal offenders.

21 (b) The term includes the office of the attorney general.

22 Sec. 11. (a) As used in this chapter, "limited criminal history"  
 23 means information with respect to any arrest or criminal charge,  
 24 which must include a disposition.

25 (b) However, the term includes information about any arrest or  
 26 criminal charge that occurred less than one (1) year before the date  
 27 of a request even if no disposition has been entered.

28 Sec. 12. As used in this chapter, "national criminal history  
 29 background check" means the criminal history record system  
 30 maintained by the Federal Bureau of Investigation based on  
 31 fingerprint identification or any other method of positive  
 32 identification.

33 Sec. 13. As used in this chapter, "no contact order" means an  
 34 order that prohibits a person from having direct or indirect  
 35 contact with another person and that is issued under any of the  
 36 following:

- 37 (1) IC 31-32-13.
- 38 (2) IC 31-34-17.
- 39 (3) IC 31-34-20.
- 40 (4) IC 31-37-16.
- 41 (5) IC 31-37-19-1.
- 42 (6) IC 31-37-19-6.

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(7) IC 33-14-1-7.

(8) IC 35-33-8-3.2.

(9) IC 35-38-2-2.3.

Sec. 14. As used in this chapter, "noncertificated employee" has the meaning set forth in IC 20-7.5-1-2.

Sec. 15. (a) As used in this chapter, "protective order" has the meaning set forth in IC 5-2-9-2.1.

(b) The term includes a foreign protection order (as defined in IC 34-6-2-48.5).

Sec. 16. (a) As used in this chapter, "qualified entity" means a business or an organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care or care placement services.

(b) The term includes a business or an organization that licenses or certifies others to provide care or care placement services.

Sec. 17. As used in this chapter, "release" means furnishing a copy or an edited copy of criminal history data.

Sec. 18. As used in this chapter, "reportable offenses" means all felonies and those Class A misdemeanors the superintendent designates.

Sec. 19. As used in this chapter, "request" means asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner that:

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

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

Sec. 20. As used in this chapter, "school corporation" has the meaning set forth in IC 20-10.1-1-1.

Sec. 21. As used in this chapter, "special education cooperative" has the meaning set forth in IC 20-1-6-20.

Sec. 22. As used in this chapter, "unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

Sec. 23. As used in this chapter, "workplace violence restraining order" means an order issued under IC 34-26-6.

Sec. 24. (a) The department shall act as the official state central repository for criminal history data.

(b) A sheriff, police department, or criminal justice agency in Indiana shall report to the department, on forms provided by the department, all arrests for reportable offenses.

Sec. 25. (a) If a person whose arrest has been reported as

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1 required by section 24 of this chapter is:

2 (1) transferred to the custody of another criminal justice  
3 agency; or

4 (2) released without having an indictment or information filed  
5 with any court;

6 a disposition report shall be furnished to the department by the  
7 agency from whose custody the person has been transferred or  
8 released. Disposition reports shall be made on forms provided by  
9 the department.

10 (b) If an indictment or information is filed in a court, the clerk  
11 of the court shall furnish to the department, on forms provided by  
12 the department, a report of the disposition of the case.

13 (c) A disposition report, whether by a criminal justice agency or  
14 a court clerk, shall be sent to the department within thirty (30)  
15 days after the disposition.

16 Sec. 26. (a) A criminal justice agency:

17 (1) shall provide criminal history data to another criminal  
18 justice agency upon request; and

19 (2) may receive criminal history data from another criminal  
20 justice agency.

21 (b) If the request is made by an agency doing a presentence  
22 investigation, the information shall be transmitted not later than  
23 seven (7) days after the date that the request is received.

24 (c) The department shall provide criminal history data to a  
25 criminal justice agency making a request if the council determines  
26 that the agency has complied with this chapter.

27 Sec. 27. (a) Except as provided in subsection (b), on request, law  
28 enforcement agencies shall release or allow inspection of a limited  
29 criminal history to noncriminal justice organizations or individuals  
30 only if the subject of the request:

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

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

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

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

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

40 (6) has charged that the subject's rights have been abused  
41 repeatedly by criminal justice agencies;

42 (7) is the subject of a judicial decision or determination with

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1           respect to the setting of bond, plea bargaining, sentencing, or  
2           probation;

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

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

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

14          (11) is being sought by the parent locator service of the child  
15          support bureau of the division of family and children;

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

18          (13) has been convicted of any of the following:

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

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

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

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

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

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

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

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

29           (I) Sexual misconduct with a minor as a felony  
30           (IC 35-42-4-9).

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

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

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

40           (1) Federally chartered or insured banking institutions.

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

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

2 (B) Licensing.

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

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

8 Sec. 28. On request of an individual who has applied for  
9 employment with a noncriminal justice organization or individual,  
10 the Indiana central repository for criminal history information  
11 shall process a request for a limited criminal history check of the  
12 individual making the request from the Federal Bureau of  
13 Investigation's National Crime Information Center upon:

14 (1) the submission of fingerprints of the individual making the  
15 request; and

16 (2) the payment of a fifteen dollar (\$15) fee.

17 Sec. 29. A noncriminal justice organization or individual that  
18 receives a limited criminal history may not use it for purposes:

19 (1) other than those stated in the request; or

20 (2) that deny the subject any civil right to which the subject is  
21 entitled.

22 Sec. 30. (a) Except as provided in subsection (c), on request for  
23 release or inspection of a limited criminal history, law enforcement  
24 agencies may and the department shall do the following:

25 (1) Require a form, provided by law enforcement agencies  
26 and the department, to be completed. The form shall be  
27 maintained for two (2) years and shall be available to the  
28 record subject upon request.

29 (2) Collect a three dollar (\$3) fee to defray the cost of  
30 processing a request for inspection.

31 (3) Collect a seven dollar (\$7) fee to defray the cost of  
32 processing a request for release. However, law enforcement  
33 agencies and the department may not charge the fee for  
34 requests received from the parent locator service of the child  
35 support bureau of the division of family and children.

36 (b) Law enforcement agencies and the department shall edit  
37 information so that the only information released or inspected is  
38 information that:

39 (1) has been requested; and

40 (2) is limited criminal history information.

41 (c) The fee required under subsection (a) shall be waived if the  
42 request relates to the sex and violent offender directory under

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1 IC 5-2-6 or concerns a person required to register as a sex and  
2 violent offender under IC 5-2-12.

3 Sec. 31. (a) Unless otherwise prohibited by law, a criminal  
4 justice agency that maintains criminal history data, upon request  
5 and proper identification of the person about whom criminal  
6 history data is maintained, shall provide that person with a copy of  
7 the person's criminal history data for a reasonable fee.

8 (b) Any person may challenge the information contained in the  
9 person's criminal history data file.

10 Sec. 32. This chapter is not applicable to and does not prevent  
11 the release or inspection of information contained in the following:

- 12 (1) Wanted person posters or announcements.
- 13 (2) An original record of entry, including a police blotter,  
14 maintained by a criminal justice agency.
- 15 (3) Published court or administrative opinions or records of  
16 public judicial, administrative, or legislative proceedings.
- 17 (4) Records of traffic offenses maintained by the bureau of  
18 motor vehicles.
- 19 (5) Announcements of pardon or executive clemency.

20 Sec. 33. (a) The council shall adopt rules under IC 4-22-2 to:

- 21 (1) assure the completeness and accuracy of criminal history  
22 data;
- 23 (2) protect information from loss, alteration, destruction, or  
24 improper direct access to the information files;
- 25 (3) prevent unreasonable interference with the regular  
26 discharge of the duties of employees of law enforcement  
27 agencies; and
- 28 (4) carry out this chapter.

29 (b) If a person makes a challenge under section 31(b) of this  
30 chapter, the department shall:

- 31 (1) make the changes requested, if it determines the data is in  
32 error; or
- 33 (2) conduct a hearing under IC 4-21.5-3, if requested by the  
34 person making the challenge.

35 (c) The rules adopted under this chapter must provide for  
36 inspection in a reasonable and timely manner.

37 Sec. 34. (a) There is established a security and privacy council  
38 that consists of nine (9) members selected under subsections (b)  
39 and (c).

40 (b) The following six (6) members shall be appointed by and  
41 shall serve at the pleasure of the governor:

- 42 (1) A prosecuting attorney.

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- 1           (2) The police chief of a city.  
 2           (3) The sheriff of a county.  
 3           (4) A criminal court judge.  
 4           (5) Two (2) citizens who are not law enforcement officers.  
 5           (c) The following persons, or their designees, also are members  
 6 of the council:  
 7           (1) The superintendent.  
 8           (2) The attorney general.  
 9           (3) The commissioner of the department of correction.  
 10          (d) Members of the council are not entitled to receive  
 11 compensation but are entitled to receive a per diem and mileage on  
 12 those days in which they are engaged in the business of the council.  
 13 Per diem and mileage paid shall be that amount paid to state  
 14 employees.  
 15          Sec. 35. (a) On a daily basis, all law enforcement agencies shall  
 16 enter into the Indiana data and communication system (IDACS)  
 17 computer the following:  
 18           (1) All information concerning stolen or recovered property,  
 19 including the following:  
 20               (A) Motor vehicles.  
 21               (B) Firearms.  
 22               (C) Securities.  
 23               (D) Boats.  
 24               (E) License plates.  
 25               (F) Other stolen or recovered property.  
 26           (2) All information concerning fugitives charged with a crime,  
 27 including information concerning extradition.  
 28           (3) All information concerning runaways, missing and  
 29 unidentified persons, and missing children (as defined in  
 30 IC 10-13-5-4), including information concerning the release of  
 31 those persons to the custody of a parent or guardian.  
 32           (4) Information contained in a protective order, including any  
 33 modifications or extensions issued by a court and filed with a  
 34 law enforcement agency as required in IC 5-2-9-6(f).  
 35          (b) On a daily basis, all law enforcement agencies shall do the  
 36 following:  
 37           (1) Enter all information concerning missing children (as  
 38 defined in IC 10-13-5-4) into the National Crime Information  
 39 Center's Missing Person File.  
 40           (2) Enter all information concerning warrants issued for a  
 41 person who allegedly abducted or unlawfully retained a  
 42 missing child into the National Crime Information Center's

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**Wanted Person File.**

**(3) Enter all information concerning unidentified persons into the National Crime Information Center's Unidentified Person File.**

**(4) Enter all information concerning a protective order, a workplace violence restraining order, or a no contact order involving intimate partners into the National Crime Information Center's (NCIC) Protection Order File if the order qualifies under NCIC rules.**

**(c) If a protective order, a no contact order, or a workplace violence restraining order is removed from a depository established under IC 5-2-9, the law enforcement agency responsible for the depository shall delete the information entered under subsection (a)(4) from the Indiana data and communication system (IDACS) computer.**

**Sec. 36. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization:**

**(1) that has been in existence for at least ten (10) years; and**

**(2) that:**

**(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization;**

**(B) is a home health agency licensed under IC 16-27-1;**

**(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39); or**

**(D) is a supervised group living facility licensed under IC 12-28-5.**

**(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.**

**(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic**

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1 school.

2 **Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115), a local law**  
 3 **enforcement agency may use fingerprints submitted for the**  
 4 **purpose of identification in a request related to the following:**

- 5 (1) A taxicab driver's license application.  
 6 (2) An application for a license for a massage therapist.  
 7 (3) Reinstatement or renewal of a license described in  
 8 subdivisions (1) and (2).

9 (b) An applicant shall submit the fingerprints on forms provided  
 10 for the license application.

11 (c) The local law enforcement agency shall charge each  
 12 applicant the fees set by the department and federal authorities to  
 13 defray the costs associated with a search for and classification of  
 14 the applicant's fingerprints.

15 (d) The local law enforcement agency may:

- 16 (1) forward for processing to the Federal Bureau of  
 17 Investigation or any other agency fingerprints submitted by  
 18 a license applicant; and  
 19 (2) receive the results of all fingerprint investigations.

20 **Sec. 38. (a) A law enforcement agency shall collect information**  
 21 **concerning bias crimes.**

22 (b) At least two (2) times each year, a law enforcement agency  
 23 shall submit information collected under subsection (a) to the  
 24 Indiana central repository for criminal history information.  
 25 Information shall be reported in the manner and form prescribed  
 26 by the department.

27 (c) At least one (1) time each year, the Indiana central  
 28 repository for criminal history information shall submit a report  
 29 that includes a compilation of information obtained under  
 30 subsection (b) to each law enforcement agency and to the legislative  
 31 council. A report submitted to a law enforcement agency and the  
 32 legislative council under this subsection may not contain the name  
 33 of a person who:

- 34 (1) committed or allegedly committed a bias crime; or  
 35 (2) was the victim or the alleged victim of a bias crime.

36 (d) Except as provided in subsection (e), information collected,  
 37 submitted, and reported under this section must be consistent with  
 38 guidelines established for the acquisition, preservation, and  
 39 exchange of identification records and information by:

- 40 (1) the Attorney General of the United States; or  
 41 (2) the Federal Bureau of Investigation;

42 under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended

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1 (28 U.S.C. 534 note).

2 (e) Information submitted under subsection (b) and reports  
3 issued under subsection (c) shall, in conformity with guidelines  
4 prescribed by the department:

5 (1) be separated in reports on the basis of whether it is an  
6 alleged crime, a charged crime, or a crime for which a  
7 conviction has been obtained; and

8 (2) be divided in reports on the basis of whether, in the  
9 opinion of the reporting individual and the data collectors,  
10 bias was the primary motivation for the crime or only  
11 incidental to the crime.

12 Sec. 39. (a) The department is designated as the authorized  
13 agency to receive requests for, process, and disseminate the results  
14 of national criminal history background checks that comply with  
15 this section and 42 U.S.C. 5119a.

16 (b) A qualified entity may contact the department to request a  
17 national criminal history background check on any of the following  
18 persons:

19 (1) A person who seeks to be or is employed with the qualified  
20 entity. A request under this subdivision must be made not  
21 later than three (3) months after the person is initially  
22 employed by the qualified entity.

23 (2) A person who seeks to volunteer or is a volunteer with the  
24 qualified entity. A request under this subdivision must be  
25 made not later than three (3) months after the person initially  
26 volunteers with the qualified entity.

27 (c) A qualified entity must submit a request under subsection (b)  
28 in the form required by the department and provide a set of the  
29 person's fingerprints and any required fees with the request.

30 (d) If a qualified entity makes a request in conformity with  
31 subsection (b), the department shall submit the set of fingerprints  
32 provided with the request to the Federal Bureau of Investigation  
33 for a national criminal history background check for convictions  
34 described in IC 20-5-2-8. The department shall respond to the  
35 request in conformity with:

36 (1) the requirements of 42 U.S.C. 5119a; and

37 (2) the regulations prescribed by the Attorney General of the  
38 United States under 42 U.S.C. 5119a.

39 (e) This subsection applies to a qualified entity that:

40 (1) is not a school corporation or a special education  
41 cooperative; or

42 (2) is a school corporation or a special education cooperative

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1           and seeks a national criminal history background check for a  
2           volunteer.

3           After receiving the results of a national criminal history  
4           background check from the Federal Bureau of Investigation, the  
5           department shall make a determination whether the applicant has  
6           been convicted of an offense described in IC 20-5-2-8 and convey  
7           the determination to the requesting qualified entity.

8           (f) This subsection applies to a qualified entity that:

- 9           (1) is a school corporation or a special education cooperative;  
10          and  
11          (2) seeks a national criminal history background check to  
12          determine whether to employ or continue the employment of  
13          a certificated employee or a noncertificated employee of a  
14          school corporation or an equivalent position with a special  
15          education cooperative.

16          After receiving the results of a national criminal history  
17          background check from the Federal Bureau of Investigation, the  
18          department may exchange identification records concerning  
19          convictions for offenses described in IC 20-5-2-8 with the school  
20          corporation or special education cooperative solely for purposes of  
21          making an employment determination. The exchange may be made  
22          only for the official use of the officials with authority to make the  
23          employment determination. The exchange is subject to the  
24          restrictions on dissemination imposed under P.L.92-544, (86 Stat.  
25          1115) (1972).

26          Chapter 4. Juvenile History Information

27          Sec. 1. As used in this chapter, "council" refers to the security  
28          and privacy council established by IC 10-13-3-34.

29          Sec. 2. As used in this chapter, "criminal justice agency" has the  
30          meaning set forth in IC 10-13-3-6.

31          Sec. 3. As used in this chapter, "inspection" means visual  
32          perusal and includes the right to make memoranda abstracts of  
33          juvenile history data.

34          Sec. 4. As used in this chapter, "juvenile history data" means  
35          information collected by criminal or juvenile justice agencies or  
36          individuals about a child who is alleged to have committed a  
37          reportable act and consists of the following:

- 38          (1) Descriptions and notations of events leading to the taking  
39          of the child into custody by a juvenile justice agency for a  
40          reportable act allegedly committed by the child.  
41          (2) A petition alleging that the child is a delinquent child.  
42          (3) Dispositional decrees concerning the child that are entered

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under IC 31-37-19 (or IC 31-6-4-15.9 before its repeal).  
(4) The findings of a court determined after a hearing is held under IC 31-37-20-2 or IC 31-37-20-3 (or IC 31-6-4-19(h) or IC 31-6-4-19(i) before their repeal) concerning the child.

**(5) Information:**

(A) regarding a child who has been adjudicated a delinquent child for committing an act that would be an offense described in IC 5-2-12-4 if committed by an adult; and

(B) that is obtained through sex and violent offender registration under IC 5-2-12.

**Sec. 5.** As used in this chapter, "juvenile justice agency" means an agency or department of any level of government, the functions of which include juvenile justice activities included under IC 5-2-6-1.

**Sec. 6.** As used in this chapter, "petition" means a petition filed under IC 31-37-10 (or IC 31-6-4-9 before its repeal) alleging that a child is a delinquent child.

**Sec. 7.** As used in this chapter, "release" means furnishing a copy or edited copy of juvenile history data.

**Sec. 8.** As used in this chapter, "reportable act" means a delinquent act that would be a felony if committed by an adult.

**Sec. 9. (a)** The department shall act as the official state central repository for juvenile history data.

**(b)** Juvenile justice agencies shall report to the department, on forms provided by the department, each incident in which a child is taken into custody for a reportable act allegedly committed by the child.

**Sec. 10. (a)** If a child for whom a report is required to be submitted under section 9 of this chapter is:

(1) transferred to the custody of another juvenile justice agency; or

(2) released without having a petition filed with any court; a disposition report shall be furnished to the department by the agency from which custody of the child has been transferred or released. Disposition reports must be made on forms provided by the department.

**(b)** If a petition is filed in any court, the clerk of the court shall furnish to the department, on forms provided by the department, a report of the dispositional decree of the case entered under IC 31-37-19-5 (or IC 31-6-4-15.9 before its repeal).

**(c)** A report required under section 9 of this chapter or this

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1 section, whether by a juvenile justice agency or a court clerk, shall  
 2 be sent to the department within thirty (30) days after the action  
 3 necessitating the report occurs.

4 Sec. 11. (a) A criminal or juvenile justice agency may:

5 (1) provide juvenile history data to; or

6 (2) receive juvenile history data from;

7 another criminal or juvenile justice agency.

8 (b) The department shall provide juvenile history data to any  
 9 criminal or juvenile justice agency asking for it if the council  
 10 determines that the agency has complied with this chapter.

11 Sec. 12. (a) Except as otherwise provided, any criminal or  
 12 juvenile justice agency that maintains juvenile history data shall,  
 13 upon request and proper identification of the person about whom  
 14 juvenile history data is maintained, provide:

15 (1) that person; or

16 (2) the person's parent, guardian, or custodian if the person  
 17 is less than eighteen (18) years of age;

18 with a copy of the person's juvenile history data for a reasonable  
 19 fee.

20 (b) A person or the person's parent, guardian, or custodian, if  
 21 the person is less than eighteen (18) years of age, may challenge the  
 22 accuracy of information about the person filed with the  
 23 department as juvenile history data.

24 (c) The department may not release or allow inspection of  
 25 juvenile history data to any person or agency that is not authorized  
 26 under this chapter to receive it.

27 Sec. 13. (a) When a person who is the subject of juvenile history  
 28 data on file with the department becomes twenty-two (22) years of  
 29 age, the department shall seal that person's juvenile history data.  
 30 However, this subsection does not apply if, after the department  
 31 receives juvenile history data about a person, the person is arrested  
 32 for a felony required to be reported to the department under  
 33 IC 10-13-3.

34 (b) Except as provided under subsection (c), the department  
 35 may not release to or allow inspection of sealed juvenile history  
 36 data by any agency or person other than the person who is the  
 37 subject of the juvenile history data.

38 (c) A court may not order the release or inspection of sealed  
 39 juvenile history data unless the person who is the subject of the  
 40 sealed juvenile history data challenges its existence during a court  
 41 proceeding.

42 Sec. 14. (a) The council shall adopt rules under IC 4-22-2 to do

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- 1 the following:
- 2 (1) Assure the completeness and accuracy of juvenile history
- 3 data.
- 4 (2) Protect information from loss, alteration, destruction, or
- 5 improper direct access to the information files.
- 6 (3) Prevent unreasonable interference with the regular
- 7 discharge of the duties of employees of law enforcement
- 8 agencies.
- 9 (4) Carry out this chapter.
- 10 (b) If a person makes a challenge under section 12(b) of this
- 11 chapter, the department shall:
- 12 (1) make the changes requested, if the department determines
- 13 the data is in error; or
- 14 (2) conduct a hearing under IC 4-21.5, if requested by the
- 15 person making the challenge.
- 16 (c) The rules adopted under this chapter must provide for
- 17 inspection and release of juvenile history data in a reasonable and
- 18 timely manner.
- 19 **Chapter 5. Indiana Clearinghouse for Information on Missing**
- 20 **Children**
- 21 **Sec. 1. As used in this chapter, "Amber alert program" means**
- 22 **a program under which the clearinghouse transmits information**
- 23 **about a recently abducted child to broadcasters who:**
- 24 (1) have agreed to participate in the program; and
- 25 (2) immediately and repeatedly broadcast the information to
- 26 the general public.
- 27 **Sec. 2. As used in this chapter, "broadcaster" means the**
- 28 **operator of a radio or television station.**
- 29 **Sec. 3. As used in this chapter, "clearinghouse" refers to the**
- 30 **Indiana clearinghouse for information on missing children**
- 31 **established by section 5 of this chapter.**
- 32 **Sec. 4. As used in this chapter, "missing child" means a person**
- 33 **less than eighteen (18) years of age who:**
- 34 (1) is, or is believed to be:
- 35 (A) a temporary or permanent resident of Indiana;
- 36 (B) at a location that cannot be determined by the person's
- 37 parent or legal custodian; and
- 38 (C) reported missing to a law enforcement agency; or
- 39 (2) is, or is believed to be:
- 40 (A) a temporary or permanent resident of Indiana; and
- 41 (B) a victim of the offense of criminal confinement
- 42 (IC 35-42-3-3) or interference with custody (IC 35-42-3-4).

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1           **Sec. 5. The Indiana clearinghouse for information on missing**  
 2 **children is established within the department.**

3           **Sec. 6. (a) The superintendent shall designate staff responsible**  
 4 **for the operation of the clearinghouse.**

5           **(b) The staff's duties include the following:**

6           **(1) Creation and operation of an intrastate network of**  
 7 **communication designed for the speedy collection and**  
 8 **processing of information concerning missing children.**

9           **(2) Creation and operation of a central data storage, retrieval,**  
 10 **and information distribution system designed for the**  
 11 **exchange of information on missing children within and**  
 12 **outside Indiana. The system must be capable of interacting**  
 13 **with:**

14           **(A) the Indiana data and communication system under**  
 15 **IC 10-13-3-35; and**

16           **(B) the National Crime Information Center.**

17           **(3) Development of appropriate forms for the reporting of**  
 18 **missing children that may be used by law enforcement**  
 19 **agencies and private citizens to provide useful information**  
 20 **about a missing child to the clearinghouse.**

21           **(4) Cooperation with the following agencies concerning the**  
 22 **location of missing children:**

23           **(A) State and local public and private nonprofit agencies**  
 24 **involved with the location and recovery of missing persons.**

25           **(B) Agencies of the federal government.**

26           **(C) State and local law enforcement agencies within and**  
 27 **outside Indiana.**

28           **(5) Coordinating efforts to locate missing children with the**  
 29 **agencies listed in subdivision (4).**

30           **(6) Operation of the toll-free telephone line created under**  
 31 **section 7(a) of this chapter.**

32           **(7) Publishing and updating, on a quarterly basis, a directory**  
 33 **of missing children.**

34           **(8) Compiling statistics on missing children cases handled by**  
 35 **the clearinghouse, including the number of cases resolved**  
 36 **each year.**

37           **Sec. 7. (a) The clearinghouse shall do the following:**

38           **(1) Collect, process, and maintain identification and**  
 39 **investigative information to aid in finding missing children.**

40           **(2) Establish a statewide, toll free telephone line for reports of**  
 41 **missing children and sightings of missing children.**

42           **(3) Prescribe a uniform reporting form concerning missing**

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1 children for use by law enforcement agencies within Indiana.

2 (4) Assist in training law enforcement and other professionals  
3 on issues relating to missing children.

4 (5) Operate a resource center of information regarding the  
5 prevention of:

6 (A) the abduction of children; and

7 (B) the sexual exploitation of children.

8 (6) Distribute the quarterly directory prepared under section  
9 6(b)(7) of this chapter to schools and hospitals.

10 (7) Distribute the quarterly directory described in subdivision  
11 (6) to child care centers and child care homes that make an  
12 annual contribution of four dollars (\$4) to the clearinghouse.

13 The contributions must be used to help defray the cost of  
14 publishing the quarterly directory.

15 (b) For a missing child who was born in Indiana, the  
16 clearinghouse shall notify the vital statistics division of the state  
17 department of health:

18 (1) within fifteen (15) days after receiving a report under  
19 IC 31-36-1-3 (or IC 31-6-13-4 before its repeal) of a missing  
20 child less than thirteen (13) years of age; and

21 (2) promptly after the clearinghouse is notified that a missing  
22 child has been found.

23 (c) Upon receiving notification under subsection (b) that a child  
24 is missing or has been found, the vital statistics division of the state  
25 department of health shall notify the local health department or  
26 the health and hospital corporation that has jurisdiction over the  
27 area where the child was born.

28 (d) Information collected, processed, or maintained by the  
29 clearinghouse under subsection (a) is confidential and is not subject  
30 to IC 5-14-3, but may be disclosed by the clearinghouse for  
31 purposes of locating missing children.

32 Sec. 8. (a) The clearinghouse may operate an Amber alert  
33 program.

34 (b) Upon the establishment of an Amber alert program, the  
35 clearinghouse may enter into an agreement with one (1) or more  
36 broadcasters to operate the Amber alert program under this  
37 chapter.

38 (c) The superintendent shall designate staff responsible for the  
39 operation of the Amber alert program.

40 (d) The department shall adopt guidelines governing the  
41 clearinghouse's operation of the Amber alert program. The  
42 department's guidelines may require that staff, upon receiving a

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1 report that a child has been abducted, immediately send by  
 2 facsimile (fax) transmission or other means of communication a  
 3 description of the abducted child to one (1) or more broadcasters  
 4 participating in the Amber alert program.

5 (e) A broadcaster participating in the Amber alert program  
 6 shall immediately broadcast:

- 7 (1) a description of the abducted child; and  
 8 (2) other information that will assist in locating the abducted  
 9 child;

10 to the general public in accordance with the Amber alert plan  
 11 agreement between the clearinghouse and the broadcaster.

12 (f) The department shall adopt guidelines governing the  
 13 voluntary Amber alert program agreement between the  
 14 clearinghouse and a broadcaster. The voluntary agreement  
 15 between the clearinghouse and the broadcaster may include the  
 16 following provisions:

17 (1) Upon receiving a notification as part of the Amber alert  
 18 program, the broadcaster shall broadcast the information  
 19 contained on the notice on an intermittent basis for a period  
 20 of time as provided in the agreement between the  
 21 clearinghouse and the broadcaster.

22 (2) The broadcaster shall treat the Amber alert notification as  
 23 an emergency.

24 (3) The broadcaster shall ensure that the facsimile (fax)  
 25 transmission machine or other communications device used  
 26 to receive an Amber alert notification is:

27 (A) generally available to receive an Amber alert  
 28 notification; and

29 (B) located such that the broadcaster will immediately  
 30 become aware of an incoming Amber alert notification.

31 Sec. 9. If a missing child is found, the child's parent or legal  
 32 custodian shall notify the law enforcement agency that received the  
 33 missing child notification under IC 31-36 (or IC 31-6-13 before its  
 34 repeal).

35 Sec. 10. Upon receiving notification from a parent or legal  
 36 custodian that a missing child has been found, a law enforcement  
 37 agency shall immediately notify the clearinghouse.

38 Sec. 11. (a) Upon receiving notification under section 7 of this  
 39 chapter, the vital statistics division of the state department of  
 40 health and the appropriate local health department or health and  
 41 hospital corporation shall attach a notice to the child's birth  
 42 certificate stating that the child has been reported missing. The

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1 notice must remain attached to the birth certificate until  
 2 notification is received under section 7 of this chapter that the  
 3 missing child has been found.

4 (b) If a request for a copy of the birth certificate of a child is  
 5 received, the vital statistics division and the appropriate local  
 6 health department or health and hospital corporation shall require  
 7 the person making the request to submit an application for the  
 8 birth certificate that includes:

9 (1) the date of the request;

10 (2) the name, address, and telephone number of the person  
 11 making the request; and

12 (3) the signature of the person making the request.

13 (c) If a notice that the child is missing has been attached to the  
 14 birth certificate, the vital statistics division and the appropriate  
 15 local health department or health and hospital corporation shall  
 16 immediately notify the clearinghouse of the information contained  
 17 in the application.

18 (d) A copy of the birth certificate of a missing child to which a  
 19 notice has been attached under subsection (a) may not be issued  
 20 without authorization from the clearinghouse.

21 **Chapter 6. Indiana DNA Data Base**

22 **Sec. 1. As used in this chapter, "Combined DNA Index System"**  
 23 **refers to the Federal Bureau of Investigation's national DNA**  
 24 **identification index system that allows the storage and exchange of**  
 25 **DNA records submitted by state and local forensic DNA**  
 26 **laboratories.**

27 **Sec. 2. As used in this chapter, "DNA" means deoxyribonucleic**  
 28 **acid that:**

29 (1) is located in the nucleated cells;

30 (2) provides an individual's personal genetic blueprint; and

31 (3) encodes genetic information that is the basis of human  
 32 heredity and forensic identification.

33 **Sec. 3. As used in this chapter, "DNA analysis" means an**  
 34 **identification process in which the unique genetic code of an**  
 35 **individual that is carried by the individual's DNA is compared with**  
 36 **the genetic codes of another individual.**

37 **Sec. 4. As used in this chapter, "DNA profile" means the results**  
 38 **of all DNA identification tests on an individual's DNA sample.**

39 **Sec. 5. As used in this chapter, "DNA record" refers to DNA**  
 40 **identification information stored in the state DNA data base or the**  
 41 **Combined DNA Index System for the purpose of generating**  
 42 **investigative leads or supporting statistical interpretation of DNA**

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- 1 test results that:
- 2 (1) is the result obtained from DNA typing tests; and
- 3 (2) is comprised of the characteristics of a DNA sample that
- 4 are of value in establishing the identity of individuals.
- 5 Sec. 6. As used in this chapter, "DNA sample" means a blood,
- 6 tissue, or other body fluid sample:
- 7 (1) provided by a person with respect to offenses covered by
- 8 this chapter; or
- 9 (2) submitted to the state police laboratory under this chapter
- 10 for analysis or storage, or both.
- 11 Sec. 7. As used in this chapter, "superintendent" includes the
- 12 superintendent or the superintendent's designee.
- 13 Sec. 8. (a) The superintendent may establish a data base of DNA
- 14 identification records of:
- 15 (1) convicted criminals;
- 16 (2) crime scene specimens;
- 17 (3) unidentified missing persons; and
- 18 (4) close biological relatives of missing persons.
- 19 (b) The superintendent shall maintain the Indiana DNA data
- 20 base.
- 21 (c) The superintendent may contract for services to perform
- 22 DNA analysis of convicted offenders under section 10 of this
- 23 chapter to assist federal, state, and local criminal justice and law
- 24 enforcement agencies in the putative identification, detection, or
- 25 exclusion of individuals who are subjects of an investigation or
- 26 prosecution of a sex offense, a violent crime, or another crime in
- 27 which biological evidence is recovered from the crime scene.
- 28 (d) The superintendent shall adopt rules under IC 4-22-2
- 29 necessary to administer and enforce the provisions and intent of
- 30 this chapter.
- 31 Sec. 9. The superintendent shall ensure that the Indiana DNA
- 32 data base:
- 33 (1) supports development of a population statistics data base,
- 34 when personal identifying information is removed;
- 35 (2) supports identification research and protocol development
- 36 of forensic DNA analysis;
- 37 (3) assists in achieving quality control; and
- 38 (4) assists in the recovery or identification of human remains
- 39 from mass disasters or for other humanitarian purposes,
- 40 including identification of missing persons who may be alive.
- 41 Sec. 10. (a) This section applies to the following:
- 42 (1) A person convicted of a felony under IC 35-42 (offenses

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1 against the person), IC 35-43-2-1 (burglary), or IC 35-42-4-6  
2 (child solicitation):

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

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

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

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

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

16 (b) A person described in subsection (a) shall provide a DNA  
17 sample to the:

18 (1) department of correction or the designee of the  
19 department of correction, if the offender is committed to the  
20 department of correction; or

21 (2) county sheriff or the designee of the county sheriff, if the  
22 offender is held in a county jail or other county penal facility,  
23 placed in a community corrections program (as defined in  
24 IC 35-38-2.6-2), or placed on probation.

25 A convicted person is not required to submit a blood sample if  
26 doing so would present a substantial and an unreasonable risk to  
27 the person's health.

28 Sec. 11. (a) The superintendent may issue specific guidelines  
29 relating to procedures for DNA sample collection and shipment  
30 within Indiana for DNA identification testing.

31 (b) The superintendent shall issue specific guidelines related to  
32 procedures for DNA sample collection and shipment by the county  
33 sheriff or designee of the county sheriff under section 10(b)(2) of  
34 this chapter. The superintendent shall provide each county sheriff  
35 with the guidelines issued under this subsection. A county sheriff  
36 shall collect and ship DNA samples in compliance with the  
37 guidelines issued under this subsection.

38 (c) The superintendent may delay the implementation of the  
39 collection of DNA samples under section 10(b)(2) of this chapter in  
40 one (1) or more counties until the earlier of the following:

41 (1) A date set by the superintendent.

42 (2) The date funding becomes available by grant through the

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criminal justice institute.  
If the superintendent delays implementation of section 10(b)(2) of this chapter or terminates a delay under section 10(b)(2) of this chapter in any county, the superintendent shall notify the county sheriff in writing of the superintendent's action.

**Sec. 12. DNA samples for the Indiana DNA data base must be collected in a medically approved manner by one (1) of the following:**

- (1) A physician.
- (2) A registered nurse.
- (3) A licensed vocational nurse.
- (4) A licensed clinical laboratory technologist.
- (5) Any other person trained to collect DNA samples properly.

**Sec. 13. (a) Tests performed on the DNA samples are for the following purposes:**

- (1) To analyze and type the genetic markers contained in or derived from DNA.
- (2) For law enforcement identification purposes.
- (3) For research or administrative purposes, including:
  - (A) development of a population statistics data base, after personal identifying information is removed;
  - (B) support of identification research and protocol development of forensic DNA analysis methods;
  - (C) quality control; and
  - (D) assisting in the recovery or identification of human remains from mass disasters or for other humanitarian purposes, including identification of missing persons who may be alive.

**(b) Tests performed under this chapter must be conducted in a manner that produces compatible results with procedures specified by the Federal Bureau of Investigation Laboratory to ensure that DNA records are fully exchangeable between DNA laboratories.**

**Sec. 14. (a) A laboratory conducting forensic DNA analysis in Indiana must implement and follow nationally recognized standards for DNA quality assurance and proficiency testing, such as those approved by the American Society of Crime Laboratory Directors Laboratory Accreditation Board.**

**(b) Quality assurance guidelines issued by the Technical Working Group on DNA Analysis Methods serve as the standard for DNA testing under this chapter until national standards are set.**

**(c) A laboratory conducting forensic DNA analysis in Indiana shall forward relevant DNA data base records to the state police**

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1 laboratory.

2 **Sec. 15. A laboratory conducting forensic DNA analysis in**  
 3 **Indiana may disclose or allow access to collected DNA samples and**  
 4 **DNA analysis results only under the following circumstances:**

5 (1) To criminal justice agencies for law enforcement  
 6 identification purposes.

7 (2) To defense counsel for criminal defense purposes.

8 (3) Upon authorization by a court or statute.

9 (4) For a population statistics data base, identification  
 10 research and protocol development, or quality control  
 11 purposes, but only if personal identifying information is  
 12 removed.

13 (5) For purposes of postconviction DNA testing and analysis  
 14 under IC 35-38-7.

15 **Sec. 16. The information contained in the Indiana DNA data**  
 16 **base may not be collected or stored to obtain information about**  
 17 **human physical traits or predisposition for disease.**

18 **Sec. 17. Personal information stored in the Indiana DNA data**  
 19 **base is limited to:**

20 (1) data necessary to:

21 (A) generate investigative leads; and

22 (B) support statistical interpretation of test results; and

23 (2) any other information necessary to allow for the successful  
 24 implementation of the Indiana DNA data base system.

25 **Sec. 18. (a) A person whose DNA profile has been included in**  
 26 **the Indiana DNA data base may request expungement of the**  
 27 **profile from the DNA data base on the grounds that the conviction**  
 28 **on which the authority for inclusion in the Indiana DNA data base**  
 29 **was founded has been reversed and the case has been dismissed.**

30 (b) All identifiable information in the Indiana DNA data base  
 31 pertaining to a person requesting expungement under subsection  
 32 (a) shall be expunged, and all samples from the person shall be  
 33 destroyed upon receipt of:

34 (1) a written request for expungement under subsection (a);

35 (2) a certified copy of the court order reversing and  
 36 dismissing the conviction; and

37 (3) any other information necessary to ascertain the validity  
 38 of the request.

39 (c) Upon expungement of a person's DNA profile from the  
 40 Indiana DNA data base, the superintendent shall request  
 41 expungement of the person's DNA profile from the national DNA  
 42 data base.

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**Sec. 19. (a) Access to the Indiana DNA data base is limited to federal, state, and local law enforcement agencies through their servicing forensic DNA laboratories.**

**(b) The superintendent shall take appropriate measures to ensure that the Indiana DNA data base is protected against unauthorized access.**

**Sec. 20. The superintendent may deny the privilege of a laboratory performing forensic DNA analysis within Indiana to exchange DNA identification records with federal, state, or local criminal justice agencies if required quality control and privacy standards described in this chapter for the Indiana DNA data base are not met by the laboratory.**

**Sec. 21. A person who knowingly or intentionally without lawful authority tampers with or attempts to tamper with any DNA sample or a container collected under section 10 of this chapter commits a Class D felony.**

**Sec. 22. A person who knowingly or intentionally disseminates, receives, or otherwise uses or attempts to use information in the Indiana DNA data base or DNA samples used in DNA analyses, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, commits a Class A misdemeanor.**

**SECTION 5. IC 10-14 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:**

**ARTICLE 14. EMERGENCY MANAGEMENT**

**Chapter 1. Definitions**

**Sec. 1. The definitions in this chapter apply throughout this article.**

**Sec. 2. "Agency" refers to the state emergency management agency established by IC 10-14-2-1.**

**Sec. 3. "Commission" refers to the Indiana emergency medical services commission established by IC 16-31-2-1.**

**Sec. 4. "Director" refers to the director of the agency appointed under IC 10-8-2-2.**

**Chapter 2. State Emergency Management Agency**

**Sec. 1. The state emergency management agency is established.**

**Sec. 2. (a) The governor shall appoint a director, who is responsible for organizing and administering the agency.**

**(b) The director:**

- (1) serves at the pleasure of the governor; and**
- (2) is entitled to receive compensation set by the budget agency.**

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(c) The director shall serve as the executive secretary of the commission.

Sec. 3. The director may hire qualified employees to carry out the agency's responsibilities, subject to the following:

- (1) The approval of the budget agency under IC 4-12-1-13.
- (2) IC 4-15-2.

Sec. 4. The agency shall do the following:

- (1) Coordinate the state's emergency plans.
- (2) Serve as the coordinating agency for all state efforts for preparedness for, response to, mitigation of, and recovery from emergencies and disasters.
- (3) Administer this article and IC 16-31.
- (4) Perform duties assigned to the agency by the governor.

**Chapter 3. Emergency Management and Disaster Law**

Sec. 1. (a) As used in this chapter, "disaster" means an occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause.

(b) The term includes the following:

- (1) Fire.
- (2) Flood.
- (3) Earthquake.
- (4) Wind.
- (5) Storm.
- (6) Wave action.
- (7) Oil spill.
- (8) Other water contamination requiring emergency action to avert danger or damage.
- (9) Air contamination.
- (10) Drought.
- (11) Explosion.
- (12) Riot.
- (13) Hostile military or paramilitary action.

Sec. 2. As used in this chapter, "emergency management" means the preparation for and the coordination of all emergency functions, other than functions for which military forces or other federal agencies are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters. The functions include the following:

- (1) Firefighting services.
- (2) Police services.
- (3) Medical and health services.

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- 1 (4) Rescue.
- 2 (5) Engineering.
- 3 (6) Warning services.
- 4 (7) Communications.
- 5 (8) Radiological, chemical, and other special weapons defense.
- 6 (9) Evacuation of persons from stricken areas.
- 7 (10) Emergency welfare services.
- 8 (11) Emergency transportation.
- 9 (12) Plant protection.
- 10 (13) Temporary restoration of public utility services.
- 11 (14) Other functions related to civilian protection.
- 12 (15) All other activities necessary or incidental to the
- 13 preparation for and coordination of the functions described
- 14 in subdivisions (1) through (14).

15 Sec. 3. As used in this chapter, "emergency management  
 16 worker" includes any full-time or part-time paid, volunteer, or  
 17 auxiliary employee of:

- 18 (1) the state;
- 19 (2) other:
  - 20 (A) states;
  - 21 (B) territories; or
  - 22 (C) possessions;
- 23 (3) the District of Columbia;
- 24 (4) the federal government;
- 25 (5) any neighboring country;
- 26 (6) any political subdivision of an entity described in
- 27 subdivisions (1) through (5); or
- 28 (7) any agency or organization;

29 performing emergency management services at any place in  
 30 Indiana subject to the order or control of, or under a request of,  
 31 the state government or any political subdivision of the state.

32 Sec. 4. As used in this chapter, "energy" means coal, petroleum  
 33 or other liquid fuels, natural or synfuel gas, or electricity.

34 Sec. 5. As used in this chapter, "energy emergency" means an  
 35 existing or projected shortfall of at least eight percent (8%) of  
 36 motor fuel or of other energy sources that threatens to seriously  
 37 disrupt or diminish energy supplies to the extent that life, health,  
 38 or property may be jeopardized.

39 Sec. 6. As used in this chapter, "political subdivision" has the  
 40 meaning set forth in IC 36-1-2-13.

41 Sec. 7. (a) Because of the existing and increasing possibility of  
 42 disasters or emergencies of unprecedented size and destructiveness

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1 that may result from manmade or natural causes, to ensure that  
 2 Indiana will be adequately prepared to deal with disasters or  
 3 emergencies or to prevent or mitigate those disasters where  
 4 possible, generally to provide for the common defense, to protect  
 5 the public peace, health, and safety, and to preserve the lives and  
 6 property of the people of the state, it is found and declared to be  
 7 necessary:

8 (1) to provide for emergency management under a state  
 9 emergency management agency;

10 (2) to create local emergency management departments and  
 11 to authorize and direct disaster and emergency management  
 12 functions in the political subdivisions of the state;

13 (3) to confer upon the governor and upon the executive heads  
 14 or governing bodies of the political subdivisions of the state  
 15 the emergency powers provided in this chapter;

16 (4) to provide for the rendering of mutual aid among the  
 17 political subdivisions of the state, with other states, and with  
 18 the federal government to carry out emergency, disaster, or  
 19 emergency management functions; and

20 (5) to authorize the establishment of organizations and the  
 21 implementation of steps that are necessary and appropriate  
 22 to carry out this chapter.

23 (b) It is also the purpose of this chapter and the policy of the  
 24 state to:

25 (1) coordinate all emergency management functions of this  
 26 state to the maximum extent with the comparable functions  
 27 of:

28 (A) the federal government, including the federal  
 29 government's various departments and agencies;

30 (B) other states and localities; and

31 (C) private agencies of every type;

32 so that the most effective preparation and use may be made of  
 33 the nation's manpower, resources, and facilities for dealing  
 34 with any disaster that may occur;

35 (2) prepare for prompt and efficient rescue, care, and  
 36 treatment of persons victimized or threatened by disaster;

37 (3) provide a setting conducive to the rapid and orderly start  
 38 of restoration and rehabilitation of persons and property  
 39 affected by disasters;

40 (4) clarify and strengthen the roles of the:

41 (A) governor;

42 (B) state agencies; and

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- 1           (C) local governments;
- 2           in the prevention of, preparation for, response to, and
- 3           recovery from disasters;
- 4           (5) authorize and provide cooperation between departments
- 5           of government in:
- 6           (A) disaster prevention;
- 7           (B) preparedness;
- 8           (C) response; and
- 9           (D) recovery;
- 10          (6) authorize and provide coordination of activities relating
- 11          to:
- 12          (A) disaster prevention;
- 13          (B) preparedness;
- 14          (C) response; and
- 15          (D) recovery;
- 16          by agencies and officers of Indiana, and similar state-local,
- 17          interstate, federal-state, and foreign activities in which the
- 18          state and its political subdivisions may participate; and
- 19          (7) provide a disaster management system embodying all
- 20          aspects of pre-disaster preparedness, disaster operations, and
- 21          post-disaster response.

22          Sec. 8. (a) This chapter may not be construed to do the

23          following:

- 24          (1) Interfere with the course or conduct of a labor dispute,
- 25          except that actions otherwise authorized by this chapter or
- 26          other laws may be taken when necessary to forestall or
- 27          mitigate imminent or existing danger to public health or
- 28          safety.
- 29          (2) Interfere with the dissemination of news or comment on
- 30          public affairs. However, a communications facility or
- 31          organization, including radio and television stations, wire
- 32          services, and newspapers, may be required to transmit or
- 33          print public service messages furnishing information or
- 34          instructions in connection with a disaster emergency.
- 35          (3) Affect the jurisdiction or responsibilities of police forces,
- 36          fire fighting forces, or units or personnel on active duty of the
- 37          United States' armed forces. However, state, local, and
- 38          interjurisdictional disaster emergency plans must rely on the
- 39          forces available for performance of functions related to
- 40          disaster emergencies.
- 41          (4) Limit, modify, or abridge the authority of the governor to
- 42          proclaim martial law or exercise any other powers vested in

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1 the governor under the constitution, statutes, or common law  
 2 of Indiana independent of or in conjunction with any  
 3 provisions of this chapter.

4 (b) This chapter does not limit or in any way affect the  
 5 responsibilities of the American National Red Cross under 36  
 6 U.S.C. 300101 et seq. and 42 U.S.C. 5121 et seq.

7 Sec. 9. (a) The agency shall prepare and maintain a current state  
 8 emergency operations plan. The plan may provide for the  
 9 following:

10 (1) Prevention and minimization of injury and damage caused  
 11 by disaster.

12 (2) Prompt and effective response to disaster.

13 (3) Emergency relief.

14 (4) Identification of areas particularly vulnerable to disaster.

15 (5) Recommendations for:

16 (A) zoning;

17 (B) building;

18 (C) other land use controls;

19 (D) safety measures for securing mobile homes or other  
 20 nonpermanent or semipermanent structures; and

21 (E) other preventive and preparedness measures designed  
 22 to eliminate or reduce disaster or its impact;

23 that must be disseminated to both the fire prevention and  
 24 building safety commission and local authorities.

25 (6) Assistance to local officials in designing local emergency  
 26 action plans.

27 (7) Authorization and procedures for the erection or other  
 28 construction of temporary works designed to protect against  
 29 or mitigate danger, damage, or loss from flood, conflagration,  
 30 or other disaster.

31 (8) Preparation and distribution to the appropriate state and  
 32 local officials of state catalogs of federal, state, and private  
 33 assistance programs.

34 (9) Organization of manpower and chains of command.

35 (10) Coordination of federal, state, and local disaster  
 36 activities.

37 (11) Coordination of the state disaster plan with the disaster  
 38 plans of the federal government.

39 (12) Other necessary matters.

40 (b) The agency shall take an integral part in the development  
 41 and revision of local and interjurisdictional disaster plans  
 42 prepared under section 17 of this chapter. The agency shall employ

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1 or otherwise secure the services of professional and technical  
2 personnel capable of providing expert assistance to political  
3 subdivisions, a political subdivision's disaster agencies, and  
4 interjurisdictional planning and disaster agencies. These  
5 personnel:

6 (1) shall consult with subdivisions and government agencies  
7 on a regularly scheduled basis;

8 (2) shall make field examinations of the areas, circumstances,  
9 and conditions to which particular local and  
10 interjurisdictional disaster plans are intended to apply; and

11 (3) may suggest revisions.

12 (c) In preparing and revising the state disaster plan, the agency  
13 shall seek the advice and assistance of local government, business,  
14 labor, industry, agriculture, civic and volunteer organizations, and  
15 community leaders. In advising local and interjurisdictional  
16 agencies, the agency shall encourage local and interjurisdictional  
17 agencies to seek advice from the sources specified in this  
18 subsection.

19 (d) The state disaster plan or any part of the plan may be  
20 incorporated in rules of the agency or by executive orders.

21 (e) The agency shall do the following:

22 (1) Determine requirements of the state and political  
23 subdivisions for food, clothing, and other necessities in event  
24 of an emergency.

25 (2) Procure and pre-position supplies, medicines, materials,  
26 and equipment.

27 (3) Adopt standards and requirements for local and  
28 interjurisdictional disaster plans.

29 (4) Provide for mobile support units.

30 (5) Assist political subdivisions, political subdivisions' disaster  
31 agencies, and interjurisdictional disaster agencies to establish  
32 and operate training programs and public information  
33 programs.

34 (6) Make surveys of industries, resources, and facilities in  
35 Indiana, both public and private, necessary to carry out this  
36 chapter.

37 (7) Plan and make arrangements for the availability and use  
38 of any private facilities, services, and property, and if  
39 necessary and if the private facilities, services, or property is  
40 used, provide for payment for the use under agreed upon  
41 terms and conditions.

42 (8) Establish a register of persons with types of training and

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skills important in emergency prevention, preparedness, response, and recovery.

(9) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency.

(10) Prepare, for issuance by the governor, executive orders, proclamations, and regulations necessary or appropriate in coping with disaster.

(11) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, preparation, response, and recovery.

(12) Do other things necessary, incidental, or appropriate to implement this chapter.

(f) The agency shall ascertain the rapid and efficient communications that exist in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating these resources into a comprehensive intrastate or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system, the agency shall evaluate the possibility of multipurpose use of the system for general state and local governmental purposes. The agency shall make appropriate recommendations to the governor.

(g) The agency shall develop a statewide mutual aid program and a statewide mutual aid agreement.

Sec. 10. (a) The mutual aid agreement described in section 9(g) of this chapter must be a contract that provides for the following:

- (1) The procedures for providing mutual aid.
- (2) The term of the agreement and the method by which the agreement may be rescinded or terminated by a party before the termination date.
- (3) The terms and conditions governing reimbursement for any assistance provided.
- (4) The terms and conditions governing insurance.
- (5) The terms and conditions governing the assignment of liability. A unit (as defined in IC 36-1-2-23) or state agency that is a party to the agreement is not liable for a claim made against or arising out of conduct of any other party to the agreement or another party's personnel.
- (6) The role of the agency.
- (7) Other terms and conditions needed to implement a

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statewide mutual aid program.

(b) If an employee of a unit or state agency renders outside aid under the authority of an agreement, the employee has the same powers, duties, rights, privileges, and immunities as if the employee were performing the duties within the employee's normal jurisdiction.

(c) A mutual aid arrangement or agreement entered by a unit under IC 36-1-7 before July 1, 2002, remains valid after June 30, 2002.

**Sec. 11. (a) The governor has general direction and control of the agency and is responsible for carrying out this chapter. In the event of disaster or emergency beyond local control, the governor may assume direct operational control over all or any part of the emergency management functions within Indiana.**

**(b) In performing the governor's duties under this chapter, the governor may do the following:**

- (1) Make, amend, and rescind the necessary orders, rules, and regulations to carry out this chapter with due consideration of the plans of the federal government.**
- (2) Cooperate with the President of the United States and the heads of the armed forces, the Federal Emergency Management Agency, and the officers and agencies of other states in matters pertaining to emergency management and disaster preparedness, response, and recovery of the state and nation. In cooperating under this subdivision, the governor may take any measures that the governor considers proper to carry into effect any request of the President of the United States and the appropriate federal officers and agencies for any emergency management action, including the direction or control of disaster preparations, including the following:**
  - (A) Mobilizing emergency management forces and other tests and exercises.**
  - (B) Providing warnings and signals for drills, actual emergencies, or disasters.**
  - (C) Shutting off water mains, gas mains, electric power connections, and suspending any other utility service.**
  - (D) Conducting civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, before, and after drills, actual emergencies, or other disasters.**
  - (E) Holding public meetings or gatherings.**
  - (F) Evacuating and receiving the civilian population.**

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**(3) Take any action and give any direction to state and local law enforcement officers and agencies as may be reasonable and necessary for securing compliance with this chapter and with any orders, rules, and regulations made under this chapter.**

**(4) Employ any measure and give any direction to the state department of health or local boards of health as is reasonably necessary for securing compliance with this chapter or with the findings or recommendations of the state department of health or local boards of health because of conditions arising from actual or threatened:**

- (A) national security emergencies; or**
- (B) manmade or natural disasters or emergencies.**

**(5) Use the services and facilities of existing officers, agencies of the state, and of political subdivisions. All officers and agencies of the state and of political subdivisions shall cooperate with and extend services and facilities to the governor as the governor may request.**

**(6) Establish agencies and offices and appoint executive, technical, clerical, and other personnel necessary to carry out this chapter, including the appointment of full-time state and area directors.**

**Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:**

- (1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and**
- (2) terminates the state of disaster emergency by executive order or proclamation.**

**A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make**

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1 possible termination of the state of disaster emergency. An  
 2 executive order or proclamation under this subsection shall be  
 3 disseminated promptly by means calculated to bring the order's or  
 4 proclamation's contents to the attention of the general public.  
 5 Unless the circumstances attendant upon the disaster prevent or  
 6 impede, an executive order or proclamation shall be promptly filed  
 7 with the secretary of state and with the clerk of the city or town  
 8 affected or with the clerk of the circuit court.

9 (b) An executive order or proclamation of a state of disaster  
 10 emergency:

11 (1) activates the disaster response and recovery aspects of the  
 12 state, local, and interjurisdictional disaster emergency plans  
 13 applicable to the affected political subdivision or area; and

14 (2) is authority for:

15 (A) deployment and use of any forces to which the plan or  
 16 plans apply; and

17 (B) use or distribution of any supplies, equipment,  
 18 materials, and facilities assembled, stockpiled, or arranged  
 19 to be made available under this chapter or under any other  
 20 law relating to disaster emergencies.

21 (c) During the continuance of any state of disaster emergency,  
 22 the governor is commander-in-chief of the organized and  
 23 unorganized militia and of all other forces available for emergency  
 24 duty. To the greatest extent practicable, the governor shall delegate  
 25 or assign command authority by prior arrangement embodied in  
 26 appropriate executive orders or regulations. This section does not  
 27 restrict the governor's authority to delegate or assign command  
 28 authority by orders issued at the time of the disaster emergency.

29 (d) In addition to the governor's other powers, the governor  
 30 may do the following while the state of emergency exists:

31 (1) Suspend the provisions of any regulatory statute  
 32 prescribing the procedures for conduct of state business, or  
 33 the orders, rules, or regulations of any state agency if strict  
 34 compliance with any of these provisions would in any way  
 35 prevent, hinder, or delay necessary action in coping with the  
 36 emergency.

37 (2) Use all available resources of the state government and of  
 38 each political subdivision of the state reasonably necessary to  
 39 cope with the disaster emergency.

40 (3) Transfer the direction, personnel, or functions of state  
 41 departments and agencies or units of any for performing or  
 42 facilitating emergency services.

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(4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Allow persons who hold a license to practice medicine, dentistry, pharmacy, nursing, engineering, and similar other professions as may be specified by the governor to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

**Sec. 13. (a)** In addition to the governor's existing powers and duties, the governor has the duties and special energy emergency powers set forth in this section, subject to the limitations in this chapter.

**(b)** The governor may, upon finding that an energy emergency exists, proclaim a state of energy emergency at which time all the general and specific emergency powers specified in this section and section 14 of this chapter become effective.

**(c)** A proclamation issued under this section and any order or rule issued as a result of the proclamation continues in effect until sixty (60) days after the date of the proclamation of the energy emergency unless the governor rescinds the proclamation and declares the energy emergency ended before the expiration of the sixty (60) day period.

**(d)** The governor may not renew or extend a proclamation more than once without approval of the general assembly.

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1 (e) The conditions of an energy emergency cease when the  
2 governor declares the end of an energy emergency.

3 (f) In a declared state of energy emergency, the governor may  
4 do the following:

5 (1) Implement programs, controls, standards, priorities, and  
6 quotas for the conservation and consumption of energy,  
7 including plans and commission regulations for the  
8 curtailment of energy if the governor imposes controls,  
9 quotas, or curtailments according to the nature of the end use  
10 to be made of the energy consistent with existing transmission  
11 and distribution systems serving the geographic area affected  
12 by the energy emergency.

13 (2) Suspend and modify state pollution control standards and  
14 requirements affecting or affected by the use of energy,  
15 including standards or requirements relating to air or water  
16 quality control.

17 (3) Establish and implement intrastate regional programs and  
18 agreements for the purposes of coordinating the energy  
19 program and actions of the state with the federal government  
20 and other states, localities, and other persons.

21 (4) Designate the execution and enforcement of emergency  
22 orders to a state agency that regulates the energy form,  
23 resource, or suppliers that are the subject of the proclaimed  
24 emergency.

25 (5) Suspend the provisions of any state statute regulating  
26 transportation or the orders or rules of any state agency if  
27 strict compliance with any of the provisions would prevent,  
28 hinder, or delay necessary action in coping with the energy  
29 emergency.

30 (g) Restrictions, curtailments, or adjustments under subsection  
31 (f) must:

32 (1) be ordered and continue only as long as demonstrably  
33 necessary for the maintenance of essential services or  
34 transportation or for the continued operation of the economy  
35 but not longer than the proclamation's duration;

36 (2) be applied as uniformly as practicable within each class of  
37 suppliers and consumers and without discrimination within a  
38 class; and

39 (3) give due consideration to:

40 (A) the implementation of involuntary measures only after  
41 voluntary measures have been determined to be  
42 ineffective;

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- 1           **(B) protection of public health and safety;**
- 2           **(C) maintenance of vital activities, including but not**
- 3           **limited to food, shelter, fuel, and medical care;**
- 4           **(D) minimization of economic impact on commercial,**
- 5           **retail, professional, agricultural, and service**
- 6           **establishments;**
- 7           **(E) cooperation with other state, local, and federal**
- 8           **governments to avoid duplicating efforts; and**
- 9           **(F) maintenance of public information channels.**

10           **(h) This section does not mean that any program, control,**  
 11           **standard, priority quota, or other policy created under the**  
 12           **authority of the emergency powers authorized by this section has**  
 13           **any continuing legal effect after the cessation of a declared state of**  
 14           **energy emergency.**

15           **(i) Except as provided in this section, this chapter does not**  
 16           **exempt a person from compliance with the provisions of any other**  
 17           **law, rule, or directive unless:**

- 18           **(1) specifically ordered by the governor; or**
- 19           **(2) impossibility of compliance is a direct result of the**  
 20           **governor's order.**

21           **(j) A proclamation issued under this section shall be:**  
 22           **(1) disseminated promptly and in a manner calculated to**  
 23           **inform the general public of its contents; and**  
 24           **(2) filed promptly with the secretary of state and the clerk of**  
 25           **each circuit court of Indiana.**

26           **Sec. 14. (a) In determining whether to declare an energy**  
 27           **emergency under section 13 of this chapter, the governor shall**  
 28           **consider:**

- 29           **(1) the availability of regional and national energy resources;**
- 30           **(2) local, state, regional, and national energy needs and**  
 31           **shortages;**
- 32           **(3) the availability of short term alternative supplies on a**  
 33           **local, state, regional, and national basis;**
- 34           **(4) the economic effect of the declaration and the**  
 35           **implementation of any curtailment or conservation plans; and**
- 36           **(5) any other relevant factors.**

37           **(b) To protect the public welfare during conditions of energy**  
 38           **emergencies proclaimed under section 13 of this chapter, the**  
 39           **governing body of each city, town, or political subdivision of the**  
 40           **state and each state agency (including the utility regulatory**  
 41           **commission) shall carry out in the body's or agency's jurisdiction**  
 42           **energy supply emergency measures ordered by the governor.**

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1 (c) To attain uniformity throughout the country in measures  
2 taken to aid in energy crisis management, all:

3 (1) action taken under this section and section 13 of this  
4 chapter; and

5 (2) orders and rules made under this section and section 13 of  
6 this chapter;

7 must be taken or made consistent with federal orders, rules,  
8 actions, recommendations, and requests.

9 (d) A person shall comply with a specific order issued or action  
10 taken by the governor under this section or section 13 of this  
11 chapter.

12 (e) During a state of energy emergency proclaimed under  
13 section 13 of this chapter, the governor may:

14 (1) subpoena:

15 (A) witnesses;

16 (B) material;

17 (C) relevant books;

18 (D) papers;

19 (E) accounts;

20 (F) records; and

21 (G) memoranda;

22 (2) administer oaths; and

23 (3) cause the depositions of persons residing within or outside  
24 Indiana to be taken in the manner prescribed for depositions  
25 in civil actions;

26 to obtain information relevant to energy resources that are the  
27 subject of the proclaimed emergency.

28 (f) In obtaining information under subsection (e), the governor  
29 shall:

30 (1) avoid eliciting information already furnished by a person  
31 or political subdivision in Indiana to a federal, state, or local  
32 regulatory authority that is available for the governor's  
33 study; and

34 (2) cause reporting procedures, including forms, to conform  
35 to existing requirements of federal, state, and local regulatory  
36 authorities wherever possible.

37 (g) Information obtained under this section from a person who  
38 designates that information as confidential shall be maintained as  
39 confidential by the governor and by any person who obtains  
40 information that the person knows to be confidential under this  
41 chapter. The governor may not make known in any manner any  
42 particulars of information to persons other than those specified in

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subsection (j).

(h) This section does not prohibit the use of confidential information to prepare statistics or other general data for publication if the information is presented in a manner that prevents identification of the particular persons.

(i) A person who is served with a subpoena to:

- (1) give testimony orally or in writing; or
- (2) produce books, papers, correspondence, memoranda, agreements, or other documents or records;

under this chapter may apply to an Indiana court for protection against abuse or hardship in the manner provided by law.

(j) For purposes of this section, references to the governor in this section include any other individual designated in writing by the governor. A person designated by the governor shall preserve the confidentiality of information in accordance with subsection (g).

(k) The powers vested in the governor under this section and section 13 of this chapter are in addition to and not instead of emergency powers vested in the governor under this chapter or any other state law.

(l) The governor may authorize the incurring of liabilities and expenses to be paid as other claims against the state from the general fund in the amount necessary if:

- (1) an energy emergency is declared by the governor; and
- (2) the energy emergency justifies the expenditure;

in accordance with section 28 of this chapter for other emergency or disaster expenditures.

Sec. 15. (a) Any function under this chapter and any other activity relating to emergency management is a governmental function. The state, any political subdivision, any other agencies of the state or political subdivision of the state, or, except in cases of willful misconduct, gross negligence, or bad faith, any emergency management worker complying with or reasonably attempting to comply with this chapter or any order or rule adopted under this chapter, or under any ordinance relating to blackout or other precautionary measures enacted by any political subdivision of the state, is not liable for the death of or injury to persons or for damage to property as a result of any such activity. This section does not affect the right of any person to receive:

(1) benefits to which the person would otherwise be entitled under:

- (A) this chapter;

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1                   **(B) the worker's compensation law (IC 22-3-2 through**  
 2                   **IC 22-3-6); or**  
 3                   **(C) any pension law; or**  
 4                   **(2) any benefits or compensation under any federal law.**  
 5                   **(b) Any requirement for a license to practice any professional,**  
 6                   **mechanical, or other skill does not apply to any authorized**  
 7                   **emergency management worker who, in the course of performing**  
 8                   **duties as an emergency management worker, practices a**  
 9                   **professional, mechanical, or other skill during a disaster**  
 10                   **emergency.**  
 11                   **(c) A volunteer working as an authorized emergency**  
 12                   **management worker may be covered by the medical treatment and**  
 13                   **burial expense provisions of the worker's compensation law**  
 14                   **(IC 22-3-2 through IC 22-3-6) and the worker's occupational**  
 15                   **diseases law (IC 22-3-7). If compensability of the injury is an issue,**  
 16                   **the administrative procedures of IC 22-3-2 through IC 22-3-7 shall**  
 17                   **be used to determine the issue.**  
 18                   **Sec. 16. (a) The director of a local organization for emergency**  
 19                   **management may develop or cause to be developed mutual aid**  
 20                   **arrangements with other public and private agencies within**  
 21                   **Indiana for reciprocal emergency management aid and assistance**  
 22                   **in case of disaster too great to be dealt with unassisted. An**  
 23                   **arrangement must be consistent with the state emergency**  
 24                   **management program and state emergency operations plan.**  
 25                   **During an emergency, a local organization for emergency**  
 26                   **management and the agency shall render assistance in accordance**  
 27                   **with the provisions of the mutual aid arrangement.**  
 28                   **(b) The director of a local organization for emergency**  
 29                   **management and disaster:**  
 30                   **(1) may assist in the negotiation of reciprocal mutual aid**  
 31                   **agreements between the governor and the adjoining state or**  
 32                   **the state's political subdivisions; and**  
 33                   **(2) shall carry out arrangements or any agreement relating to**  
 34                   **the local and political subdivision.**  
 35                   **(c) This subsection applies when the governor finds that two (2)**  
 36                   **or more adjoining counties would be better served by an**  
 37                   **interjurisdictional arrangement than by maintaining separate**  
 38                   **disaster agencies and services. The governor may, with the**  
 39                   **concurrence of the affected counties, delineate by executive order**  
 40                   **or regulation an interjurisdictional area adequate to plan for,**  
 41                   **prevent, or respond to disaster in that area, and direct steps to be**  
 42                   **taken as necessary, including the creation of an interjurisdictional**

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1 relationship, a joint emergency operations plan, mutual aid, or an  
2 area organization for emergency management planning and  
3 services. A finding of the governor under this subsection must be  
4 based on one (1) or more factors related to the difficulty of  
5 maintaining an efficient and effective disaster prevention,  
6 preparedness, response, and recovery system on a unijurisdictional  
7 basis, including the following factors:

- 8 (1) Small or sparse population.
- 9 (2) Limitations on public financial resources severe enough to  
10 make maintenance of a separate disaster agency and services  
11 unreasonably burdensome.
- 12 (3) Unusual vulnerability to disaster as evidenced by a history  
13 of disaster, topographical features, drainage characteristics,  
14 disaster potential, and presence of disaster prone facilities or  
15 operations.
- 16 (4) The interrelated character of the counties in a multicounty  
17 area.
- 18 (5) Other relevant conditions or circumstances.

19 (d) If the governor finds that:

- 20 (1) a vulnerable area lies partly in Indiana and includes  
21 territory in another state or states; and
- 22 (2) it would be desirable to establish an interstate relationship,  
23 mutual aid, or an area organization for disaster;

24 the governor shall take steps to establish an interstate relationship.  
25 If action under this subsection is taken with jurisdictions that have  
26 enacted the interstate emergency management and disaster  
27 compact, any resulting agreement or agreements may be  
28 considered supplemental agreements under article 6 of the  
29 compact.

30 (e) If the other jurisdiction or jurisdictions with which the  
31 governor proposes to cooperate under subsection (d) have not  
32 enacted the interstate emergency management and disaster  
33 compact, the governor may negotiate special agreements with the  
34 jurisdiction or jurisdictions. An agreement, if sufficient authority  
35 for making the agreement does not otherwise exist, becomes  
36 effective only:

- 37 (1) after the agreement's text has been communicated to the  
38 general assembly; and
- 39 (2) if a house of the general assembly does not disapprove of  
40 the agreement by the later of:  
41 (A) the date of adjournment of the next ensuing session  
42 that is competent to consider the agreement; or

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(B) not more than thirty (30) days after the date of the submission of the agreement.

Sec. 17. (a) A political subdivision is:

- (1) within the jurisdiction of; and
- (2) served by;
  - a department of emergency management or by an interjurisdictional agency responsible for disaster preparedness and coordination of response.

(b) A county shall:

- (1) maintain a county emergency management advisory council and a county emergency management organization; or
- (2) participate in an interjurisdictional disaster agency that, except as otherwise provided under this chapter, may have jurisdiction over and serve the entire county.

(c) The county emergency management advisory council consists of the following individuals or their designees:

- (1) The president of the county executive.
- (2) The president of the county fiscal body.
- (3) The mayor of each city located in the county.
- (4) An individual representing the legislative bodies of all towns located in the county.
- (5) Representatives of private and public agencies or organizations that can assist emergency management considered appropriate by the county emergency management advisory council.
- (6) One (1) commander of a local civil air patrol unit in the county or the commander's designee.

(d) The county emergency management advisory council shall do the following:

- (1) Exercise general supervision and control over the emergency management and disaster program of the county.
- (2) Select or cause to be selected, with the approval of the county executive, a county emergency management and disaster director who:
  - (A) has direct responsibility for the organization, administration, and operation of the emergency management program in the county; and
  - (B) is responsible to the chairman of the county emergency management advisory council.

(e) Notwithstanding any provision of this chapter or other law to the contrary, the governor may require a political subdivision to

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1 establish and maintain a disaster agency jointly with one (1) or  
2 more contiguous political subdivisions with the concurrence of the  
3 affected political divisions if the governor finds that the  
4 establishment and maintenance of an agency or participation in  
5 one is necessary by circumstances or conditions that make it  
6 unusually difficult to provide:

- 7 (1) disaster prevention;
- 8 (2) preparedness;
- 9 (3) response; or
- 10 (4) recovery services;

11 under this chapter.

12 (f) A political subdivision that does not have a disaster agency  
13 and has not made arrangements to secure or participate in the  
14 services of an agency shall have an emergency management  
15 director designated to facilitate the cooperation and protection of  
16 that political subdivision in the work of:

- 17 (1) disaster prevention;
- 18 (2) preparedness;
- 19 (3) response; and
- 20 (4) recovery.

21 (g) The county emergency management and disaster director  
22 and personnel of the department may be provided with  
23 appropriate:

- 24 (1) office space;
- 25 (2) furniture;
- 26 (3) vehicles;
- 27 (4) communications;
- 28 (5) equipment;
- 29 (6) supplies;
- 30 (7) stationery; and
- 31 (8) printing;

32 in the same manner as provided for personnel of other county  
33 agencies.

34 (h) Each local or interjurisdictional agency shall:

- 35 (1) prepare; and
- 36 (2) keep current;

37 a local or interjurisdictional disaster emergency plan for its area.

38 (i) The local or interjurisdictional disaster agency shall prepare  
39 and distribute to all appropriate officials a clear and complete  
40 written statement of:

- 41 (1) the emergency responsibilities of all local agencies and  
42 officials; and

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- 1           **(2) the disaster chain of command.**  
 2           **(j) Each political subdivision may:**  
 3           **(1) appropriate and expend funds, make contracts, obtain and**  
 4           **distribute equipment, materials, and supplies for emergency**  
 5           **management and disaster purposes, provide for the health**  
 6           **and safety of persons and property, including emergency**  
 7           **assistance to the victims of a disaster resulting from enemy**  
 8           **attack, provide for a comprehensive insurance program for its**  
 9           **emergency management volunteers, and direct and coordinate**  
 10           **the development of an emergency management program and**  
 11           **emergency operations plan in accordance with the policies**  
 12           **and plans set by the federal emergency management agency**  
 13           **and the state emergency management agency;**  
 14           **(2) appoint, employ, remove, or provide, with or without**  
 15           **compensation:**  
 16               **(A) rescue teams;**  
 17               **(B) auxiliary fire and police personnel; and**  
 18               **(C) other emergency management and disaster workers;**  
 19           **(3) establish:**  
 20               **(A) a primary; and**  
 21               **(B) one (1) or more secondary;**  
 22           **control centers to serve as command posts during an**  
 23           **emergency;**  
 24           **(4) subject to the order of the governor or the chief executive**  
 25           **of the political subdivision, assign and make available for duty**  
 26           **the employees, property, or equipment of the political**  
 27           **subdivision relating to:**  
 28               **(A) firefighting;**  
 29               **(B) engineering;**  
 30               **(C) rescue;**  
 31               **(D) health, medical, and related services;**  
 32               **(E) police;**  
 33               **(F) transportation;**  
 34               **(G) construction; and**  
 35               **(H) similar items or services;**  
 36           **for emergency management and disaster purposes within or**  
 37           **outside the physical limits of the political subdivision; and**  
 38           **(5) in the event of a national security emergency or disaster**  
 39           **emergency as provided in section 12 of this chapter, waive**  
 40           **procedures and formalities otherwise required by law**  
 41           **pertaining to:**  
 42               **(A) the performance of public work;**

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- 1           **(B) the entering into of contracts;**
- 2           **(C) the incurring of obligations;**
- 3           **(D) the employment of permanent and temporary workers;**
- 4           **(E) the use of volunteer workers;**
- 5           **(F) the rental of equipment;**
- 6           **(G) the purchase and distribution of supplies, materials,**
- 7           **and facilities; and**
- 8           **(H) the appropriation and expenditure of public funds.**

9           **Sec. 18. (a) If the employees of a political subdivision render aid**  
 10 **outside the political subdivision under section 17 of this chapter,**  
 11 **the employees have the same:**

- 12           **(1) powers;**
- 13           **(2) duties;**
- 14           **(3) rights;**
- 15           **(4) privileges; and**
- 16           **(5) immunities;**

17 **as if they were performing their duties in the political subdivisions**  
 18 **in which they are normally employed.**

19           **(b) The political subdivision in which any equipment is used**  
 20 **under this section:**

- 21           **(1) is liable for loss or damage; and**
- 22           **(2) shall pay any expense incurred in the operation and**  
 23 **maintenance of the equipment.**

24 **A claim for the loss, damage, or expense is not allowed unless an**  
 25 **itemized notice of the claim made under oath is served not more**  
 26 **than sixty (60) days after the date the claim is sustained or**  
 27 **incurred upon the chief fiscal officer of the political subdivision**  
 28 **where the equipment was used.**

- 29           **(c) The:**
- 30           **(1) rights;**
  - 31           **(2) privileges; and**
  - 32           **(3) obligations;**

33 **described in this section also apply if aid is rendered outside**  
 34 **Indiana and if payment or reimbursement in this case shall or may**  
 35 **be made by the state or political subdivision receiving the aid**  
 36 **under a reciprocal mutual aid agreement or compact with the**  
 37 **other state or by the federal government.**

38           **Sec. 19. (a) The governor or the director at the request of the**  
 39 **governor may establish the number of mobile support units**  
 40 **necessary to reinforce emergency management and disaster**  
 41 **organizations in stricken areas with due consideration of the plans**  
 42 **of the federal government and of other states. The director shall**

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1 **appoint a commander for each unit who has primary responsibility**  
 2 **for the:**

- 3 (1) **organization;**  
 4 (2) **administration; and**  
 5 (3) **operation;**

6 **of the unit. Mobile support units shall be called to duty upon orders**  
 7 **of the governor or the director and shall perform their functions**  
 8 **in any part of Indiana or in other states, upon the conditions**  
 9 **specified in this section. Members serving on the mobile support**  
 10 **units are immune from discipline or termination by their**  
 11 **employers for serving in the units.**

12 (b) **While on duty, personnel of mobile support units, whether**  
 13 **within or outside Indiana:**

14 (1) **if they are employees of the state or a political subdivision**  
 15 **of the state, whether serving within or outside the political**  
 16 **subdivision, have the:**

- 17 (A) **powers;**  
 18 (B) **duties;**  
 19 (C) **rights;**  
 20 (D) **privileges; and**  
 21 (E) **immunities;**

22 **and receive the compensation incidental to their employment;**  
 23 **and**

24 (2) **if they are not employees of the state or a political**  
 25 **subdivision of the state:**

- 26 (A) **may be compensated by the state at a rate approved by**  
 27 **the governor and the budget committee; and**  
 28 (B) **are entitled to the same rights and immunities as are**  
 29 **provided by law for the employees of this state;**

30 **and may be reimbursed for all actual and necessary travel and**  
 31 **subsistence expenses.**

32 (c) **Personnel of mobile support units, while on duty, are subject**  
 33 **to the operational control of the authority in charge of emergency**  
 34 **management activities in the area in which they are serving.**

35 (d) **The state may reimburse a political subdivision for:**

- 36 (1) **the compensation paid and actual and necessary travel,**  
 37 **subsistence, and maintenance expenses of employees of the**  
 38 **political subdivision while serving as members of a mobile**  
 39 **support unit;**  
 40 (2) **all payments for death, disability, or injury of the**  
 41 **employees incurred in the course of duty; and**  
 42 (3) **all losses of or damage to supplies and equipment of the**

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- 1           political subdivision resulting from the operation of the  
2           mobile support unit.
- 3           (e) If a mobile support unit of another state renders aid in  
4           Indiana under the orders of the governor of its home state and  
5           upon the request of the governor of Indiana, the state shall  
6           reimburse the other state for:
- 7           (1) the compensation paid and actual and necessary:
- 8               (A) travel;
- 9               (B) subsistence; and
- 10              (C) maintenance;
- 11           expenses of the personnel of the mobile support unit while  
12           rendering the aid;
- 13           (2) all payments for:
- 14               (A) death;
- 15               (B) disability; or
- 16               (C) injury;
- 17           of the personnel incurred in the course of rendering the aid;
- 18           and
- 19           (3) all losses of or damage to supplies and equipment of the  
20           other state or a political subdivision of the other state  
21           resulting from the rendering of the aid;
- 22           if the laws of the other state contain provisions substantially  
23           similar to this section or if provisions substantially similar to this  
24           section are contained in a reciprocal mutual aid agreement or  
25           compact, or if the federal government has authorized or agreed to  
26           make reimbursement for the mutual aid.
- 27           (f) Personnel of mobile support units of Indiana may not be  
28           ordered by the governor to operate in any other state unless:
- 29               (1) the laws of the other state contain provisions substantially  
30               similar to this section;
- 31               (2) the reciprocal mutual aid agreements or compacts include  
32               provisions providing for such reimbursement; or
- 33               (3) the reimbursement will be made by the federal  
34               government by law or agreement.
- 35           (g) An officer or employee of the state by virtue of employment  
36           is subject to assignment:
- 37               (1) on a permanent basis to a mobile support unit in  
38               accordance with the state:
- 39                   (A) emergency management program; and
- 40                   (B) emergency operations plan; or
- 41               (2) on a temporary basis to an emergency management  
42               activity to meet a particular need in the event of an

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1 emergency.

2 Refusal to accept and perform the duties of an assignment  
3 constitutes grounds for dismissal from state employment.

4 **Sec. 20. The governor may:**

5 (1) formulate and execute plans and regulations for the  
6 control of traffic in order to provide for the rapid and safe  
7 movement of evacuation over public highways and streets of:

8 (A) people;

9 (B) troops; or

10 (C) vehicles and materials;

11 for national defense or for use in any defense industry; and  
12 (2) coordinate the activities of the departments or agencies of  
13 the state and political subdivisions of the state concerned  
14 directly or indirectly with public highways and streets in a  
15 manner that will best effectuate the plans.

16 **Sec. 21. (a) If the governor considers it to be in the public  
17 interest, on terms and conditions as the governor considers  
18 necessary to promote the public welfare and protect the interests  
19 of the state, the governor may:**

20 (1) authorize a department or an agency of the state to lease  
21 or lend real or personal property of the state to the President  
22 of the United States, the heads of the armed forces, or the  
23 Federal Emergency Management Agency; and

24 (2) enter into a contract on behalf of the state for the:

25 (A) lease or loan to a political subdivision of the state of  
26 real or personal property of the state; or

27 (B) temporary transfer or employment of personnel of the  
28 state to or by a political subdivision of the state.

29 (b) The president of the county fiscal body and the president of  
30 the county executive, if the county does not contain a consolidated  
31 city, or the county executive, if the county contains a consolidated  
32 city, of each county of the state and the executive of each city and  
33 town in the state may, in accordance with the emergency  
34 management program and emergency operations plan of the  
35 county in which the city or town is located, do the following:

36 (1) Enter into a contract or lease with the state, accept any  
37 loan, or employ personnel. A political subdivision may equip,  
38 maintain, use, and operate any property and employ  
39 necessary personnel in accordance with the purposes for  
40 which the contract is executed.

41 (2) Do all things and perform acts that the governor considers  
42 necessary to effectuate the purpose of the contract.

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1           **Sec. 22. (a) The political subdivisions and agencies designated or**  
 2 **appointed by the governor may make, amend, and rescind orders,**  
 3 **rules, and regulations as necessary for emergency management**  
 4 **purposes and to supplement the carrying out of this chapter that**  
 5 **are not inconsistent with:**

6           **(1) orders, rules, or regulations adopted by the governor or by**  
 7 **a state agency exercising a power delegated to it by the**  
 8 **governor; and**

9           **(2) the:**

10           **(A) emergency management program; and**

11           **(B) emergency operations plan;**

12           **of the county in which the political subdivision is located.**

13           **(b) Orders, rules, and regulations have the full force and effect**  
 14 **of law when:**

15           **(1) adopted by the governor or any state agency and a copy is**  
 16 **filed in the office of the secretary of state and mailed to all**  
 17 **members of the county emergency management advisory**  
 18 **council at their last known addresses; or**

19           **(2) filed in the office of the clerk of the adopting or**  
 20 **promulgating political subdivision or agency of the state if**  
 21 **adopted by a political subdivision or agency authorized by**  
 22 **this chapter to make orders, rules, and regulations.**

23           **Sec. 23. This chapter may not be construed to compel a person,**  
 24 **either on behalf of:**

25           **(1) the person;**

26           **(2) the person's child less than eighteen (18) years of age; or**

27           **(3) a protected person for whom the person acts as a**  
 28 **guardian;**

29 **to submit to any physical examination, medical treatment, or**  
 30 **immunization if the person, parent, or guardian relies in good faith**  
 31 **on spiritual means or prayer to prevent or cure disease or suffering**  
 32 **and objects to the treatment in writing.**

33           **Sec. 24. The law enforcement authorities of the state and of the**  
 34 **political subdivisions shall enforce the:**

35           **(1) orders;**

36           **(2) rules; and**

37           **(3) regulations;**

38 **issued under this chapter.**

39           **Sec. 25. (a) If the federal government or an agency or officer of**  
 40 **the federal government offers the state or through the state a**  
 41 **political subdivision, services, equipment, supplies, materials, or**  
 42 **funds under a gift, grant, or loan for purposes of emergency**

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1 management:

2 (1) the state, acting through the governor; or

3 (2) the political subdivision, acting with the consent of the  
4 governor and through its executive;

5 may accept the offer.

6 (b) Upon the acceptance in subsection (a), the governor or the  
7 executive of the political subdivision may authorize an officer of  
8 the state or of the political subdivision to receive the services,  
9 equipment, supplies, materials, or funds:

10 (1) on behalf of the state or the political subdivision; and

11 (2) subject to the terms of the offer and the rules of the agency  
12 making the offer.

13 (c) If a person, firm, limited liability company, or corporation  
14 offers to the state or a political subdivision services, equipment,  
15 supplies, materials, or funds under gift, grant, or loan for purposes  
16 of emergency management:

17 (1) the state, acting through the governor; or

18 (2) the political subdivision, acting through its executive;

19 may accept the offer.

20 (d) Upon the acceptance in subsection (c), the governor or the  
21 executive of the political subdivision may authorize an officer of  
22 the state or of the political subdivision to receive the services,  
23 equipment, supplies, materials, or funds:

24 (1) on behalf of the state or the political subdivision; and

25 (2) subject to the terms of the offer.

26 (e) A person, firm, limited liability company, or corporation  
27 owning or controlling real estate or other premises that voluntarily  
28 and without compensation grants a license or privilege or  
29 otherwise permits the designation or use of the whole or any part  
30 of the real estate or premises to shelter persons during an actual or  
31 impending national security, natural, or manmade emergency or  
32 disaster or a drill for any of those situations, together with  
33 successors in interest, is not civilly liable by reason of:

34 (1) the condition of the real estate or premises; or

35 (2) the conduct of persons engaged in directing or seeking  
36 shelter;

37 for negligently causing the death of or injury to any person on or  
38 about the real estate or premises or for loss of or damage to the  
39 property of any person during the emergency or disaster or during  
40 a drill.

41 Sec. 26. (a) An organization for emergency management  
42 established under this chapter may not:

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- 1 (1) participate in any form of political activity; or  
 2 (2) be employed directly or indirectly for political purposes.

3 (b) Political qualifications may not be:

- 4 (1) a consideration for appointment to the agency; or  
 5 (2) a cause for dismissal;

6 except as provided in section 27 of this chapter. Full-time  
 7 employees of the agency may not participate in political activities.

8 Sec. 27. (a) A person who:

- 9 (1) advocates a change by force or violence in the  
 10 constitutional form of the government of the United States or  
 11 the overthrow of any government in the United States by  
 12 force or violence; or

- 13 (2) has been convicted of or is under indictment or  
 14 information charging a subversive act against the United  
 15 States;

16 may not be employed or associated in any capacity in any  
 17 emergency management organization established under this  
 18 chapter

19 (b) An individual who is appointed to serve in an organization  
 20 for emergency management shall, before entering upon the  
 21 individual's duties, take a written oath before a person authorized  
 22 to administer oaths in Indiana. The oath must be substantially as  
 23 follows:

24 "I, \_\_\_\_\_, solemnly swear (or affirm)  
 25 that I will support and defend the Constitution of the United  
 26 States and the Constitution of the State of Indiana against all  
 27 enemies, foreign and domestic; that I will bear true faith and  
 28 allegiance to the same; that I take this obligation freely,  
 29 without mental reservation or purpose of evasion; and that I  
 30 will well and faithfully discharge the duties upon which I am  
 31 about to enter. I further swear (or affirm) that I do not  
 32 advocate, nor am I a member of a political party or  
 33 organization that advocates, the overthrow of the government  
 34 of the United States or of Indiana by force or violence; and  
 35 that during the time I am a member of the (name of  
 36 emergency management organization), I will neither advocate  
 37 nor become a member of a political party or organization that  
 38 advocates the overthrow of the government of the United  
 39 States or of Indiana by force or violence."

40 (c) For purposes of this section, the director and the county  
 41 emergency management directors:

- 42 (1) may administer the oath provided in subsection (b) to

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1 emergency management and disaster personnel; and

2 (2) may delegate that authority to designated deputies and  
3 assistants approved by the director.

4 **Sec. 28. (a)** The general assembly may appropriate the sums  
5 necessary to administer this chapter.

6 (b) The emergency management contingency fund is established.  
7 The fund consists of money appropriated by the general assembly.  
8 Money in the fund must be held in reserve and allocated for  
9 emergency management purposes upon:

10 (1) recommendation of the director; and

11 (2) approval of the governor and the budget committee.

12 **Sec. 29. (a)** A local disaster emergency:

13 (1) may be declared only by the principal executive officer of  
14 a political subdivision; and

15 (2) may not be continued or renewed for more than seven (7)  
16 days except by or with the consent of the governing board of  
17 the political subdivision.

18 Any order or proclamation declaring, continuing, or terminating  
19 a local disaster emergency shall be given prompt and general  
20 publicity and shall be filed promptly in the office of the clerk of the  
21 political subdivision.

22 (b) The effect of a declaration of a local disaster emergency is  
23 to:

24 (1) activate the response and recovery aspects of all applicable  
25 local or interjurisdictional disaster emergency plans; and

26 (2) authorize the furnishing of aid and assistance under the  
27 plans.

28 (c) An interjurisdictional agency or official may not declare a  
29 local disaster emergency unless expressly authorized by the  
30 agreement under which the agency functions. However, an  
31 interjurisdictional disaster agency shall provide aid and services  
32 according to the agreement.

33 (d) If a local disaster emergency is declared under this section,  
34 the political subdivision may not prohibit individuals engaged in  
35 employment necessary to:

36 (1) maintain a safe rail system;

37 (2) restore utility service; or

38 (3) provide any other emergency public service;

39 from traveling on the highways within the political subdivision  
40 during the local disaster emergency.

41 **Sec. 30. (a)** In addition to disaster prevention measures as  
42 included in the state, local, and interjurisdictional disaster plans,

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1 the governor shall consider on a continuing basis steps that could  
 2 be taken to prevent or reduce the harmful consequences of  
 3 disasters. At the governor's direction, and under any other  
 4 authority state agencies have, state agencies, including those  
 5 charged with responsibilities in connection with:

- 6 (1) flood plain management;
- 7 (2) stream encroachment and flow regulation;
- 8 (3) fire prevention and control;
- 9 (4) air quality;
- 10 (5) public works; and
- 11 (6) use and land use planning and construction standards;

12 shall make studies of disaster prevention related matters. The  
 13 governor shall make recommendations to the general assembly,  
 14 local governments, and other appropriate public and private  
 15 entities to facilitate measures for prevention or reduction of the  
 16 harmful consequences of disasters.

17 (b) In conjunction with the agency, an appropriate state agency  
 18 shall keep land uses and construction of structures and other  
 19 facilities under continuing study and identify areas that are  
 20 particularly susceptible to:

- 21 (1) severe land shifting;
- 22 (2) subsidence;
- 23 (3) flood; or
- 24 (4) other catastrophic occurrence.

25 The studies under this subsection must concentrate on means of  
 26 reducing or avoiding the dangers caused by this occurrence or its  
 27 consequences.

28 (c) If the agency believes on the basis of the studies or other  
 29 competent evidence:

- 30 (1) that an area is susceptible to a disaster of catastrophic  
 31 proportions without adequate warning;
- 32 (2) that existing building standards and land use controls in  
 33 that area are inadequate and could add substantially to the  
 34 magnitude of the disaster; and
- 35 (3) that changes in zoning regulations, other land use  
 36 regulations, or building requirements are essential in order to  
 37 further the purposes of this section;

38 the agency shall specify the essential changes to the governor. The  
 39 governor shall recommend changes to the agencies or local  
 40 governments with jurisdiction over the area and subject matter  
 41 that the governor finds to be essential upon review of the specified  
 42 changes and a public hearing. If no action or insufficient action

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1 under the governor's recommendations is taken within the time  
 2 specified by the governor, the governor shall inform the general  
 3 assembly and request legislative action appropriate to mitigate the  
 4 effect of disaster.

5 (d) The governor, at the same time that the governor makes  
 6 recommendations under subsection (c), may:

7 (1) suspend the standard or control that the governor finds to  
 8 be inadequate to protect the public safety; and

9 (2) by rule place a new standard or control in effect.

10 The new standard or control remains in effect until rejected by  
 11 concurrent resolution of both houses of the general assembly or  
 12 amended by the governor. When it is in effect, the standard or  
 13 control contained in the governor's regulation is administered and  
 14 given full effect by all relevant regulatory agencies of the state and  
 15 local governments to which it applies. Any action taken by the  
 16 governor under this section is subject to judicial review, but no  
 17 court has jurisdiction to stay or restrain that action before a  
 18 hearing on the merits.

19 Sec. 31. (a) A person in Indiana shall conduct himself or herself  
 20 and keep and manage his or her affairs and property in ways that  
 21 will reasonably assist and will not unreasonably detract from the  
 22 ability of the state and the public to successfully meet disaster  
 23 emergencies. This obligation includes appropriate personal service  
 24 and use or restriction on the use of property in time of disaster  
 25 emergency. Compensation for services or for the taking or use of  
 26 property may be made only to the extent:

27 (1) that obligations recognized in this chapter are exceeded in  
 28 a particular case; and

29 (2) that the claimant has not volunteered the claimant's  
 30 services or property without compensation.

31 (b) Personal services may not be compensated by the state or  
 32 any subdivision or agency of the state except under statute, local  
 33 law, or ordinance.

34 (c) Compensation for property may be paid only if the property  
 35 was commandeered or otherwise used in coping with a disaster  
 36 emergency and its use or destruction was ordered by the governor  
 37 or a member of the disaster emergency forces of Indiana.

38 (d) Any person claiming compensation for the use, damage, loss,  
 39 or destruction of property under this chapter must make a claim  
 40 for it. The claim must be filed and shall be adjudicated as provided  
 41 in IC 32-24.

42 (e) This section does not apply to or authorize compensation for

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1 the destruction or damaging of standing timber or other property  
 2 in order to provide a fire break or to the release of waters or the  
 3 breach of impoundments in order to reduce pressure or other  
 4 danger from actual or threatened flood.

5 **Sec. 32. (a) The general assembly intends and declares to be the**  
 6 **policy of the state that funds to meet disaster emergencies always**  
 7 **be available.**

8 **(b) The general assembly intends that the first recourse shall be**  
 9 **to funds regularly appropriated to state and local agencies. If the**  
 10 **governor finds that the demands placed upon these funds in coping**  
 11 **with a particular disaster are unreasonably great, the governor**  
 12 **may make funds available from money in the budget agency from**  
 13 **emergency or contingency appropriations available for emergency**  
 14 **expenditures as provided in IC 4-12-1-15.**

15 **(c) Within the limits of the funds appropriated under this**  
 16 **section, the governor may contribute to a political subdivision not**  
 17 **more than twenty-five percent (25%) of the cost of emergency**  
 18 **management agency personnel and administrative expenses that**  
 19 **meet standards established by the governor.**

20 **Sec. 33. The department may reimburse the civil air patrol for**  
 21 **fuel, lubricants, and maintenance for any missions not authorized**  
 22 **by the United States Air Force using the same formula for**  
 23 **reimbursement used by the:**

- 24 (1) United States Department of Defense; and
- 25 (2) American Red Cross.

26 **Sec. 34. A person who violates this chapter commits a Class B**  
 27 **misdemeanor.**

#### 28 Chapter 4. State Disaster Relief Fund

29 **Sec. 1. As used in this chapter, "disaster" has the meaning set**  
 30 **forth in IC 10-14-3-1.**

31 **Sec. 2. As used in this chapter, "eligible entity" means a county,**  
 32 **city, or town.**

33 **Sec. 3. As used in this chapter, "fund" refers to the state disaster**  
 34 **relief fund established by this chapter.**

35 **Sec. 4. As used in this chapter, "public facility" means any:**

- 36 (1) building or structure;
- 37 (2) bridge, road, highway, or public way;
- 38 (3) park or recreational facility;
- 39 (4) sanitary sewer system or wastewater treatment facility;
- 40 (5) drainage or flood control facility;
- 41 (6) water treatment, water storage, or water distribution
- 42 facility; or

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1           **(7) other improvement or infrastructure;**  
 2 **owned by, maintained by, or operated by or on behalf of an eligible**  
 3 **entity.**

4           **Sec. 5. (a) The state disaster relief fund is established to provide**  
 5 **money to assist eligible entities in paying for the costs of damage to**  
 6 **public facilities resulting from disasters.**

7           **(b) The fund consists of money appropriated by the general**  
 8 **assembly. The agency shall administer the fund. Expenses of**  
 9 **administering the fund shall be paid from money in the fund. The**  
 10 **treasurer of state shall invest the money in the fund not currently**  
 11 **needed to meet the obligations of the fund in the same manner as**  
 12 **other public funds may be invested. Interest that accrues from**  
 13 **these investments shall be deposited in the fund.**

14           **(c) Money in the fund is appropriated to carry out the purposes**  
 15 **of the fund as provided in this chapter. Money in the fund at the**  
 16 **end of a state fiscal year does not revert to the state general fund.**

17           **Sec. 6. Subject to the restrictions under this chapter, the agency**  
 18 **may use money in the fund to make grants to an eligible entity**  
 19 **that:**

- 20           **(1) contains territory for which a disaster emergency has been**
- 21 **declared by the governor;**
- 22           **(2) has suffered damage to the entity's public facilities because**
- 23 **of the disaster for which the disaster emergency was declared;**
- 24           **(3) has applied to the department for a grant; and**
- 25           **(4) complies with all other requirements established by the**
- 26 **agency.**

27           **Sec. 7. Except as provided in section 8 of this chapter, the**  
 28 **agency may not make a grant to an eligible entity under this**  
 29 **section unless the damage to the entity's public facilities caused by**  
 30 **the disaster exceeds an amount equal to one dollar (\$1) multiplied**  
 31 **by the population of the entity. A grant to an eligible entity under**  
 32 **this subsection may not exceed an amount equal to:**

- 33           **(1) fifty percent (50%); multiplied by**
- 34 **(2) the result of:**
  - 35           **(A) the total cost of the damage to the entity's public**
  - 36 **facilities caused by the disaster; minus**
  - 37           **(B) an amount equal to one dollar (\$1) multiplied by the**
  - 38 **population of the entity.**

39           **Sec. 8. If the governor declares more than one (1) disaster**  
 40 **emergency in the same year for territory in an eligible entity, the**  
 41 **agency may, in addition to a grant under section 7 of this chapter,**  
 42 **make a grant to the entity under this section if the total cumulative**

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1 cost of the damage to the entity's public facilities caused by the  
 2 disasters exceeds two dollars (\$2) multiplied by the population of  
 3 the entity. A grant to an eligible entity under this section may not  
 4 exceed:

5 (1) the product of:

6 (A) fifty percent (50%); multiplied by

7 (B) the total cumulative cost of the damage to the entity's  
 8 public facilities caused by all disasters in the year; minus

9 (2) any grants previously made under section 7 of this chapter  
 10 to the entity during the year.

11 **Sec. 9.** To qualify for a grant under this chapter, the executive  
 12 of an eligible entity must apply to the agency on forms provided by  
 13 the agency. The application must include the following:

14 (1) A description and estimated cost of the damage caused by  
 15 the disaster to the entity's public facilities.

16 (2) The manner in which the entity intends to use the grant  
 17 money.

18 (3) Any other information required by the agency.

19 **Sec. 10.** The fiscal officer of an entity receiving a grant under  
 20 this chapter shall:

21 (1) establish a separate account within the entity's general  
 22 fund; and

23 (2) deposit any grant proceeds received under this chapter in  
 24 the account.

25 The department of local government finance may not reduce an  
 26 entity's maximum or actual property tax levy under IC 6-1.1-18.5  
 27 on account of grant money deposited in the account.

28 **Sec. 11.** The agency shall adopt rules under IC 4-22-2 to carry  
 29 out this chapter.

30 **Sec. 12.** A person who violates this chapter commits a Class B  
 31 misdemeanor.

32 **Chapter 5. Emergency Management Assistance Compact**

33 **Sec. 1. ARTICLE I—Purpose and authorities.**

34 This compact is made and entered into by and between the  
 35 participating member states which enact this compact, hereinafter  
 36 called party states. For the purposes of this compact, "states"  
 37 means the several states, the Commonwealth of Puerto Rico, the  
 38 District of Columbia, and all U.S. territorial possessions.

39 The purpose of this compact is to provide for mutual assistance  
 40 among the states entering into this compact in managing any  
 41 emergency or disaster that is duly declared by the governor of the  
 42 affected state, whether arising from natural disaster, technological

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1 hazard, man made disaster, civil emergency aspects of resources  
2 shortages, community disorders, insurgency, or enemy attack.

3 This compact shall also provide for mutual cooperation in  
4 emergency related exercises, testing, or other training activities  
5 using equipment and personnel simulating performance of any  
6 aspect of the giving and receiving of aid by party states or  
7 subdivisions of party states during emergencies, such actions  
8 occurring outside actual declared emergency periods. Mutual  
9 assistance in this compact may include the use of the states'  
10 National Guard forces, either in accordance with the National  
11 Guard Mutual Assistance Compact or by mutual agreement  
12 between states.

13 **Sec. 2. ARTICLE II—General implementation.**

14 Each party state entering into this compact recognizes that  
15 many emergencies transcend political jurisdictional boundaries  
16 and that intergovernmental coordination is essential in managing  
17 these and other emergencies under this compact. Each state  
18 further recognizes that there will be emergencies which require  
19 immediate access and present procedures to apply outside  
20 resources to make a prompt and effective response to such an  
21 emergency. This is because few, if any, individual states have all  
22 the resources they may need in all types of emergencies or the  
23 capability of delivering resources to areas where emergencies exist.

24 The prompt, full, and effective utilization of resources of the  
25 participating states, including any resources on hand or available  
26 from the federal government or any other source, that are essential  
27 to the safety, care, and welfare of the people in the event of any  
28 emergency or disaster declared by a party state, shall be the  
29 underlying principle on which all articles of this compact shall be  
30 understood.

31 On behalf of the governor of each state participating in the  
32 compact, the legally designated state official who is assigned  
33 responsibility for emergency management will be responsible for  
34 formulation of the appropriate interstate mutual aid plans and  
35 procedures necessary to implement this compact.

36 **Sec. 3. ARTICLE III—Party state responsibilities.**

37 (a) It shall be the responsibility of each party state to formulate  
38 procedural plans and programs for interstate cooperation in the  
39 performance of the responsibilities listed in this article. In  
40 formulating such plans, and in carrying them out, the party states,  
41 insofar as practical, shall:

42 (1) review individual state hazards analyses and, to the extent

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1 reasonably possible, determine all those potential emergencies  
2 the party states might jointly suffer, whether due to natural  
3 disaster, technological hazard, manmade disaster, emergency  
4 aspects of resources shortages, civil disorders, insurgency, or  
5 enemy attack;

6 (2) review party states' individual emergency plans and  
7 develop a plan which will determine the mechanism for the  
8 interstate management and provision of assistance concerning  
9 any potential emergency;

10 (3) develop interstate procedures to fill any identified gaps  
11 and to resolve any identified inconsistencies or overlaps in  
12 existing or developed plans;

13 (4) assist in warning communities adjacent to or crossing the  
14 state boundaries;

15 (5) protect and assure uninterrupted delivery of services,  
16 medicines, water, food, energy and fuel, search and rescue,  
17 and critical lifeline equipment, services, and resources, both  
18 human and material;

19 (6) inventory and set procedures for the interstate loan and  
20 delivery of human and material resources, together with  
21 procedures for reimbursement or forgiveness; and

22 (7) provide, to the extent authorized by law, for temporary  
23 suspension of any statutes or ordinances that restrict the  
24 implementation of the above responsibilities.

25 (b) The authorized representative of a party state may request  
26 assistance to another party state by contacting the authorized  
27 representative of that state. The provisions of this compact shall  
28 only apply to requests for assistance made by and to authorized  
29 representatives. Requests may be verbal or in writing. If verbal,  
30 the request shall be confirmed in writing within thirty (30) days of  
31 the verbal request. Requests shall provide the following  
32 information:

33 (1) A description of the emergency service function for which  
34 assistance is needed, including, but not limited to, fire  
35 services, law enforcement, emergency medical,  
36 transportation, communications, public works and  
37 engineering, building, inspection, planning and information  
38 assistance, mass care, resource support, health and medical  
39 services, and search and rescue.

40 (2) The amount and type of personnel, equipment, materials  
41 and supplies needed, and a reasonable estimate of the length  
42 of time they will be needed.

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1           (3) The specific place and time for staging of the assisting  
2           party's response and a point of contact at that location.

3           (c) There shall be frequent consultation between state officials  
4           who have assigned emergency management responsibilities and  
5           other appropriate representatives of the party states with affected  
6           jurisdictions and the United States government, with free exchange  
7           of information, plans, and resource records relating to emergency  
8           capabilities.

9           Sec. 4. ARTICLE IV—Limitations.

10          Any party state requested to render mutual aid or conduct  
11          exercises and training for mutual aid shall take such action as is  
12          necessary to provide and make available the resources covered by  
13          this compact in accordance with the terms of this compact.  
14          However, it is understood that the state rendering aid may  
15          withhold resources to the extent necessary to provide reasonable  
16          protection for such state.

17          Each party state shall afford to the emergency forces of any  
18          party state, while operating within its state limits under the terms  
19          and conditions of this compact, the same powers, except that of  
20          arrest unless specifically authorized by the receiving state, duties,  
21          rights, and privileges as are afforded forces of the state in which  
22          they are performing emergency services. Emergency forces will  
23          continue under the command and control of their regular leaders,  
24          but the organizational units will come under the operational  
25          control of the emergency services authorities of the state receiving  
26          assistance. These conditions may be activated, as needed, only  
27          subsequent to a declaration of a state emergency or disaster by the  
28          governor of the party state that is to receive assistance or upon  
29          commencement of exercises or training for mutual aid and shall  
30          continue so long as the exercises or training for mutual aid are in  
31          progress, the state of emergency or disaster remains in effect, or  
32          loaned resources remain in the receiving state, whichever is longer.

33          Sec. 5. ARTICLE V—Licenses and permits.

34          Whenever any person holds a license, certificate, or other  
35          permit issued by any state party to the compact evidencing the  
36          meeting of qualifications for professional, mechanical, or other  
37          skills, and when such assistance is requested by the receiving party  
38          state, such person shall be considered licensed, certified, or  
39          permitted by the state requesting assistance to render aid involving  
40          such skill to meet a declared emergency or disaster, subject to such  
41          limitations and conditions as the governor of the requesting state  
42          may prescribe by executive order or otherwise.



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1           **Sec. 6. ARTICLE VI—Liability.**

2           Officers or employees of a party state rendering aid in another  
3 state under this compact shall be considered agents of the  
4 requesting state for tort liability and immunity purposes. No party  
5 state or its officers or employees rendering aid in another state  
6 under this compact shall be liable on account of any act or  
7 omission in good faith on the part of such forces while so engaged  
8 or on account of the maintenance or use of any equipment or  
9 supplies in connection therewith. Good faith in this article shall not  
10 include willful misconduct, gross negligence, or recklessness.

11           **Sec. 7. ARTICLE VII—Supplementary agreements.**

12           Inasmuch as it is probable that the pattern and detail of the  
13 machinery for mutual aid among two (2) or more states may differ  
14 from that among the states that are party to this compact, this  
15 compact contains elements of a broad base common to all states,  
16 and nothing in this compact precludes any state entering into  
17 supplementary agreements with another state or affect any other  
18 agreements already in force between states. Supplementary  
19 agreements may comprehend, but shall not be limited to,  
20 provisions for evacuation and reception of injured and other  
21 persons and the exchange of medical, fire, police, public utility,  
22 reconnaissance, welfare, transportation and communications  
23 personnel, and equipment and supplies.

24           **Sec. 8. ARTICLE VIII—Compensation.**

25           Each party state shall provide for the payment of compensation  
26 and death benefits to injured members of the emergency forces of  
27 that state and representatives of deceased members of such forces  
28 in case such members sustain injuries or are killed while rendering  
29 aid under this compact, in the same manner and on the same terms  
30 as if the injury or death were sustained within their own state.

31           **Sec. 9. ARTICLE IX—Reimbursement.**

32           Any party state rendering aid in another state under this  
33 compact shall be reimbursed by the party state receiving such aid  
34 for any loss or damage to or expense incurred in the operation of  
35 any equipment and the provision of any service in answering a  
36 request for aid and for the costs incurred in connection with such  
37 requests. However, any aiding party state may assume in whole or  
38 in part such loss, damage, expense, or other cost, or may loan such  
39 equipment or donate such services to the receiving party state  
40 without charge or cost, and any two (2) or more party states may  
41 enter into supplementary agreements establishing a different  
42 allocation of costs among those states. Article VIII expenses shall

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1 not be reimbursable under this article.

2 **Sec. 10. ARTICLE X—Evacuation.**

3 **Plans for the orderly evacuation and interstate reception of**  
4 **portions of the civilian population as the result of any emergency**  
5 **or disaster of sufficient proportions to so warrant shall be worked**  
6 **out and maintained between the party states and the emergency**  
7 **management services directors of the various jurisdictions where**  
8 **any type of incident requiring evacuations might occur. Such plans**  
9 **shall be put into effect by request of the state from which evacuees**  
10 **come and shall include the manner of transporting such evacuees;**  
11 **the number of evacuees to be received in different areas; the**  
12 **manner in which food, clothing, housing, and medical care will be**  
13 **provided; the registration of the evacuees; the providing of**  
14 **facilities for the notification of relatives or friends; and the**  
15 **forwarding of such evacuees to other areas or the bringing in of**  
16 **additional materials, supplies, and all other relevant factors. Such**  
17 **plans shall provide that the party state receiving evacuees and the**  
18 **party state from which the evacuees come shall mutually agree as**  
19 **to reimbursement of out-of-pocket expenses incurred in receiving**  
20 **and caring for such evacuees, for expenditures for transportation,**  
21 **food, clothing, medicines and medical care, and like items. Such**  
22 **expenditures shall be reimbursed as agreed by the party state from**  
23 **which the evacuees come. After the termination of the emergency**  
24 **or disaster, the party state from which the evacuees come shall**  
25 **assume the responsibility for the ultimate support of repatriation**  
26 **of such evacuees.**

27 **Sec. 11. ARTICLE XI—Implementation.**

28 **(a) This compact shall become effective immediately upon its**  
29 **enactment into law by any two (2) states. Thereafter, this compact**  
30 **shall become effective as to any other state upon enactment by such**  
31 **state.**

32 **(b) Any party state may withdraw from this compact by**  
33 **enacting a statute repealing the same, but no such withdrawal shall**  
34 **take effect until thirty (30) days after the governor of the**  
35 **withdrawing state has given notice in writing of such withdrawal**  
36 **to the governors of all other party states. Such action shall not**  
37 **relieve the withdrawing state from obligations assumed under this**  
38 **compact before the effective date of withdrawal.**

39 **(c) Duly authenticated copies of this compact and of such**  
40 **supplementary agreements as may be entered into shall, at the time**  
41 **of their approval, be deposited with each of the party states and**  
42 **with the Federal Emergency Management Agency and other**

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1 appropriate agencies of the United States Government.

2 **Sec. 12. ARTICLE XII—Validity.**

3 This compact shall be construed to effectuate the purposes  
4 stated in Article I. If any provision of this compact is declared  
5 unconstitutional, or if the applicability of this compact to any  
6 person or circumstances is held invalid, the constitutionality of the  
7 remainder of this compact and the applicability of this compact to  
8 other persons and circumstances shall not be affected.

9 **Sec. 13. ARTICLE XIII—Additional provisions.**

10 Nothing in this compact shall authorize or permit the use of  
11 military force by the National Guard of a state at any place outside  
12 that state in any emergency for which the President is authorized  
13 by law to call into federal service the militia, or for any purpose for  
14 which the use of the Army or the Air Force would, in the absence  
15 of express statutory authorization, be prohibited under 18 U.S.C.  
16 1385.

17 **Sec. 14. Right To Alter, Amend, or Repeal.**

18 The right to alter, amend, or repeal this chapter is hereby  
19 expressly reserved. The consent granted by this chapter shall:

- 20 (1) not be construed as impairing or in any manner affecting  
21 any right or jurisdiction of the United States in and over the  
22 subject of the compact;  
23 (2) not be construed as consent to the National Guard Mutual  
24 Assistance Compact;  
25 (3) be construed as understanding that the first paragraph of  
26 Article II of the compact provides that emergencies will  
27 require procedures to provide immediate access to existing  
28 resources to make a prompt and effective response;  
29 (4) not be construed as providing authority under Article III  
30 (a)(7) that does not otherwise exist for the suspension of  
31 statutes or ordinances;  
32 (5) be construed as understanding that Article III (c) does not  
33 impose any affirmative obligation to exchange information,  
34 plans, and resource records on the United States or any party  
35 which has not entered into the compact; and  
36 (6) be construed as understanding that Article XIII does not  
37 affect the authority of the President over the National Guard  
38 provided by Article I of the Constitution of the United States  
39 and 10 U.S.C.

40 **Sec. 15. Construction and Severability.**

41 It is intended that the provisions of this compact shall be  
42 reasonably and liberally construed to effectuate the purposes

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1       thereof. If any part or application of this compact, or legislation  
2       enabling the compact, is held invalid, the remainder of the compact  
3       or its application to other situations or persons shall not be  
4       affected.

5       **Sec. 16. Inconsistency of Language.**

6       The validity of this compact shall not be affected by any  
7       insubstantial difference in its form or language as adopted by the  
8       states.

9       **Chapter 6. Interstate Emergency Management and Disaster**  
10      **Compact**

11      **Sec. 1.** The general assembly of the state of Indiana hereby  
12      ratifies a compact on behalf of the state of Indiana with any other  
13      state legally joining therein in the form substantially as follows:

14                      **INTERSTATE EMERGENCY MANAGEMENT**  
15                      **AND DISASTER COMPACT**

16      The contracting states solemnly agree:

17                      **ARTICLE I**

18      The purpose of this compact is to provide mutual aid among the  
19      states in meeting any emergency or disaster from national security,  
20      natural, or manmade situations including sabotage and subversive  
21      acts and direct attacks by bombs, shellfire, and atomic,  
22      radiological, chemical, bacteriological means, and other weapons.  
23      The prompt, full and effective utilization of the resources of the  
24      respective states, including such resources as may be available  
25      from the United States government or any other source, are  
26      essential to the safety, care and welfare of the people thereof in the  
27      event of enemy action or other emergency, and any other  
28      resources, including personnel, equipment or supplies, shall be  
29      incorporated into a plan or plans of mutual aid to be developed  
30      among the emergency management agencies or similar bodies of  
31      the states that are parties to this compact. The directors of  
32      emergency management of all party states constitute a committee  
33      to formulate plans and to take all necessary steps for the  
34      implementation of this compact.

35                      **ARTICLE II**

36      It shall be the duty of each party state to formulate emergency  
37      management plans and programs within such state. There shall be  
38      frequent consultation between the representatives of such states  
39      and with the United States government and the free exchange of  
40      information and plans, including inventories of any materials and  
41      equipment available for emergency management. In carrying out  
42      such emergency management plans and programs, the party states

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1 shall so far as possible provide and follow uniform standards,  
2 practices, and rules and regulations including the following:

- 3 (1) Insignia, arm bands, and any other distinctive articles to
- 4 designate and distinguish the different emergency
- 5 management services.
- 6 (2) Mobilization of emergency management forces and other
- 7 tests and exercises.
- 8 (3) Warning and signals for drills or actual emergencies or
- 9 disasters.
- 10 (4) The effective screening or extinguishing of all lights and
- 11 lighting devices and appliances.
- 12 (5) Shutting off water mains, gas mains, electric power
- 13 connections, and the suspension of all other utility services.
- 14 (6) All materials or equipment used or to be used for
- 15 emergency management purposes in order to assure that such
- 16 materials and equipment will be easily and freely
- 17 interchangeable when used in or by any other party state.
- 18 (7) The conduct of civilians and the movement and cessation
- 19 of movement of pedestrians and vehicular traffic, prior,
- 20 during, and subsequent to drills or actual or impending
- 21 emergencies or disasters.
- 22 (8) The safety of public meetings or gatherings.
- 23 (9) Mobile support units.

24 **ARTICLE III**

25 Any party state requested to render mutual aid shall take such  
26 action as necessary to provide and make available the resources  
27 covered by this compact in accordance with the terms hereof as  
28 long as it is understood that the state rendering aid may withhold  
29 resources to the extent necessary to provide reasonable protection  
30 for such state. Each party state shall extend to the emergency  
31 management forces of any other party state, while operating within  
32 its state limits under the terms and conditions of this compact, the  
33 same powers (except that of arrest unless specifically authorized by  
34 the receiving state), duties, rights, privileges, and immunities as if  
35 they were performing their duties in the state in which normally  
36 employed or rendering services. Emergency management forces  
37 will continue under the command and control of their regular  
38 leaders, but the organizational units will come under the  
39 operational control of the emergency management authorities of  
40 the state receiving assistance.

41 **ARTICLE IV**

42 Whenever any person holds a license, certificate, or other

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1 permit issued by any state evidencing the meeting of qualifications  
 2 for professional, mechanical, or other skills, such persons may  
 3 render aid involving such skill in any party state to meet an  
 4 emergency or disaster in this state, and such state shall give due  
 5 recognition to such license, certificate, or other permit as if issued  
 6 in the state in which aid is rendered.

7 **ARTICLE V**

8 No party state or its officers or its employees rendering aid in  
 9 another state pursuant to this compact shall be liable on account of  
 10 any act or omission in good faith on the part of such forces while  
 11 so engaged or on account of the maintenance or use of any  
 12 equipment or supplies in connection with it.

13 **ARTICLE VI**

14 Since it is probable that the pattern and detail of the machinery  
 15 for mutual aid among two (2) or more states may differ from that  
 16 appropriate among other party states, this instrument contains  
 17 elements of a broad base common to all states, and nothing in this  
 18 agreement contained precludes any state from entering into  
 19 supplementary agreements with another state or states. These  
 20 supplementary agreements may comprehend but are not limited to  
 21 provisions for evacuation and reception of injured and other  
 22 persons and the exchange of medical, fire, police, public utility  
 23 reconnaissance, welfare, transportation, and communications  
 24 personnel, equipment, and supplies.

25 **ARTICLE VII**

26 Each party state shall provide for the payment of compensation  
 27 and death benefits to injured members of the emergency  
 28 management forces of that state and the representatives of  
 29 deceased members of the forces in case these members sustain  
 30 injuries or are killed while rendering aid under the compact in the  
 31 same manner and on the same terms as if the injury or death were  
 32 sustained within that state.

33 **ARTICLE VIII**

34 Any party state rendering aid in another state under this  
 35 compact shall be reimbursed by the party state receiving the aid  
 36 for any loss or damage to or expense incurred in the operation of  
 37 any equipment answering a request for aid and for the cost  
 38 incurred in connection with the request. However, any aiding party  
 39 state may assume in whole or in part the loss, damage, expense, or  
 40 other cost, or may loan the equipment or donate the services to the  
 41 receiving party state without charge or cost. Any two (2) or more  
 42 party states may enter into supplementary agreements establishing



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1 a different allocation of costs as among those states. The United  
 2 States government may relieve the party state receiving aid from  
 3 any liability and reimburse the party state supplying emergency  
 4 management forces for the compensation paid to and the  
 5 transportation, subsistence, and maintenance expenses of such  
 6 forces during the time of the rendition of such aid or assistance  
 7 outside the state and may also pay fair and reasonable  
 8 compensation for the use or utilization of the supplies, materials,  
 9 equipment, or facilities so utilized or consumed.

10 **ARTICLE IX**

11 Plans for the orderly evacuation and reception of the civilian  
 12 population as the result of an emergency or disaster shall be  
 13 worked out from time to time between representatives of the party  
 14 states and the various local emergency management areas thereof.  
 15 Such plans shall include the manner of transporting such evacuees;  
 16 the number of evacuees to be received in different areas; the  
 17 manner in which food, clothing, housing, and medical care will be  
 18 provided; the registration of the evacuees; the providing of  
 19 facilities for the notification of relatives or friends; and the  
 20 forwarding of such evacuees to other areas or the bringing in of  
 21 additional materials, supplies, and all other relevant factors. The  
 22 plans must provide that the party state receiving evacuees shall be  
 23 reimbursed generally for the out-of-pocket expenses incurred in  
 24 receiving and caring for the evacuees; for expenditures for  
 25 transportation, food, clothing, medicines, medical care, and like  
 26 items. These expenditures shall be reimbursed by the party state of  
 27 which the evacuees are residents or by the United States  
 28 government under plans approved by it. After the termination of  
 29 the emergency or disaster, the party state of which the evacuees  
 30 are residents shall assume the responsibility for the ultimate  
 31 support or repatriation of such evacuees.

32 **ARTICLE X**

33 This compact is to be available to any state, territory, or  
 34 possession of the United States and the District of Columbia. The  
 35 term "state" may include any neighboring foreign country or  
 36 province or state of any neighboring foreign country.

37 **ARTICLE XI**

38 The committee established under Article I of this compact may  
 39 request the emergency management agency of the United States  
 40 government to act as an informational and coordinating body  
 41 under this compact. Representatives of this agency of the United  
 42 States government may attend meetings of the committee.



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- 1           **(2) Action useful in coping with disasters arising from any**  
 2           **cause or designed to increase capability to cope with any such**  
 3           **disasters.**
- 4           **(3) Incidents, or the imminence of them, which endanger the**  
 5           **health or safety of the public and which require the use of**  
 6           **special equipment, trained personnel, or personnel in larger**  
 7           **numbers than are locally available in order to reduce,**  
 8           **counteract, or remove the danger.**
- 9           **(4) The giving and receiving of aid by subdivisions of party**  
 10           **states.**
- 11           **(5) Exercises, drills, or other training or practice activities**  
 12           **designed to aid personnel to prepare for, cope with, or**  
 13           **prevent any disaster or other emergency to which this**  
 14           **compact applies.**
- 15           **(c) Except as expressly limited by this compact to a**  
 16           **supplementary agreement in force pursuant to it, any aid**  
 17           **authorized by this compact or a supplementary agreement may be**  
 18           **furnished by any agency of a party state, a subdivision of the state,**  
 19           **or by a joint agency of any two (2) or more party states or of their**  
 20           **subdivisions. Any joint agency providing this aid is entitled to**  
 21           **reimbursement for it to the same extent and in the same manner as**  
 22           **a state. The personnel of such a joint agency, when rendering aid**  
 23           **under this compact, shall have the same rights, authority, and**  
 24           **immunity as personnel of party states.**
- 25           **(d) Nothing in this article is to be construed to exclude from the**  
 26           **coverage of Articles I through XIV of this compact any matter**  
 27           **which, in the absence of this article, could reasonably be construed**  
 28           **to be covered by them.**
- 29           **(e) Nothing in subsection (a) is to be construed to limit previous**  
 30           **or future entry into the Interstate Emergency Management and**  
 31           **Disaster Compact of this state with other states.**
- 32           **Sec. 2. Duly authenticated copies of this chapter shall, upon its**  
 33           **approval, be transmitted by the secretary of state to the governor**  
 34           **of each state, to the president of the Senate of the United States, to**  
 35           **the speaker of the United States House of Representatives, to the**  
 36           **federal emergency management administration or any successor**  
 37           **agency, to the secretary of state of the United States, and to council**  
 38           **of state governments.**
- 39           **Sec. 3. Nothing contained in this chapter shall be construed as**  
 40           **a limitation of powers granted in any other law to enter into**  
 41           **interstate compacts or other agreements relating to emergency**  
 42           **management, or impairing in any respect the force and effect**

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1 thereof. The articles of the compact contained in section 1 of this  
2 chapter shall have the same force and effect as though each article  
3 were a section of this chapter.

4 **Chapter 7. Interstate Earthquake Emergency Compact**

5 **Sec. 1. Indiana hereby adopts the interstate earthquake**  
6 **emergency compact with all other states legally joining therein in**  
7 **the form substantially as follows:**

8 **INTERSTATE EARTHQUAKE**  
9 **EMERGENCY COMPACT**

10 **ARTICLE I (purpose)**

11 **The purpose of this compact is to provide mutual aid among the**  
12 **states in meeting any emergency or disaster caused by earthquakes**  
13 **or other seismic disturbances. The full, immediate, and effective**  
14 **utilization of the resources of the respective states, including such**  
15 **resources as may be available from the United States government**  
16 **or any other source, is necessary to provide needed short-term**  
17 **earthquake disaster assistance to states requesting aid. These**  
18 **resources shall be incorporated into a plan or plans of mutual aid**  
19 **to be developed among the appropriate agencies of states that are**  
20 **parties to this compact. These agencies shall develop and follow**  
21 **procedures designed to assure the maintenance of resource**  
22 **inventories and the exchange of information about earthquakes**  
23 **and disaster response. It is the policy of the party states to carry**  
24 **out this compact in a spirit of cooperation to provide the most**  
25 **effective earthquake disaster assistance to the residents of the**  
26 **states and to provide an equitable division of any necessary**  
27 **earthquake relief efforts in order to avoid a disproportionate**  
28 **allocation of contributed resources.**

29 **ARTICLE II (intrastate planning)**

30 **Each party state shall have the duty to formulate earthquake**  
31 **relief plans and programs within such state. There shall be**  
32 **frequent consultation between the representatives of such states**  
33 **and with the United States government and the free exchange of**  
34 **relief plans and information, including inventories of any materials**  
35 **and equipment available for response to earthquake emergencies.**  
36 **To this end, each state will maintain a bank of standardized data**  
37 **which will establish a comprehensive listing of all resources within**  
38 **the seven-state region (available) that might be needed during an**  
39 **earthquake disaster. The inventory will be shared equitably among**  
40 **the party states in the event of an earthquake or other emergency,**  
41 **recognizing each state's primary responsibility to assist and protect**  
42 **its residents. Each party state shall also share any available**

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information on earthquake forecasts and reports of seismic activity.

**ARTICLE III (responsibilities of states)**

Whenever the Governor of a party state requests aid from the Governor of another party state pursuant to this compact in coping with an earthquake emergency, the requested state shall make available all possible aid to the requesting state consonant with the maintenance of protection for its residents and the policies stated in Article I.

**ARTICLE IV (reciprocity)**

Whenever the officers or employees of any party state are rendering aid in another state pursuant to the request of another party state under this compact, those officers or employees shall, while under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges, and immunities as comparable officers and employees of the state to which they are rendering aid. Any person holding a license, certificate, or other permit issued by any state demonstrating the meeting of qualifications for professional, mechanical, or other skills may render aid involving such skill in any party state to meet an earthquake emergency, and the state in which aid is rendered shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is rendered.

**ARTICLE V (immunity)**

No party or its officers, employees, or other persons, certified by party states pursuant to agreed upon criteria and procedures for certification, rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on their part while so engaged or on account of maintenance or use of any equipment or supplies in connection therewith.

**ARTICLE VI (supplementary agreements)**

Nothing in this agreement precludes any state from entering into supplementary agreements with another state or states for the undertaking of mutual aid and exchange of information in the event of an earthquake emergency. These supplementary agreements may comprehend but are not limited to provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility reconnaissance, welfare, transportation and communications personnel, equipment, and supplies.

**ARTICLE VII (compensation)**

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1        Each party state shall provide compensation and death benefits  
 2 to its injured officers, employees, or other persons certified by  
 3 party states, pursuant to agreed upon criteria and procedures for  
 4 certification, and the representatives of deceased officers,  
 5 employees, and other certified persons in case officers, employees,  
 6 or certified persons sustain injuries or death while rendering aid  
 7 in another state pursuant to this compact, in the same manner and  
 8 on the same terms as if the injury or death were sustained within  
 9 the state by or in which the officer, employee, or certified person  
 10 was regularly employed.

11                    **ARTICLE VIII (reimbursement)**

12        Any party state rendering aid in another state pursuant to this  
 13 compact shall be reimbursed by the party state receiving such aid  
 14 for any loss or damage to or expense incurred in the operation of  
 15 any equipment answering a request for aid and for the cost of all  
 16 materials, transportation, wages, salaries, and maintenance of  
 17 officers, employees, and equipment incurred in connection with  
 18 such request, including amounts paid under Article VII, provided  
 19 that nothing herein contained shall prevent any assisting party  
 20 state from assuming such loss, damage, expense, or other cost or  
 21 from loaning such equipment or from donating such services to the  
 22 receiving party state without charge or cost. Any two (2) or more  
 23 party states may enter into supplementary agreements establishing  
 24 a different allocation of costs as among those states. The United  
 25 States government may under some circumstances relieve the  
 26 party state receiving aid from any liability and reimburse the party  
 27 state rendering aid for (some) loss, damage, or expense incurred  
 28 within the terms of this article.

29                    **ARTICLE IX (evacuation plans)**

30        Plans for the orderly evacuation and reception of the civilian  
 31 population as the result of an earthquake emergency shall be  
 32 worked out from time to time between representatives of the party  
 33 states. Such plans shall include the manner of transporting such  
 34 evacuees, the number of evacuees to be received in different areas,  
 35 the manner in which food, clothing, housing, and medical care will  
 36 be provided, the registration of the evacuees, the providing of  
 37 facilities for the notification of relatives or friends, and the  
 38 forwarding of such evacuees to other areas or the bringing in of  
 39 additional materials, supplies, and all other relevant factors. The  
 40 plans must provide that the party state receiving evacuees shall be  
 41 reimbursed generally for the out-of-pocket expenses incurred in  
 42 receiving and caring for the evacuees, for expenditures and

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1 transportation, and for food, clothing, medicines, medical care,  
 2 and like items. These expenditures shall be reimbursed by the  
 3 party state of which the evacuees are residents or may be  
 4 reimbursed by the United States government under plans approved  
 5 by it. The party state of which the evacuees are residents shall  
 6 assume the responsibility for the ultimate support or repatriation  
 7 of such evacuees.

8 **ARTICLE X (availability)**

9 Any state of the United States shall be eligible to become party  
 10 to this compact. As to any eligible party state, this compact shall  
 11 become effective when its legislature shall have enacted it into law  
 12 provided that it shall not become initially effective until enacted  
 13 into law by two (2) party states.

14 **ARTICLE XI (withdrawal)**

15 Any party state may withdraw from this compact by enacting  
 16 a statute repealing the same, but no such withdrawal shall become  
 17 effective until ninety (90) days after the governor of the  
 18 withdrawing state shall have sent formal notice in writing to the  
 19 governor of each other party state informing said governors of the  
 20 action of the legislature in repealing the compact and declaring an  
 21 intention to withdraw. A withdrawing state shall be liable for any  
 22 obligations which it may have incurred on account of its party  
 23 status up to the effective date of withdrawal, except that if the  
 24 withdrawing state has specifically undertaken or committed itself  
 25 to any performance of an obligation extending beyond the effective  
 26 date of withdrawal, it shall remain liable to the extent of such  
 27 obligation.

28 **ARTICLE XII (severability)**

29 This compact is severable under IC 1-1-1-8.

30 **Chapter 8. Transportation of High Level Radioactive Waste**

31 **Sec. 1. (a)** This chapter applies to high level radioactive waste  
 32 transported to or from facilities sited, constructed, or operated in  
 33 accordance with the federal Nuclear Waste Policy Act of 1982.

34 **(b)** This chapter does not apply to radioactive materials shipped  
 35 by or for the federal government for:

- 36 (1) military;
- 37 (2) national security; or
- 38 (3) national defense;

39 purposes.

40 **Sec. 2.** As used in this chapter, "high level radioactive waste"  
 41 means:

- 42 (1) irradiated reactor fuel;

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1 (2) liquid wastes resulting from the operation of a first cycle  
 2 solvent extraction system or its equivalent and the  
 3 concentrated wastes from a subsequent extraction cycle or its  
 4 equivalent in a facility for reprocessing irradiated reactor  
 5 fuel; and

6 (3) solids into which liquid wastes described in subdivision (2)  
 7 have been converted.

8 **Sec. 3. (a) Before a person may transport high level radioactive**  
 9 **waste in Indiana, the person who is responsible for the shipment**  
 10 **must submit the following to the director:**

11 (1) A notice that includes:

12 (A) the highway or railway route, date, and time of the  
 13 shipment of high level radioactive waste; and

14 (B) other information required under 10 CFR 71.5(a) and  
 15 10 CFR 73.37(f).

16 (2) A transportation fee of one thousand dollars (\$1,000) for  
 17 each total shipment of nuclear waste.

18 (b) The director shall deposit fees collected under this section in  
 19 the nuclear response fund established by section 6 of this chapter.

20 **Sec. 4. (a) The director shall consult with:**

21 (1) the state health commissioner of the state department of  
 22 health;

23 (2) the commissioner of the Indiana department of  
 24 transportation;

25 (3) the commissioner of the department of environmental  
 26 management;

27 (4) the director of the department of natural resources;

28 (5) the superintendent of the state police department;

29 (6) representatives of the:

30 (A) United States Nuclear Regulatory Commission;

31 (B) Federal Emergency Management Agency;

32 (C) United States Department of Energy; and

33 (D) United States Department of Transportation; and

34 (7) a representative of a local emergency management agency  
 35 designated by the director;

36 to prepare a plan for emergency response to a high level  
 37 radioactive waste transportation accident in Indiana. The plan  
 38 must include provisions for evacuation, containment, and cleanup  
 39 and must designate the role of each state or local government  
 40 agency involved in the emergency response plan.

41 (b) The director shall report to the general assembly each year  
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- 1           (1) status of the plan prepared under subsection (a); and  
 2           (2) ability of the state to respond adequately to a high level  
 3           radioactive waste transportation accident in Indiana.

4           **Sec. 5. (a) Under 49 CFR Part 177, the director may require**  
 5 **preferred highway routes for transporting high level radioactive**  
 6 **waste in Indiana if the director determines under United States**  
 7 **Department of Transportation "Guidelines for Selecting Preferred**  
 8 **Highway Routes for Large Quantity Shipments of Radioactive**  
 9 **Materials" that alternative routes are safer than proposed routes.**

10          **(b) The director shall:**

- 11           (1) annually review federally approved highway and railway  
 12           routes for transporting high level radioactive waste in  
 13           Indiana; and  
 14           (2) select new state designated routes in accordance with 49  
 15           CFR Part 177 if safety considerations indicate the alternate  
 16           routes would be preferable.

17          **(c) Before the director may require alternative routes under**  
 18 **subsection (a) or select new state designated routes under**  
 19 **subsection (b), the director must do the following:**

- 20           (1) Consult with all of the persons described in section 4(a) of  
 21           this chapter.  
 22           (2) Conduct or engage in substantial consultation with the  
 23           affected local county authorities.  
 24           (3) Notify the:  
 25                (A) state health commissioner of the state department of  
 26                health;  
 27                (B) commissioner of the department of environmental  
 28                management;  
 29                (C) superintendent of the state police department; and  
 30                (D) local emergency management agency and applicable  
 31                local fire and law enforcement agencies in each affected  
 32                county;

33           of the director's final decision concerning an alternative route  
 34           or a new state designated route before the date upon which  
 35           the alternative route or new state designated route takes  
 36           effect.

- 37           (4) If the director wishes to change the route of a railway  
 38           shipment of high level radioactive waste, the director must  
 39           notify the United States Department of Energy and the  
 40           appropriate rail carrier of any changes the director feels  
 41           should be made to the route.

42          **(d) The state is not liable by requiring alternate routes to be**

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1 used as provided under this section.

2 **Sec. 6. (a) The nuclear response fund is established to provide**  
 3 **appropriate education, training, and equipment to local emergency**  
 4 **responders in counties that will be affected by the transportation**  
 5 **of high level radioactive waste under this chapter.**

6 **(b) Sources of money for the fund consist of transportation fees**  
 7 **deposited under section 3(b) of this chapter.**

8 **(c) The state emergency management agency shall administer**  
 9 **the fund. Money in the fund is annually appropriated to the state**  
 10 **emergency response commission to be used for purposes described**  
 11 **in subsection (a).**

12 **(d) The expenses of administering the fund shall be paid from**  
 13 **money in the fund.**

14 **(e) The treasurer of state shall invest the money in the fund not**  
 15 **currently needed to meet the obligations of the fund in the same**  
 16 **manner as other public funds may be invested.**

17 **(f) Money in the fund at the end of a fiscal year does not revert**  
 18 **to the state general fund.**

19 **Sec. 7. This chapter does not require the disclosure of defense**  
 20 **information or restricted data (as defined in the federal Atomic**  
 21 **Energy Act of 1954 (42 U.S.C. 2014)).**

22 **Sec. 8. The agency may adopt rules under IC 4-22-2 to**  
 23 **implement this chapter.**

24 **SECTION 6. IC 10-15 IS ADDED TO THE INDIANA CODE AS**  
 25 **A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 26 **2003]:**

27 **ARTICLE 15. EMERGENCY MANAGEMENT, FIRE AND**  
 28 **BUILDING SERVICES, AND PUBLIC SAFETY TRAINING**  
 29 **FOUNDATION**

30 **Chapter 1. Definitions**

31 **Sec. 1. The definitions in this chapter apply throughout this**  
 32 **article.**

33 **Sec. 2. "Agency" refers to the state emergency management**  
 34 **agency established by IC 10-14-2-1.**

35 **Sec. 3. "Department" refers to the fire and building services**  
 36 **department established by IC 22-12-5-1.**

37 **Sec. 4. "Executive director" refers to the executive director of**  
 38 **the Indiana emergency management, fire and building services,**  
 39 **and public safety training foundation established by IC 10-15-2-1.**

40 **Sec. 5. "Foundation" refers to the Indiana emergency**  
 41 **management, fire and building services, and public safety training**  
 42 **foundation established by IC 10-15-2-1.**



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1           **Sec. 6. "Funds" means the funds established by IC 10-15-3-1.**  
2           **Sec. 7. "Institute" refers to the public safety institute established**  
3           **by IC 5-2-10.5-4.**  
4           **Sec. 8. "Unit of local government" means a:**  
5               **(1) county;**  
6               **(2) city;**  
7               **(3) town; or**  
8               **(4) township;**  
9           **in Indiana.**  
10          **Chapter 2. Indiana Emergency Management, Fire and Building**  
11          **Services, and Public Safety Training Foundation**  
12          **Sec. 1. The Indiana emergency management, fire and building**  
13          **services, and public safety training foundation is established as a**  
14          **public body corporate and politic.**  
15          **Sec. 2. (a) The foundation consists of fifteen (15) voting**  
16          **members and four (4) nonvoting advisory members.**  
17          **(b) The voting members shall be appointed by the governor. The**  
18          **voting members are as follows:**  
19               **(1) The executive director, subject to subsection (d).**  
20               **(2) The state fire marshal.**  
21               **(3) The state building commissioner.**  
22               **(4) The deputy director of the state emergency management**  
23               **agency.**  
24               **(5) The deputy director of the state emergency management**  
25               **agency for emergency medical services.**  
26               **(6) Ten (10) individuals appointed by the governor. Each**  
27               **Indiana congressional district must be represented by at least**  
28               **one (1) member who is a resident of that congressional**  
29               **district. Not more than five (5) of the members appointed**  
30               **under this subdivision may represent the same political party.**  
31          **(c) The four (4) nonvoting advisory members are as follows:**  
32               **(1) Two (2) members, one (1) from each political party,**  
33               **appointed by the president pro tempore of the senate with**  
34               **advice from the minority leader of the senate.**  
35               **(2) Two (2) members, one (1) from each political party,**  
36               **appointed by the speaker of the house of representatives with**  
37               **advice from the minority leader of the house of**  
38               **representatives.**  
39          **(d) The executive director may vote for tie breaking purposes**  
40          **only.**  
41          **(e) In the absence of a member, the member's vote may be cast**  
42          **by another member if the member casting the vote has a written**

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1 proxy in proper form as required by the foundation.

2 Sec. 3. (a) A quorum consists of eight (8) of the voting members  
3 of the foundation described in section 2(b)(2) through 2(b)(6) of  
4 this chapter.

5 (b) One (1) of the following is necessary for the foundation to  
6 take action:

7 (1) An affirmative vote by at least a majority of the quorum.

8 (2) A tie vote broken by the executive director.

9 Sec. 4. Membership on the foundation does not constitute the  
10 holding of a public office. A member may not be disqualified from  
11 holding a public office or position because of appointment to or  
12 service on the foundation. A member may not be required to forfeit  
13 an office, a position, or employment because of appointment to or  
14 service on the foundation.

15 Sec. 5. (a) The term of each member appointed under section  
16 2(b)(6) of this chapter is four (4) years.

17 (b) A member appointed to fill the unexpired term of a member  
18 serves until the end of the unexpired term.

19 (c) At the expiration of a member's term, the member may be  
20 reappointed if the member continues to be a part of the  
21 represented entity. A person is no longer a member when the  
22 person ceases to be a part of the represented entity.

23 Sec. 6. The terms of the members appointed under section  
24 2(b)(6) of this chapter begin on July 1.

25 Sec. 7. (a) At the foundation's first meeting after June 30 of each  
26 year, the voting members appointed under section 2(b)(2) through  
27 2(b)(6) of this chapter shall select:

28 (1) one (1) of the voting members who is not a state employee  
29 to serve as chairperson; and

30 (2) one (1) of the voting members who is not a state employee  
31 to serve as vice chairperson.

32 (b) The vice chairperson shall exercise all the duties and powers  
33 of the chairperson in the chairperson's absence or disability.

34 Sec. 8. (a) The executive director and agency, institute, and  
35 department staff designated by the director shall act as advisers to  
36 the foundation.

37 (b) An adviser to the foundation may do the following:

38 (1) Attend all meetings of the foundation.

39 (2) Participate in all proceedings at foundation meetings other  
40 than voting.

41 Sec. 9. (a) The foundation may acquire personal property to be  
42 donated under subsection (b). The foundation may receive

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1 donations of real property to be disposed of under subsection (c).

2 (b) Subject to subsection (d), the foundation may donate  
3 personal property to the following:

- 4 (1) The department.  
5 (2) The institute.  
6 (3) The agency.  
7 (4) A unit of local government.

8 (c) The foundation shall dispose of real property donations in  
9 the following manner:

- 10 (1) Real property may be accepted by the foundation for  
11 purpose of resale, either on the open market or to the state or  
12 a unit of local government at a price set by the foundation.  
13 (2) The proceeds from the sale of real property shall be  
14 donated to a fund that the donor has chosen or, if the donor  
15 has not chosen a fund, to a fund to be chosen by the  
16 foundation.

17 (d) The foundation must have the approval of the executive  
18 director to donate property to the state.

19 **Sec. 10. The foundation may do the following:**

- 20 (1) Adopt bylaws for the regulation of the foundation's affairs  
21 and the conduct of the foundation's business.  
22 (2) Adopt an official seal, which may not be the seal of the  
23 state.  
24 (3) Maintain a principal office and other offices the  
25 foundation designates.  
26 (4) Sue and be sued in the name and style of "Indiana  
27 Emergency Management, Fire and Building Services, and  
28 Public Safety Training Foundation", with service of process  
29 being made to the chairperson of the foundation by leaving a  
30 copy at the principal office of the foundation or at the  
31 residence of the chairperson if the foundation has no principal  
32 office.  
33 (5) Exercise the powers or perform the following duties of the  
34 foundation:  
35 (A) Acquire by any means a right or an interest in or upon  
36 personal property of any kind or nature. The foundation  
37 shall hold the legal title to property acquired in the name  
38 of the foundation.  
39 (B) Dispose of a right or an interest in personal property.  
40 (6) Make and enter into all contracts, undertakings, and  
41 agreements necessary or incidental to the performance of the  
42 duties and the execution of the powers of the foundation

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1 under this chapter.

2 (7) Assist the agency, department, and institute to develop  
3 projects.

4 (8) Receive and accept from any person grants for or in aid of  
5 the acquisition, construction, improvement, or development  
6 of any part of the projects of the foundation and receive and  
7 accept aid or contributions from any source of money,  
8 personal property, labor, or other things of value to be held,  
9 used, applied, or disposed of only for the purposes consistent  
10 with the purposes of this chapter for which the grants and  
11 contributions may be made.

12 (9) Hold, use, administer, and expend money that may be  
13 acquired by the foundation.

14 (10) Do all acts and things necessary or proper to carry out  
15 the powers expressly granted in this chapter.

16 Sec. 11. (a) The foundation shall:

17 (1) adopt:

18 (A) rules under IC 4-22-2; or

19 (B) a policy;

20 establishing a code of ethics for its employees; or

21 (2) submit to the jurisdiction and rules adopted by the state  
22 ethics commission.

23 (b) A code of ethics adopted by the foundation by rule or policy  
24 under this section must be consistent with state law and approved  
25 by the governor.

26 Chapter 3. Funds

27 Sec. 1. (a) The following funds are established:

28 (1) Emergency management fund.

29 (2) Fire services fund.

30 (3) Building services fund.

31 (4) Emergency medical services fund.

32 (5) Stewardship fund.

33 (b) The funds established by subsection (a)(1) through (a)(4)  
34 consist of:

35 (1) gifts and proceeds received under section 5 of this chapter;  
36 and

37 (2) fees from license plates as set forth in section 6 of this  
38 chapter.

39 (c) The stewardship fund established by subsection (a)(5)  
40 consists of fees from license plates as set forth in section 6 of this  
41 chapter.

42 Sec. 2. (a) The money in the emergency management fund shall

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be used to pay for projects of the agency.

(b) The money in the fire services fund shall be used to pay for projects of the office of the state fire marshal.

(c) The money in the building services fund shall be used to pay for projects of the office of the state building commissioner.

(d) The money in the emergency medical services fund shall be used to pay for emergency medical services projects of the agency.

(e) The money in the stewardship fund shall be used to pay for the promotion of safety first license plates under IC 9-18-45 and for the costs of administering this article.

**Sec. 3.** Expenditures from the funds may be made only to carry out the purposes of this chapter.

**Sec. 4.** The foundation shall do the following:

- (1) Hold the funds in the name of the foundation.
- (2) Administer the funds.
- (3) Make all expenditures from the funds.

**Sec. 5.** Gifts of money to the funds or the foundation or the proceeds from the sale of gifts donated to the funds or the foundation shall be deposited in the designated fund.

**Sec. 6.** Fees from license plates issued under IC 9-18-45 shall be deposited as follows:

- (1) Twenty-two and one-half percent (22.5%) of the fees in the emergency management fund.
- (2) Twenty-two and one-half percent (22.5%) of the fees in the fire services fund.
- (3) Twenty-two and one-half percent (22.5%) of the fees in the building services fund.
- (4) Twenty-two and one-half percent (22.5%) of the fees in the emergency medical services fund.
- (5) Ten percent (10%) of the fees in the stewardship fund.

**Sec. 7.** The expenses of administering this chapter shall be paid from money in the funds.

**Sec. 8.** The money in the funds at the end of a state fiscal year remains in the designated funds and does not revert to any other fund. If the foundation is terminated, the money in the funds reverts to the emergency management contingency fund established by IC 10-14-3-28.

**Sec. 9.** The funds are subject to audit by the state board of accounts.

**Sec. 10.** The foundation is exempt from taxes on real and personal property that the foundation acquires or disposes of or as a consequence of the foundation's transactions.

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1           **Sec. 11. Before October 1 of each year, the foundation shall**  
2 **prepare an annual report concerning the foundation's activities for**  
3 **the prior year for the public and the general assembly.**

4           SECTION 7. IC 10-16 IS ADDED TO THE INDIANA CODE AS  
5 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
6 2003]:

7           **ARTICLE 16. INDIANA MILITARY CODE**

8           **Chapter 1. Definitions**

9           **Sec. 1. The definitions in this chapter:**

10           (1) **apply throughout this article, unless otherwise apparent**  
11 **from the context; and**

12           (2) **are subject to organization modification as adopted by**  
13 **regular army and regular air force troop structures that are**  
14 **incorporated in this article by reference.**

15           **Sec. 2. "Air group" has the same meaning as comparably used**  
16 **in the national military establishment.**

17           **Sec. 3. "Battalion" has the same meaning as comparably used**  
18 **in the national military establishment.**

19           **Sec. 4. "Battery" has the same meaning as comparably used in**  
20 **the national military establishment.**

21           **Sec. 5. "Battle group" has the same meaning as comparably**  
22 **used in the national military establishment.**

23           **Sec. 6. "Commanding officer" means a company, a troop, a**  
24 **battery, a squadron, a battalion, an air group, a regiment, a battle**  
25 **group, a wing, or a division commander.**

26           **Sec. 7. "Company" has the same meaning as comparably used**  
27 **in the national military establishment.**

28           **Sec. 8. "Court martial" means a military or naval court of**  
29 **justice for the trial of cases within the jurisdiction of the armed**  
30 **forces of the state.**

31           **Sec. 9. "Division" has the same meaning as comparably used in**  
32 **the national military establishment.**

33           **Sec. 10. "Federally recognized national guard" means that part**  
34 **of the Indiana national guard that has met all the requirements for**  
35 **and has been recognized by the national military establishment as**  
36 **a part of the reserve components of the armed forces of the United**  
37 **States.**

38           **Sec. 11. "General orders" means the official instructions issued**  
39 **by the military department of Indiana.**

40           **Sec. 12. "Headquarters" means the office of the appropriate**  
41 **commander.**

42           **Sec. 13. (a) "National guard" means the Indiana army national**

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1 guard and the Indiana air national guard.

2 (b) The term may apply to the national guard of Indiana or the  
3 national guard of the United States according to the tenor of the  
4 appropriate section.

5 Sec. 14. "Officer" means a commissioned officer, including a  
6 warrant officer, in the armed forces of the state.

7 Sec. 15. "Organization" means unit or command.

8 Sec. 16. "Regiment" has the same meaning as comparably used  
9 in the national military establishment.

10 Sec. 17. "Regulations" means the official rules of the  
11 appropriate department.

12 Sec. 18. "Squadron" has the same meaning as comparably used  
13 in the national military establishment.

14 Sec. 19. "State and federal property" means:

- 15 (1) state property, real or personal, owned by the state; or  
16 (2) federal property owned by the federal government and  
17 consigned to the state for use in its armed forces.

18 Sec. 20. "Troop" has the same meaning as comparably used in  
19 the national military establishment.

20 Sec. 21. "Unit" means military complements of a company,  
21 detachment, troop, battery, or any larger command organization.

22 Sec. 22. "Wing" has the same meaning as comparably used in  
23 the national military establishment.

24 Chapter 2. Military Department

25 Sec. 1. (a) The military department of the state:

- 26 (1) is established; and  
27 (2) shall be administered and controlled by the governor as  
28 commander in chief.

29 (b) The military department consists of the following:

- 30 (1) An adjutant general, who shall be the executive and  
31 administrative head of the department.  
32 (2) Other officers, enlisted individuals, and employees  
33 considered necessary and authorized.

34 Sec. 2. The military department shall administer all matters  
35 concerning or relating to the following:

- 36 (1) The militia.  
37 (2) The national guard.  
38 (3) Other military organizations under the jurisdiction of the  
39 state.  
40 (4) Other duties as the governor may assign.

41 Sec. 3. (a) The governor shall:

- 42 (1) be the commander in chief of the military forces of the

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- 1 state;
- 2 (2) have supreme command of the military forces of the state
- 3 while in the service of the state or until they are ordered and
- 4 accepted into the service of the United States; and
- 5 (3) have power to:
- 6 (A) muster out any organization of the state;
- 7 (B) discharge enlisted men as provided; and
- 8 (C) perform other acts in keeping with the laws of the
- 9 state, subject to the laws of the United States and
- 10 regulations prescribed by the President of the United
- 11 States.
- 12 (b) An armed military force from another state or territory may
- 13 not enter Indiana without permission of the governor, unless the
- 14 military force is:
- 15 (1) a part of the armed forces of the United States; or
- 16 (2) acting under the authority of the United States.
- 17 (c) An independent military organization under the jurisdiction
- 18 of the state, except as a corps of cadets in the educational
- 19 institutions, may not bear arms without first securing permission
- 20 of the commander in chief.
- 21 Sec. 4. This article shall be interpreted liberally in favor of the
- 22 exercise of all the constitutional powers of the governor as
- 23 commander in chief.
- 24 Sec. 5. (a) The governor may appoint an honorary staff of aides
- 25 with the brevet title of colonel, lieutenant colonel or major, or
- 26 comparable naval rank.
- 27 (b) The staff officers hold office at the will of the governor.
- 28 Their commissions expire with the term of office of the governor
- 29 making the appointment.
- 30 (c) The adjutant general shall be ex officio chief of staff.
- 31 Sec. 6. (a) The governor shall appoint the adjutant general.
- 32 (b) The adjutant general must hold the rank of not less than
- 33 brigadier general.
- 34 (c) The governor may increase the rank of the adjutant general
- 35 not to exceed the rank of major general as a reward for efficient
- 36 and loyal service to the state.
- 37 Sec. 7. The adjutant general shall appoint two (2) assistant
- 38 adjutants general to serve at the will and pleasure of the adjutant
- 39 general as follows:
- 40 (1) One (1) assistant adjutant general from the Indiana army
- 41 national guard to be chief of staff to the adjutant general for
- 42 all the Indiana army national guard forces. This assistant

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1 adjutant general shall perform duties assigned by the adjutant  
 2 general and is responsible for all administrative and  
 3 operational functions of the Indiana army national guard. A  
 4 person is not eligible for appointment as assistant adjutant  
 5 general unless the person is a member of the Indiana army  
 6 national guard with at least six (6) years service in the Indiana  
 7 army national guard and has attained the rank of major or  
 8 above. The person must be a federally recognized officer and  
 9 may hold the rank of brigadier general or other rank  
 10 authorized by the table of organization for the army national  
 11 guard.

12 (2) One (1) assistant adjutant general from the Indiana air  
 13 national guard to be chief of staff to the adjutant general for  
 14 all the Indiana air national guard forces. This assistant  
 15 adjutant general shall perform duties assigned by the adjutant  
 16 general and is responsible for administrative and operational  
 17 functions of the Indiana air national guard. A person is not  
 18 eligible for appointment as air forces chief of staff unless the  
 19 person is a member of the Indiana air national guard with at  
 20 least six (6) years service as a commissioned officer and has  
 21 attained the rank of major or above. The person must be a  
 22 federally recognized officer and may hold the rank of  
 23 brigadier general or other rank authorized by the tables of  
 24 organization for the air national guard.

25 **Sec. 8. The adjutant general shall do the following:**

- 26 (1) Execute all orders given by the commander in chief.  
 27 (2) Give bond with surety to the state, to the approval of the  
 28 governor, in the sum of ten thousand dollars (\$10,000) for the  
 29 faithful discharge of the duties of the office of adjutant  
 30 general.

31 **Sec. 9. (a) The adjutant general shall perform duties required by**  
 32 **law, in rules adopted under this chapter, and in the statutes of the**  
 33 **United States and required by the governor. If the adjutant**  
 34 **general:**

- 35 (1) fails or refuses to properly and efficiently perform the  
 36 duties of the office; or  
 37 (2) is guilty of misconduct or conduct prejudicial to good  
 38 order and military discipline;

39 **written charges setting forth the acts involved shall be filed with**  
 40 **the governor. The governor shall take action on the charges for the**  
 41 **best interests of the service.**

42 (b) The adjutant general shall superintend the preparation of all

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1 returns and reports required by the United States from the state.

2 (c) The adjutant general shall:

3 (1) keep a register of all the officers of the armed forces of the  
4 state; and

5 (2) keep in the adjutant general's office all records and papers  
6 required to be kept and filed.

7 (d) If necessary, the adjutant general shall, at the expense of the  
8 state, cause:

9 (1) the armed forces law;

10 (2) the general regulations of the state; and

11 (3) the uniform code of military justice of the United States;  
12 to be printed, indexed, and bound in proper and compact form.  
13 One (1) copy of each publication shall be distributed to the  
14 commissioned officers, sheriffs, clerks of boards of county  
15 commissioners, and county treasurers of Indiana. The adjutant  
16 general shall issue to each commissioned officer and headquarters  
17 one (1) copy of the necessary textbooks and of such annual reports  
18 concerning the militia as the governor directs.

19 (e) The adjutant general shall cause to be prepared and issued  
20 all blank books, blank forms, and blank notices required to  
21 implement this chapter. The books and blanks are property of the  
22 state.

23 (f) The adjutant general shall attend to the safekeeping and  
24 repairing of the ordnance, arms, accouterments, equipment, and all  
25 other military and naval property belonging to the state or issued  
26 to it by the United States. The governor shall order the adjutant  
27 general to dispose of all military and naval property of the state  
28 that after a proper inspection is found unsuitable for the use of the  
29 state. The adjutant general shall dispose of the property:

30 (1) by public auction after advertisement of the sale weekly  
31 for three (3) weeks in at least one (1) newspaper published in  
32 the English language in the city or county where the sale is to  
33 take place;

34 (2) by private sale when ordered by the governor; or

35 (3) with the approval of the governor, by turning over the  
36 property to any other department, board, or commission of  
37 state government that can use the property.

38 If the adjutant general believes that better prices may or should be  
39 obtained, the adjutant general shall bid in the property or suspend  
40 the sale. All parts of uniforms before being offered for sale shall be  
41 mutilated so they cannot be again used as uniforms. The adjutant  
42 general shall periodically account to the governor of the sales

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1 made. The adjutant general shall expend the proceeds of the sales  
2 for the use and benefit of the military or naval forces of the state  
3 as the governor directs.

4 (g) The adjutant general shall keep an accurate account of all  
5 expenses necessarily incurred, including the following:

- 6 (1) Pay of officers and enlisted persons.  
7 (2) Allowances to officers and organizations.  
8 (3) Pensions.  
9 (4) Any other money required to be disbursed by the adjutant  
10 general, including the following:  
11 (A) Subsistence of the national guard.  
12 (B) Transportation of the national guard.  
13 (C) Transportation of all military and naval property of  
14 the state or of the United States.

15 These expenses shall be audited and paid in the same manner as  
16 other military and naval accounts.

17 (h) The adjutant general shall:

- 18 (1) issue military and naval property; and  
19 (2) make purchases of military and naval property;

20 as the governor directs. Military or naval property may not be  
21 issued to persons or organizations other than those belonging to the  
22 state armed forces, except to those parts of the sedentary militia as  
23 the governor may call out.

24 (i) The seal used in the office of the adjutant general on January  
25 1, 1954, shall be:

- 26 (1) the seal of that office; and  
27 (2) delivered by the adjutant general to the successor in office.

28 (j) Except as provided in subsection (k), the adjutant general  
29 shall be the auditor of all military accounts payable by the state.

30 (k) The auditor of state shall audit expenditures made by the  
31 adjutant general or through the adjutant general's office. Copies  
32 of all orders and contracts relating to expenditures described in  
33 this subsection shall be filed in the auditor's office.

34 Sec. 10. (a) The adjutant general may be paid a sum equal to the  
35 pay received by an officer of the same grade in federal services,  
36 excluding allowances.

37 (b) The governor, with the approval of the budget committee,  
38 may periodically adjust the salary of the adjutant general to meet  
39 the pay adjustments of an officer of the same grade in federal  
40 service.

41 Chapter 3. State Armory Board

42 Sec. 1. (a) The state armory board is established to provide,

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1 manage, and care for armories for the use of the military and naval  
2 forces of Indiana.

3 (b) The board consists of the following members:

4 (1) The following ex officio members:

5 (A) The governor.

6 (B) The adjutant general.

7 (2) Five (5) members appointed by the governor. At least  
8 three (3) of the members must be or must have been officers  
9 of the military or naval forces of the United States or of the  
10 state of Indiana.

11 (3) The presidents of the local armory boards as provided  
12 under IC 10-16-4-3(c).

13 Sec. 2. The state armory board established by section 1 of this  
14 chapter may contribute funds in support of the following  
15 authorized duties and responsibilities of the adjutant general:

16 (1) The military department of the Indiana ceremonial unit.

17 (2) The Indiana guard reserve.

18 (3) The annual report of the adjutant general's department.

19 (4) The medical treatment, pensions, and funeral expenses of  
20 officers and soldiers wounded, disabled, or killed while in the  
21 active service of the state.

22 (5) Public relations expenditures of the adjutant general's  
23 department that are not paid by the United States Department  
24 of Defense.

25 (6) Recruitment and retention expenditures of the adjutant  
26 general's department that are not paid by the United States  
27 Department of Defense.

28 (7) The publication of the armed forces law of Indiana in  
29 accordance with IC 10-16-2-9(d).

30 Sec. 3. (a) The term of each member of the state armory board  
31 expires four (4) years from the date of the member's appointment.

32 (b) If there is a vacancy in the state armory board, the governor  
33 may fill the vacancy for the unexpired term.

34 Sec. 4. The members of the state armory board shall perform  
35 the duties imposed upon them by this chapter without  
36 compensation. However, the state shall pay the actual necessary  
37 expenses of the members that are incident to the performance of  
38 their duties from the appropriation made for armory purposes.

39 Sec. 5. (a) The state armory board shall erect or provide within  
40 Indiana armories for the use of the military and naval forces of the  
41 state for drill, meeting, and rendezvous purposes by the  
42 organization of the military or naval forces occupying the

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1 armories.

2 (b) All property of the United States or of the state issued to the  
3 occupying organization for military or naval purposes shall be  
4 stored and safely kept in the armories.

5 Sec. 6. (a) The state armory board may:

6 (1) lease real estate from:

7 (A) federal, state, or local government; or

8 (B) a federal, state, or local agency; or

9 (2) purchase real estate throughout the state;  
10 where necessary to provide armories.

11 (b) The state armory board shall lease or purchase real estate  
12 in the name and for the use of the state. The state armory board  
13 shall erect on the real estate an armory to be used for meetings,  
14 rendezvous, and drill purposes by the following organizations:

15 (1) A company.

16 (2) A battery.

17 (3) A troop.

18 (4) A battalion.

19 (5) A regiment.

20 (6) A division organization.

21 (7) An air squadron.

22 (8) A related group.

23 The ordnance stores, quartermaster stores, and other property  
24 issued to an organization described in this subsection and  
25 occupying the armory shall be stored in the armory.

26 (c) The state armory board shall arrange for the occupancy and  
27 use of the armories under the direction and responsibility of the  
28 senior officer in command of an organization described in  
29 subsection (b).

30 (d) An armory may not be erected on land that is leased for less  
31 than fifty (50) years.

32 (e) The Indiana wing of the civil air patrol and its subordinate  
33 units may use armory facilities without charge when the officer  
34 responsible for the armory determines the use would not interfere  
35 with operational training requirements of the military forces  
36 concerned.

37 Sec. 7. The state armory board shall constitute a board for the  
38 general management, care, and custody of the armories. The state  
39 armory board may adopt rules for:

40 (1) the management and government of the armories; and

41 (2) the guidance of the organizations occupying the armories.

42 Sec. 8. (a) This section applies if a contract for the procurement

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1 of property by the state armory board or a local armory board is  
 2 awarded under this chapter by acceptance of bids, proposals, or  
 3 quotations.

4 (b) A bid, proposal, or quotation submitted by a trust (as  
 5 defined in IC 30-4-1-1(a)) must identify each:

- 6 (1) beneficiary of the trust; and
- 7 (2) settlor empowered to revoke or modify the trust.

8 **Sec. 9. (a)** The state armory board may receive from any source  
 9 donations of land or contributions of money to aid in providing or  
 10 erecting armories throughout Indiana for the use of:

- 11 (1) the armed forces of Indiana; and
- 12 (2) the armed forces of Indiana called or inducted into federal  
 13 service.

14 Property received under this subsection shall be held as other  
 15 property for the use of the state.

16 (b) Counties, cities, and municipalities may make donations and  
 17 contributions under subsection (a).

18 (c) This subsection applies to real estate:

- 19 (1) donated under subsection (a); and
- 20 (2) upon which the state of Indiana has not erected structures.

21 The state armory board may determine that real estate donated  
 22 under subsection (a) is no longer usable or cannot be used by the  
 23 military department. The state armory board may certify its  
 24 determination to the adjutant general. The adjutant general may  
 25 reconvey the real estate to the donor.

26 **Sec. 10.** All expenses incurred in the operation of state armories  
 27 shall be paid out of:

- 28 (1) the rentals;
- 29 (2) the income;
- 30 (3) the earnings;
- 31 (4) any other receipts; and
- 32 (5) any other appropriation provided by law;

33 to pay the expenses incurred in the operation of the armories.

34 **Sec. 11.** The state armory board may use the receipts under  
 35 IC 10-16-9-3(a)(3) to make contributions to organizations that  
 36 promote the public image of the national guard, the United States  
 37 armed forces, or veterans of the United States armed forces. These  
 38 contributions may be made for the following purposes:

- 39 (1) Public events.
- 40 (2) Activities on Veterans' Day, Memorial Day, the Fourth of  
 41 July, and other holidays.
- 42 (3) Monuments, plaques, or inscriptions that memorialize

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1 veterans of United States wars or military actions.

2 (4) Other appropriate activities that the state armory board  
3 approves.

4 Sec. 12. (a) If the state armory board receives from the governor  
5 information of the disbandment of the organization of the armed  
6 forces of Indiana occupying and using an armory, the state armory  
7 board shall take charge of the armory.

8 (b) The state armory board shall sell the armory for the highest  
9 price at public or private sale after publication of the sale for a  
10 period of ten (10) days and return the proceeds into the state  
11 treasury.

12 Sec. 13. (a) The state armory board may sell, lease, convey, or  
13 otherwise dispose of any real property belonging to the state and  
14 being under the charge and in the custody and possession of the  
15 state armory board if, in the judgment of the state armory board,  
16 the real property can no longer be used for the purpose for which  
17 it was acquired.

18 (b) The sale shall be made at public or private sale, after  
19 appropriate publication, for the highest price to be obtained for the  
20 same. If the state armory board takes bids in the sale of real  
21 property, the board shall require a bid submitted by a trust (as  
22 defined in IC 30-4-1-1(a)) to identify all of the following:

23 (1) Each beneficiary of the trust.

24 (2) Each settlor empowered to revoke or modify the trust.

25 (c) All money derived from the sale, conveyance, or other  
26 disposition of any real property shall be paid into the state  
27 treasury, but may be used for the purchase of other real property  
28 for armory purposes.

29 Sec. 14. (a) If the state armory board sells, conveys, or otherwise  
30 disposes of any real property, the value of the property shall be  
31 determined by three (3) disinterested appraisers appointed by the  
32 state armory board with the approval of the governor.

33 (b) Real property may not be sold, conveyed, or otherwise  
34 disposed of for less than the appraised value of the real property.  
35 If the real property cannot be sold at its appraised value, it may be  
36 reappraised.

37 (c) Real property may not be sold, conveyed, or otherwise  
38 disposed of unless:

39 (1) the governor approves the sale, conveyance, or disposition;  
40 and

41 (2) the attorney general states in writing that all the  
42 conditions necessary to the legal and valid sale, conveyance,

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1 or disposition of such property have been fully complied with.

2 **Sec. 15. (a) The purchaser of real property sold under this**  
 3 **chapter or to whom real property is conveyed or otherwise**  
 4 **disposed of under this chapter shall pay the purchase money as**  
 5 **agreed upon and certified by the state armory board to the**  
 6 **treasurer of state for the use and benefit of the state armory board.**  
 7 **The purchaser shall take the receipt of the treasurer of state.**

8 **(b) The auditor of state shall execute a deed of conveyance to the**  
 9 **purchaser after the purchaser presents the following documents to**  
 10 **the auditor of state:**

11 **(1) The receipt of the treasurer of state.**

12 **(2) A certified resolution approved by the state armory board**  
 13 **setting forth the terms and conditions of the sale, conveyance,**  
 14 **or other disposition.**

15 **The deed of conveyance shall be signed by the governor and**  
 16 **officially attested by the auditor of state with the seal of the state.**

17 **Sec. 16. (a) The state armory board shall report annually of the**  
 18 **proceedings incident to the location and management of the**  
 19 **armories and a detailed account of disbursements.**

20 **(b) The report shall be filed in the office of auditor of state and**  
 21 **a copy furnished the adjutant general for publication in the annual**  
 22 **report of the adjutant general's department.**

23 **Sec. 17. The state examiner, personally or through the deputy**  
 24 **examiners, field examiners, or private examiners, shall make a full**  
 25 **and complete examination and report of all transactions of all**  
 26 **individuals, persons, trustees, boards, banks, firms, corporations,**  
 27 **and others engaged in the acquisition of sites for and the**  
 28 **construction of state armories, including examination of the**  
 29 **following:**

30 **(1) The plans and specifications of armories.**

31 **(2) Construction work performed or being performed.**

32 **(3) The records of bonds issued and redeemed or proposed to**  
 33 **be issued.**

34 **(4) The records of all lease contracts for building or**  
 35 **maintaining armories.**

36 **(5) The records of receipts and earnings of all armories,**  
 37 **except those earnings and receipts arising from shows,**  
 38 **benefits, and other similar activities engaged in by members**  
 39 **of the armories and other volunteers for the use and benefit**  
 40 **of the members.**

41 **(6) All money handled by the board or boards, by trustees of**  
 42 **state armories, by the state armory board or local armory**

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1 boards, or by the adjutant general, including all  
 2 appropriations made for armories by the general assembly.  
 3 All powers conferred upon the state examiner, deputy examiner,  
 4 field examiner, private examiner, and the attorney general under  
 5 IC 5-11-6 by petition are conferred upon these officers, examiners,  
 6 and the department without any petition. All the powers given  
 7 these officers, examiners, and the department under any other  
 8 statute may be used for the purpose of carrying out this chapter.

9 Sec. 18. (a) The state examiner, with the approval of the  
 10 governor, may employ expert engineering and architectural  
 11 services when necessary to assist the state examiner, deputy  
 12 examiner, field examiners, or private examiners in making  
 13 inspections and examinations under this chapter.

14 (b) The state examiner, with the approval of the governor, shall  
 15 fix and determine the amount to be paid for the expert service.  
 16 Field examiners of the state board of accounts, when employed in  
 17 performing the services provided for in this chapter, are entitled  
 18 to receive the per diem provided by IC 4-10-11-2 and  
 19 IC 4-10-11-2.1 for field examiners and all necessary expenses  
 20 incurred in carrying out their duties as provided for in this  
 21 chapter.

22 Chapter 4. Local Armory Boards

23 Sec. 1. (a) There shall be a local armory board at each armory  
 24 in Indiana.

25 (b) This subsection applies to an armory that is used and  
 26 occupied by one (1) military unit. The local armory board consists  
 27 of the following three (3) members:

- 28 (1) One (1) member appointed by the state armory board.
- 29 (2) The ranking two (2) officers of the local military unit.

30 (c) This subsection applies to an armory that is used and  
 31 occupied by more than one (1) military unit. The local armory  
 32 board consists of the following members:

- 33 (1) One (1) member appointed by the state armory board.
- 34 (2) The ranking officer of each major unit using and  
 35 occupying the armory.

36 Sec. 2. (a) The local armory boards shall do the following:

- 37 (1) Carry into effect all rules and regulations adopted by the  
 38 state armory board.
- 39 (2) Recommend rules and regulations concerning local  
 40 matters to the state armory board.
- 41 (3) Prescribe their own rules and regulations concerning local  
 42 matters.

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1           (4) In the absence of any directive or rule from the state  
2           armory board, take local actions necessary to maintain and  
3           administer the needs of the local armory.

4           (b) A local armory board shall report any initial action  
5           described in subsection (a) to the state armory board for final  
6           ratification. An action described in subsection (a) is considered  
7           ratified by the state armory board if:

8                 (1) the state armory board does not take any action; and

9                 (2) the local armory board receives notification of any action;  
10           not more than twenty (20) days after the date the local armory  
11           board files a report under this subsection.

12           Sec. 3. (a) The senior member of a local armory board shall  
13           serve as president of the local armory board.

14           (b) The president of a local armory board shall do the following:

15                 (1) Report all actions taken by the local board to the state  
16                 armory board.

17                 (2) Keep a record of all expenditures, income, and actions  
18                 authorized by the local board.

19                 (3) Submit an annual report to the state armory board of the  
20                 information described in subdivisions (1) and (2) by January  
21                 15 of each year.

22           (c) A president of a local armory board is an ex officio member  
23           of the state armory board and may attend all meetings concerning  
24           the president's armory called by the president of the state armory  
25           board. A president of a local armory board may be a voting  
26           member of the state armory board only on matters of local concern  
27           and of specific nature involving the particular local armory of  
28           which the person is president.

29           Sec. 4. (a) A local armory board may receive from counties,  
30           cities, and municipalities donations of land or contributions of  
31           money to aid in providing or erecting improvements on the  
32           armories.

33           (b) A donation or contribution received under this section shall  
34           be held as other property for the use of the state.

35           Sec. 5. The state examiner of the state board of accounts  
36           personally, or through the deputy examiners or field examiners,  
37           shall make a full and complete examination and report upon the  
38           records and receipts of the local armory boards to the extent of and  
39           as provided for in the examination of the state armory board under  
40           IC 10-16-3-17.

41           Sec. 6. The members of the local armory boards shall perform  
42           the duties imposed upon them by this chapter without any

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1 compensation for their services. However, the actual expenses  
 2 incurred by the members of the local armory boards incident to the  
 3 management and care of the armories are payable from the local  
 4 armory board funds.

5 **Sec. 7. (a)** A local armory board may retain all rental, income,  
 6 earnings, and any and all other receipts accrued through its  
 7 operation of the local armory.

8 **(b)** The local armory board shall keep a full and complete  
 9 record of funds the board receives and disburses. The report is  
 10 subject to audit and submitted to the adjutant general not later  
 11 than July 1 of each year and at other times as the adjutant general  
 12 requires.

13 **(c)** A local armory board, subject to approval of the state  
 14 armory board, may expend revenue received for the improvement,  
 15 including street improvement, alterations, repair, and maintenance  
 16 of the armory and facilities under its control. The local armory  
 17 board may expend the funds for the benefit of state military  
 18 organizations assigned to the local armory. If the funds are not  
 19 needed for the operation, repair, and maintenance of the armory,  
 20 or if a military organization is not assigned to the armory, the state  
 21 armory board may order the funds turned over to the state armory  
 22 board. The transferred funds may be used for the benefit of other  
 23 armories of the state or of the national guard of the state or  
 24 expended as a whole.

25 **Chapter 5. Military Department of Indiana Ceremonial Unit**

26 **Sec. 1.** The adjutant general may organize and maintain a  
 27 military department of Indiana ceremonial unit. The unit shall be  
 28 operated for the following purposes:

- 29 (1) Rendering appropriate military honors at state functions  
 30 and at funeral services for those who have served in the  
 31 military forces of the United States or the state of Indiana.  
 32 (2) Preserving the history of the Indiana military through the  
 33 demonstration of close order marching, drill, and ceremonies.

34 **Sec. 2.** The membership of the ceremonial unit must be  
 35 composed of officers, commissioned or warranted, and other  
 36 members of the Indiana national guard who volunteer for service  
 37 in the ceremonial unit and are appointed by the adjutant general  
 38 or the adjutant general's designee.

39 **Sec. 3.** The members of the ceremonial unit shall perform the  
 40 duties imposed upon them by this chapter in a volunteer status.  
 41 However, the state armory board shall pay the actual expenses of  
 42 the members incident to the performance of their duties from



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1 donations made to the board for the management and maintenance  
2 of the ceremonial unit.

3 Sec. 4. The state armory board may receive gifts of money or  
4 property from individuals, associations, institutions, or  
5 organizations to carry out the purposes of the ceremonial unit.

6 Chapter 6. Organization and Personnel

7 Sec. 1. Under Article 12, Section 1 of the Constitution of the  
8 State of Indiana, the militia consists of all able-bodied males who  
9 are:

10 (1) at least eighteen (18) years of age; and

11 (2) less than forty-six (46) years of age;

12 except those persons who are exempted by the laws of the United  
13 States or of Indiana.

14 Sec. 2. The militia shall be divided into two (2) classes, the  
15 sedentary militia and the national guard, as follows:

16 (1) The sedentary militia consists of all persons subject to bear  
17 arms under the Constitution of the State of Indiana who do  
18 not belong to the national guard.

19 (2) The national guard consists of those able-bodied citizens  
20 between the proper ages as established by this article who  
21 may be enrolled, organized, and mustered into the service of  
22 the state as provided in this article. The organized militia of  
23 the state constitutes and shall be known as the Indiana  
24 national guard.

25 Sec. 3. (a) The Indiana national guard consists of those units:

26 (1) specified by:

27 (A) the Secretary of the Army; and

28 (B) the Secretary of the Air Force; and

29 (2) approved by the governor.

30 (b) The composition of authorized units shall be the same as  
31 those prescribed for the regular army and the regular air force.  
32 The forces of the Indiana national guard shall be fully armed,  
33 uniformed, organized, and equipped in accordance with the  
34 provisions of the national military establishment regulations  
35 governing the regular army and regular air force.

36 Sec. 4. (a) Officers shall be commissioned by the governor. The  
37 governor is, ex officio, the commander in chief.

38 (b) A commission may not be issued to any officer of the Indiana  
39 national guard except to general officers until the officer has  
40 passed a satisfactory examination before a board demonstrating:

41 (1) the officer's knowledge of military affairs proportionate to  
42 the office to be held; and

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- 1           (2) the officer's general knowledge and fitness for the service.
- 2           (c) A person is not eligible for appointment:
- 3               (1) to the office of adjutant general;
- 4               (2) as a major general; or
- 5               (3) as a brigadier general;
- 6           unless the person has served at least ten (10) years as a
- 7           commissioned officer of the national guard, army, or air force of
- 8           the United States.
- 9           (d) A person is not eligible for appointment to any staff (other
- 10          than the governor's honorary staff), corps, or department unless
- 11          the person has the technical training requisite to qualify for the
- 12          appointment, to be determined by an examining board appointed
- 13          for the purpose.
- 14          Sec. 5. (a) A person may not be commissioned as an officer of
- 15          the Indiana national guard unless the person:
- 16               (1) is temperate and of good moral character; and
- 17               (2) has successfully passed tests as to physical, mental, and
- 18               professional fitness as may be prescribed by the laws and
- 19               regulations applicable to the federally recognized national
- 20               guard.
- 21          (b) In the selection and appointment of commissioned officers,
- 22          preference shall be given to:
- 23               (1) a person with prior active military service;
- 24               (2) an enlisted person;
- 25               (3) a member of the air national guard; and
- 26               (4) a graduate of a school teaching military science.
- 27          Sec. 6. (a) At any time, the moral character, capacity, and
- 28          general fitness for the service of any Indiana national guard officer
- 29          may be determined by an efficiency board of three (3)
- 30          commissioned officers, senior in rank to the officer whose fitness
- 31          for service is under investigation.
- 32          (b) The governor may convene the efficiency board. If the
- 33          findings of the board are:
- 34               (1) unfavorable to the officer; and
- 35               (2) approved by the governor;
- 36          the officer shall be discharged.
- 37          (c) The commission of an officer in the Indiana national guard
- 38          may be vacated:
- 39               (1) upon the officer's resignation;
- 40               (2) upon the officer's absence without leave for three (3)
- 41               months;
- 42               (3) upon the recommendation of an efficiency board; or

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1 (4) under a sentence of a court-martial.

2 However, an officer who has not returned or accounted for all the  
3 public property or accounted for funds for which the officer is  
4 responsible may not receive an honorable discharge or separation.

5 (d) Officers rendered surplus by the disbandment of their  
6 organization, or other causes, shall be separated from the Indiana  
7 national guard or placed in the inactive national guard at the  
8 discretion of the governor.

9 Sec. 7. A commissioned officer of the Indiana national guard,  
10 before entering upon the duties of the officer's office, shall take and  
11 subscribe to the following oath, or other oath as may be required  
12 by national guard regulations:

13 "I, \_\_\_\_\_, do solemnly swear that I will support and  
14 defend the Constitution of the United States and the Constitution  
15 of the State of Indiana against all enemies, foreign and domestic;  
16 that I will bear true faith and allegiance to the same; that I will  
17 obey the orders of the President of the United States and the  
18 governor of the state of Indiana, that I make this obligation freely,  
19 without any mental reservation or purpose of evasion, and that I  
20 will well and faithfully discharge the duties of the office of  
21 \_\_\_\_\_, in the national guard of the state of Indiana upon  
22 which I am about to enter, so help me God."

23 Sec. 8. (a) The period of enlistment in the Indiana national  
24 guard is for the time prescribed by national guard regulations. The  
25 qualifications for enlistment must be the same as those prescribed  
26 by regulations for admission to the regular army or regular air  
27 force or national guard regulations. However, the privilege of  
28 continuing the active service during the whole of an enlistment  
29 period and of reenlisting in the service may not be denied except as  
30 otherwise provided.

31 (b) An enlisted person of the Indiana national guard shall sign  
32 an enlistment contract and take and subscribe to the oath required  
33 by national guard regulations.

34 (c) A federally recognized officer of the Indiana national guard  
35 may administer the enlistment oath.

36 (d) The adjutant general may authorize officers of the services  
37 on duty at armed forces entrance stations to administer the oath of  
38 enlistment to an applicant presented to them by an authorized  
39 representative of the Indiana national guard for enlistment in the  
40 Indiana national guard. The state adjutant general's authorization  
41 must be in writing.

42 Sec. 9. An enlisted person who is discharged from service in the

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1 Indiana national guard shall receive a discharge in writing in the  
 2 form and with the classification prescribed by national guard  
 3 regulations. In time of peace, a discharge may be given before the  
 4 expiration of an enlistment term in the following cases:

- 5 (1) By sentence of a general court-martial.
- 6 (2) By direction of the governor on account of disability.
- 7 (3) On account of sentence of imprisonment by a civil court,  
 8 whether suspended or not.
- 9 (4) On account of a bona fide permanent change of residence  
 10 to another state.
- 11 (5) For the purpose of enlisting in the United States Army, Air  
 12 Force, Navy, or Marine Corps.
- 13 (6) For other causes prescribed by national guard regulations  
 14 or the commander in chief.

15 However, an enlisted person who has not returned or accounted for  
 16 all of the public property for which the enlisted person is  
 17 responsible, may not receive an honorable discharge.

18 Sec. 10. All matters relating to:

- 19 (1) organization, commissioning, and separation of officers;
  - 20 (2) enlisting and discharge of enlisted persons; and
  - 21 (3) discipline and government of the Indiana national guard;
- 22 that are not otherwise provided in this article shall be decided by  
 23 the uniform code of military justice governing the armed forces of  
 24 the United States, the regulations, customs, and usage of the armed  
 25 forces of the United States, or national guard regulations.

26 Sec. 11. (a) The inactive national guard of Indiana consists of  
 27 those federally recognized officers and persons placed in the  
 28 inactive national guard under the provisions of national guard  
 29 regulations.

30 (b) The administration of the inactive national guard shall be in  
 31 accordance with applicable national guard regulations.

32 Sec. 12. (a) A commissioned officer:

- 33 (1) who serves in the Indiana national guard for at least five  
 34 (5) years; or
- 35 (2) who becomes permanently disabled from performing the  
 36 officer's duties, irrespective of length of service;

37 may, upon honorable retirement from the service, whether by  
 38 resignation or otherwise, upon application to the adjutant general,  
 39 be carried upon a roll to be established and maintained in the office  
 40 of the adjutant general. The roll shall be designated the Indiana  
 41 national guard retired list.

42 (b) The commissioned officer may wear, on occasion of

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1 ceremony, the uniform of the highest rank held by the officer.

2 (c) An officer carried on the Indiana national guard retired list,  
3 if qualified, is eligible for detail or appointment on the general staff  
4 or the staff of any commander when not physically disqualified for  
5 military duty. However, if an officer carried on the Indiana  
6 national guard retired list is appointed to a staff position as  
7 described in this section, the officer shall be recommissioned in the  
8 rank to which the officer has been appointed. The officer shall hold  
9 this rank during the time of the staff appointment unless the officer  
10 is promoted to a higher rank.

11 (d) If the officer retires for a second time from active service,  
12 the officer shall be entered on the Indiana national guard retired  
13 list with the officer's highest rank.

14 (e) An officer whose name appears on the national guard retired  
15 list is not entitled to receive any military pay or emolument from  
16 the state during the time the officer remains on the national guard  
17 retired list unless the officer is specifically assigned to duty on  
18 orders from the governor. If the officer is assigned to duty on  
19 orders from the governor, the officer is entitled only to the military  
20 pay and allowance provided by law for officers of the rank to  
21 which appointed.

22 **Chapter 7. Training and Active Duty of National Guard;  
23 Benefits of Members**

24 **Sec. 1.** As used in section 6 of this chapter, "employer" refers to  
25 an employer:

- 26 (1) other than the state or a county, township, municipality, or  
27 school corporation in Indiana; and  
28 (2) that employs any employee other than an employee in a  
29 temporary position.

30 **Sec. 2.** As used in section 5 of this chapter, "member" refers to  
31 the following:

- 32 (1) A member of the Indiana national guard.  
33 (2) A member of a reserve component.  
34 (3) A member of the retired personnel of the naval, air, or  
35 ground forces of the United States.

36 **Sec. 3. (a)** Each detachment and unit in the national guard shall  
37 assemble for drill and instruction, including indoor target practice,  
38 in accordance with national guard regulations.

39 (b) In addition, each detachment and unit shall participate in  
40 encampments, maneuvers, or other exercises, including outdoor  
41 target practice, in accordance with national guard regulations,  
42 unless the unit or detachment is excused from participation by the

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1 governor.

2 (c) A commissioned officer and enlisted person or member of  
3 the Indiana air national guard shall be present and perform all the  
4 duties required of the officer, person, or member at each assembly  
5 for drill and instruction, encampment, maneuvers, or other  
6 exercises, unless regularly excused by competent authority.

7 Sec. 4. An employer who knowingly or intentionally refuses to  
8 allow a member of the Indiana national guard to attend any  
9 assembly at which the member has a duty to perform under this  
10 chapter commits a Class B misdemeanor.

11 Sec. 5. (a) This section applies to all officers and employees of  
12 the state or any county, township, municipality, or school  
13 corporation in Indiana who are members.

14 (b) A member is entitled to receive from the member's employer  
15 a leave of absence from the member's respective duties in addition  
16 to regular vacation period without loss of time or pay for the time  
17 that the member is:

18 (1) on training duties of the state under the order of the  
19 governor as commander in chief; or

20 (2) a member of any reserve component under the order of  
21 the reserve component authority;

22 for any consecutive or nonconsecutive period that does not exceed  
23 a total of fifteen (15) days in any calendar year. The entitlement to  
24 a leave of absence without loss of time or pay provided in this  
25 subsection is not at the discretion of the member's employer.

26 (c) A member is entitled to receive from the member's employer  
27 a leave of absence from the member's respective duties in addition  
28 to the member's regular vacation period for the total number of  
29 days that the member is on state active duty under section 7 of this  
30 chapter. A leave of absence provided under this subsection may be  
31 with or without loss of time or pay at the discretion of the  
32 member's employer.

33 Sec. 6. A member of the Indiana national guard is entitled to  
34 receive from the member's employer a leave of absence from the  
35 member's respective duties in addition to the member's regular  
36 vacation period for the total number of days that the member is on  
37 state active duty under section 7 of this chapter. The leave of  
38 absence may be with or without loss of time or pay at the discretion  
39 of the member's employer.

40 Sec. 7. (a) The governor shall order on state duty all or part of  
41 the national guard in the following cases:

42 (1) War.

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- 1           **(2) Invasion.**  
 2           **(3) Insurrection.**  
 3           **(4) Public disaster.**  
 4           **(5) Breach of the peace or imminent danger of breach of the**  
 5           **peace.**  
 6           **(6) Forcible obstruction of the execution of the laws, or**  
 7           **reasonable belief that the execution of the laws will be**  
 8           **obstructed.**  
 9           **(7) At any other time the governor considers necessary.**  
 10          **(b) A member of the Indiana national guard who is ordered out**  
 11          **on duty may not be held civilly liable for any act done by the**  
 12          **person in the discharge of the person's military duty. The member**  
 13          **may not be subject to criminal prosecution if an alleged criminal**  
 14          **act occurred while the member was carrying out the orders of a**  
 15          **superior officer that the member reasonably believed to be legal**  
 16          **orders under all of the attendant facts and circumstances.**  
 17          **(c) If the President of the United States calls, orders, or**  
 18          **requisitions troops, the governor shall first order into the service**  
 19          **of the United States the organization and arms of the service**  
 20          **specified in the president's requisition.**  
 21          **(d) If a civil suit or proceeding is commenced in any court by**  
 22          **any person against any member of the Indiana national guard**  
 23          **acting under the authority of an order described in subsection (b),**  
 24          **the attorney general shall defend the member. If the action or**  
 25          **proceeding is criminal, the governor shall designate counsel to**  
 26          **represent the accused and the state will be financially responsible**  
 27          **for the expense of the defense of any civil or criminal action**  
 28          **incurred. The expenses for the defense shall be paid by the**  
 29          **adjutant general out of appropriated funds.**  
 30          **Sec. 8. On days of military duty, the Indiana national guard,**  
 31          **called out by proper authority and performing military duty, is**  
 32          **considered to be under military discipline. An officer or enlisted**  
 33          **person is not subject to arrest on any civil process during this time.**  
 34          **Sec. 9. (a) If:**  
 35               **(1) insurrection, rebellion, invasion, tumult, riot, resistance to**  
 36               **law or process, breach of the peace, or public disaster, occurs**  
 37               **in the vicinity of a station of the Indiana national guard;**  
 38               **(2) the exigencies of a situation make it impossible for the**  
 39               **senior commanding officer of the Indiana national guard**  
 40               **station to communicate with the governor or the adjutant**  
 41               **general; and**  
 42               **(3) the sheriff of the county involved or an officer acting on**

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1           behalf of the sheriff provides the senior commanding officer  
2           of the Indiana national guard station with a written request  
3           signed by the sheriff of the county involved or officer stating  
4           the facts and the nature of the service desired;

5           the senior commanding officer may order out the Indiana national  
6           guard units at that station and cause them to perform whatever  
7           duty is required by the circumstances.

8           (b) A commanding officer who has called out Indiana national  
9           guard units as described in subsection (a) shall immediately report  
10          what that officer has done and all the circumstances of the case to  
11          the governor. The actions performed shall be considered to have  
12          been taken by order of the governor.

13          Sec. 10. An officer whose command is called out under section  
14          9 of this chapter and who is reporting to any civil officer may  
15          require the civil officer to make the order in writing and prescribe  
16          the outline of the duties required of the officer and the officer's  
17          command. The officer may decline to obey the orders until the  
18          orders are put in writing. Although the commanding officer must  
19          obey all lawful written orders of the civil officer, the military  
20          officer may use the officer's discretion as to the manner of carrying  
21          out the orders if the officer complies with their spirit.

22          Sec. 11. (a) Except as provided in subsection (b), before using  
23          any military force to disperse an unlawful assembly (as defined in  
24          IC 35-45-1-1):

25               (1) the civil officer calling out the military force or a law  
26               enforcement officer; or

27               (2) if a civil officer or law enforcement officer is not present,  
28               the officer in command of the troops or the officer's designee;  
29          shall command the persons comprising the unlawful assembly to  
30          disperse and retire peaceably to their homes or businesses. A  
31          particular form of words is not required in ordering the dispersion  
32          of any unlawful assembly.

33          (b) A person is not required to order an unlawful assembly to  
34          disperse if:

35               (1) giving the order to disperse would put the person in  
36               imminent danger of loss of life or great bodily harm; or

37               (2) the unlawful assembly is engaged in the commission of any  
38               felony or is causing violence to a person or property.

39          Sec. 12. (a) If a person taking part in an unlawful assembly  
40          described in this chapter refuses to disperse after having been  
41          ordered to disperse in accordance with this chapter or if a  
42          command to disperse is not required under this chapter and a civil

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1 officer to whom military force is ordered to report, or if a civil  
 2 officer is not present, then the military officer (or if the command  
 3 is acting under the direct order of the governor, then the officer  
 4 within the limits provided in the officer's instructions) shall:

- 5 (1) arrest persons taking part in the unlawful assembly; or
- 6 (2) disperse the unlawful assembly.

7 (b) If, in arresting a person or dispersing an unlawful assembly:

- 8 (1) a person is killed, wounded, or otherwise injured; or
- 9 (2) property is injured or destroyed;

10 by the civil officer or officer or member of the Indiana national  
 11 guard, or other persons lawfully aiding them, the officer, member,  
 12 or person shall be held blameless.

13 Sec. 13. If a part of the Indiana national guard or a person  
 14 lawfully aiding the Indiana national guard in the performance of  
 15 its duty as described in this chapter is attacked or in imminent  
 16 danger of attack, the commanding officer:

- 17 (1) is not required to await orders from a civil authority; and
- 18 (2) may quell the attack, disperse the attacking party, and  
 19 take any other necessary step for the safety of the officer's  
 20 command.

21 Sec. 14. (a) Except as provided in subsection (b), any part of the  
 22 Indiana national guard parading or performing a lawful duty has  
 23 the right-of-way in any street or highway through which the  
 24 Indiana national guard passes.

25 (b) The Indiana national guard may not interfere with the  
 26 following:

- 27 (1) The carriage of United States mail.
- 28 (2) The operations of any fire engine or fire department.
- 29 (3) A police vehicle.
- 30 (4) Any other emergency vehicle.

31 Sec. 15. (a) If an unlawful assembly has occurred or is so  
 32 imminent that the Indiana national guard has been called out  
 33 under this chapter, the civil officer under whose orders the Indiana  
 34 national guard is acting or the commanding officer of the Indiana  
 35 national guard, if it is advisable in subduing or preventing the  
 36 unlawful assembly, may:

- 37 (1) prohibit a person from occupying or making use of a street  
 38 or place where the Indiana national guard is located; and
- 39 (2) otherwise regulate the passage and occupancy of streets  
 40 and places.

41 (b) A person who knowingly or intentionally enters a street or  
 42 remains on a street after being informed that the Indiana national

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1 guard has prohibited this conduct commits a Class B misdemeanor.

2 (c) The officer in command of the Indiana national guard may  
3 immediately arrest or order the arrest of a person who violates  
4 subsection (b).

5 (d) If the officer in command of the Indiana national guard has  
6 arrested a person in accordance with this section, the officer shall  
7 deliver the person to a civil magistrate.

8 Sec. 16. (a) A muster or an assembly for instruction, review, or  
9 parade may not be held or called in any county on any day during  
10 which a general election or special election is held in the county,  
11 except in case of or imminent danger of riot, invasion, insurrection,  
12 or public disaster.

13 (b) An officer who orders a muster or an assembly on an  
14 election day shall forfeit an amount as a court-martial adjudges.

15 Sec. 17. An officer or enlisted person in active service of the  
16 state shall be paid the greater of:

17 (1) the sum equivalent to the pay and allowances received by  
18 officers and enlisted men of the same rank or grade in the  
19 service of the armed forces of the United States; or

20 (2) the sum per day equal to twelve (12) times the hourly  
21 federal minimum wage in effect at the time of active service.

22 However, with the approval of the budget committee, the adjutant  
23 general may adjust the pay of an officer or enlisted person to meet  
24 the pay and allowance adjustments of officers and enlisted persons  
25 of the same rank or grade for service in the armed forces of the  
26 United States.

27 Sec. 18. (a) A member of the Indiana national guard who:

28 (1) when on duty or assembled for duty, in case of riot,  
29 tumult, breach of peace, insurrection, invasion, public disaster  
30 or whenever ordered by the governor, the commanding  
31 general of the national guard, or called to the aid of civil  
32 authorities, is injured, is disabled, or contracts a disease  
33 because of the member's duty or assembly; or

34 (2) without fault or neglect on that member's part, is wounded  
35 or disabled while performing any lawfully ordered duty that  
36 temporarily incapacitates the member from pursuing the  
37 member's usual business or occupation;

38 shall, during the period of incapacity, receive the pay to which the  
39 member was entitled while on or assembled for duty, plus any  
40 actual necessary expenses for care and medical attention.

41 (b) If a claim is made under this section, the adjutant general  
42 may cause examinations of the claimant to be made from time to

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1 time by a medical officer designated for that purpose by the  
 2 adjutant general. The adjutant general may direct the removal of  
 3 a claimant to and treatment in a hospital designated by the  
 4 adjutant general. If the claimant refuses:

- 5 (1) to allow an examination; or
- 6 (2) to go to a designated hospital or to otherwise follow the  
 7 advice or treatment prescribed;

8 the claimant forfeits and is barred from all right to any claim or  
 9 allowance under this section.

10 (c) Under this chapter:

- 11 (1) a disability may not be considered temporary if the  
 12 disability continues for more than one (1) year from the date  
 13 of receiving the injury or of incurring or contracting the  
 14 disease or disability; and
- 15 (2) pay and expenses for care and medical attendance for  
 16 more than one (1) year is not allowed.

17 (d) The adjutant general may appoint a medical examiner or a  
 18 board of three (3) officers, at least one (1) being a medical officer,  
 19 to inquire into the merits of any claim arising under this section.  
 20 However, the adjutant general may determine any claim without  
 21 appointing a medical examiner and fix the amount to be allowed  
 22 under this section. A medical examiner or board appointed under  
 23 this section has the same power to take evidence, administer oaths,  
 24 issue subpoenas and compel witnesses to attend and testify and  
 25 produce books and papers and punish their failures to do so as is  
 26 possessed by a general court-martial. The findings of the medical  
 27 examiner or board are subject to the approval of the adjutant  
 28 general, who may return the proceedings of the medical examiner  
 29 or board for revision and for taking further testimony. The amount  
 30 found due a member by the medical examiner or board and  
 31 approved by the adjutant general of the state shall be paid by the  
 32 state in the same manner as other military accounts are paid.

33 Sec. 19. (a) A member of the Indiana national guard who is  
 34 wounded or disabled or was disabled in the service of the state  
 35 including service related to:

- 36 (1) a riot;
- 37 (2) a tumult;
- 38 (3) a breach of the peace;
- 39 (4) a resistance to process;
- 40 (5) an invasion;
- 41 (6) a public disaster;
- 42 (7) the aid of civil authority; or

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1           **(8) a lawfully ordered parade, drill, encampment, or**  
2           **inspection;**  
3           **within ten (10) years preceding the member's application for a**  
4           **pension under this chapter shall, upon proof of the disability, be**  
5           **placed on the roll of invalid pensioners of the state and shall**  
6           **receive out of money in the state treasury not otherwise**  
7           **appropriated, upon the audit of the adjutant general and approval**  
8           **of the governor, the same pension or reward that a person under**  
9           **similar circumstances would receive from the United States. In**  
10          **case of a wound, an injury, or a disease that results in death, the**  
11          **surviving spouse, dependent children, or dependent parent of the**  
12          **member of the Indiana national guard shall receive the pension**  
13          **and reward dating from the time of receiving the injuries on**  
14          **account of which the pension or reward is allowed. An officer or**  
15          **enlisted person is not entitled while in active service to apply for or**  
16          **receive a pension.**

17          **(b) If a member of the Indiana national guard dies in the active**  
18          **service of the state, the member's reasonable funeral expenses, not**  
19          **exceeding four thousand dollars (\$4,000), shall be paid by the state**  
20          **in the manner as the governor directs.**

21          **(c) This section does not make applicable any provision of the**  
22          **national service life insurance law of the United States, and the**  
23          **pension or reward granted under this section shall be that provided**  
24          **for by the pension laws of the United States in substance, without**  
25          **regard to form.**

26          **Sec. 20. (a) Before the name of a person is placed upon the**  
27          **pension roll under this chapter, proof must be made under**  
28          **regulations as the adjutant general may prescribe that the**  
29          **applicant is entitled to a pension.**

30          **(b) The adjutant general, with the approval of the governor,**  
31          **shall strike from the pension roll the name of a person if it appears**  
32          **by satisfactory proof that the person was placed on the pension roll**  
33          **through a false or fraudulent representation.**

34          **(c) The adjutant general, with the approval of the governor,**  
35          **may increase, reduce, or withdraw any pension according to the**  
36          **right, justice, and practice in the United States Department of**  
37          **Veterans Affairs pension office.**

38          **Sec. 21. (a) The adjutant general may appoint a pension**  
39          **examiner who shall inquire into the merits of any claim for pay and**  
40          **care and pension, whether pending or adjudicated. The pension**  
41          **examiner may administer oaths, orally examine witnesses, issue**  
42          **subpoenas, and take affidavits and depositions in the course of an**

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1 examination.

2 (b) The adjutant general shall appoint examining boards  
3 consisting of not more than three (3) medical officers of the  
4 Indiana national guard, who shall, under the adjutant general's  
5 direction, make an examination of a claimant as directed by the  
6 adjutant general. The examining board shall certify the result of its  
7 examination in the form prescribed by the adjutant general.

8 (c) A person who is adversely affected by the report of one (1)  
9 medical officer is entitled, upon request, to an examination before  
10 a board consisting of three (3) medical officers. The adjutant  
11 general, with the approval of the governor and with the consent of  
12 the applicant, may commute any pension by payment of a lump  
13 sum to be accepted by the applicant in full satisfaction of all claims.

14 **Sec. 22. If a member of the Indiana national guard or a member  
15 of a reserve component of the armed forces of the United States:**

16 (1) is a noncustodial parent (as defined in IC 31-9-2-83);

17 (2) misses visitation as provided in an order issued under  
18 IC 31-14-14 or IC 31-17-4 due to participating in an activity  
19 required under this chapter; and

20 (3) notifies the custodial parent at least seven (7) days before  
21 the member misses the anticipated visitation described in  
22 subdivision (2), unless the member is unable to provide notice  
23 due to a government emergency;

24 the member shall be allowed to make up the lost visitation at the  
25 member's earliest convenience but not later than one (1) month  
26 after the member misses the visitation under this section, if  
27 exercising the lost visitation does not conflict with the child's school  
28 schedule.

29 **Chapter 8. Guard Reserve**

30 **Sec. 1. (a) To supplement the Indiana national guard, the  
31 governor may organize and maintain within Indiana military  
32 forces the governor considers necessary to defend Indiana if any  
33 part of the Indiana national guard is in active federal service.**

34 (b) The Indiana guard reserve shall be composed of officers,  
35 commissioned or assigned, and able bodied citizens who volunteer  
36 for service, supplemented, if necessary, by members of the militia  
37 enrolled by draft or otherwise as provided by law.

38 (c) These forces:

39 (1) are additional to and distinct from the Indiana national  
40 guard; and

41 (2) shall be known as the Indiana guard reserve.

42 The members of the Indiana guard reserve may be uniformed.

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1           **Sec. 2. (a) The governor may adopt rules and regulations not**  
2 **inconsistent with this chapter governing the enlistment,**  
3 **organization, administration, equipment, maintenance, training,**  
4 **and discipline of members of the Indiana guard reserve. However,**  
5 **the rules and regulations must conform to applicable law**  
6 **governing and pertaining to the Indiana national guard and the**  
7 **rules and regulations adopted under those laws and under**  
8 **regulations as the Secretary of Defense of the United States may**  
9 **prescribe for the organization, standard of training, instruction,**  
10 **and discipline.**

11           **(b) The adjutant general is designated as the commanding**  
12 **officer of the Indiana guard reserve. The administration of the**  
13 **Indiana guard reserve shall be in the state military department.**

14           **(c) The governor may disband the Indiana guard reserve at any**  
15 **time the governor considers necessary and safe.**

16           **Sec. 3. The adjutant general shall determine and pay for**  
17 **administration, operation, training, and all expenses incidental to**  
18 **administration, operation, and training that are incurred in**  
19 **carrying out this chapter.**

20           **Sec. 4. (a) For the use of members of the Indiana guard reserve,**  
21 **the governor may requisition from the secretary of defense arms,**  
22 **ammunition, clothing, and equipment that the secretary of defense**  
23 **may issue.**

24           **(b) The governor shall make available the facilities of state**  
25 **armories and their equipment, and other state premises and**  
26 **property as may be available.**

27           **(c) School authorities may allow the use of school buildings and**  
28 **school grounds by the Indiana guard reserve, on the terms and**  
29 **conditions set out by the adjutant general.**

30           **Sec. 5. The Indiana guard reserve may not be required to serve**  
31 **outside Indiana except as follows:**

32           **(1) Upon the request of the governor of another state, the**  
33 **governor of Indiana may order any part or all the Indiana**  
34 **guard reserve to assist the military or police forces of another**  
35 **state who are engaged in defending the other state. The**  
36 **governor may recall these forces.**

37           **(2) An organization, a unit or a detachment of the Indiana**  
38 **guard reserve, upon order of the officer in immediate**  
39 **command of the guard reserve, may continue in fresh pursuit**  
40 **of insurrectionists, saboteurs, enemies, or enemy forces**  
41 **beyond the borders of Indiana into another state until the**  
42 **insurrectionists, saboteurs, enemies, or enemy forces are**

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1           apprehended or captured by the organization, unit, or  
2           detachment or until the military or police forces of the other  
3           state or the forces of the United States have had a reasonable  
4           opportunity to take up the pursuit or to apprehend or capture  
5           the persons. The pursuit is not authorized unless the other  
6           state gives authority by law for the pursuit by forces of  
7           Indiana. Any persons who are apprehended or captured in  
8           another state by an organization, unit, or detachment of the  
9           forces of Indiana shall without unnecessary delay be  
10          surrendered to the military or police forces of the state in  
11          which they are taken or to the United States. The surrender  
12          of insurrectionists or saboteurs to the military or police forces  
13          of the other state does not constitute a waiver by Indiana of its  
14          right to extradite or prosecute the insurrectionists or  
15          saboteurs for any crime committed in Indiana.

16          **Sec. 6. (a) Military forces, organizations, units, or detachments**  
17          **of another state that are in fresh pursuit of insurrectionists,**  
18          **saboteurs, enemies, or enemy forces may continue the pursuit into**  
19          **Indiana until the military or police forces of Indiana or the forces**  
20          **of the United States have had a reasonable opportunity to take up**  
21          **the pursuit or to apprehend or capture the insurrectionists,**  
22          **saboteurs, enemies, or enemy forces.**

23          **(b) Military forces, organizations, units, or detachments of**  
24          **another state may arrest or capture insurrectionists, saboteurs,**  
25          **enemies, or enemy forces within Indiana while in fresh pursuit. A**  
26          **person who is captured or arrested by the military forces of the**  
27          **other state while in Indiana shall without unnecessary delay be**  
28          **surrendered to the military or police forces of Indiana to be dealt**  
29          **with according to law.**

30          **(c) This section may not be construed to make unlawful any**  
31          **arrest in Indiana that would otherwise be lawful. This section does**  
32          **not repeal any provision of IC 35-33-3.**

33          **Sec. 7. This chapter may not be construed to authorize the**  
34          **Indiana guard reserve or any part of the Indiana guard reserve to**  
35          **be called, ordered, or in any manner drafted into the military**  
36          **services of the United States. However, a person may not, by**  
37          **reason of the person's enlistment or commission in the Indiana**  
38          **guard reserve, be exempted from United States military service**  
39          **required under any law of the United States.**

40          **Sec. 8. A civil organization, a society, a club, a post, an order, a**  
41          **fraternity, an association, a brotherhood, a body, a union, a league,**  
42          **or any other combination of persons or civil group may not be**

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1 enlisted in the Indiana guard reserve as an organization or unit.

2 **Sec. 9.** A person may not be commissioned or enlisted in the  
3 Indiana guard reserve who is not a citizen of the United States or  
4 who has been expelled or dishonorably discharged from any  
5 military or naval organization of this state, of another state, or of  
6 the United States.

7 **Sec. 10.** The oath to be taken by officers commissioned in the  
8 Indiana guard reserve shall be substantially in the form prescribed  
9 for officers of the national guard, substituting the words "Indiana  
10 guard reserve" where necessary.

11 **Sec. 11.** A person may not be enlisted for more than three (3)  
12 years. However, an enlistment may be renewed. The oath to be  
13 taken upon enlistment in the Indiana guard reserve shall be  
14 substantially in the form prescribed for enlisted persons of the  
15 national guard, substituting the words "Indiana guard reserve"  
16 where necessary.

17 **Sec. 12. (a)** If the Indiana guard reserve or any part of the  
18 Indiana guard reserve is ordered out for active service or armory  
19 drill:

- 20 (1) the uniform code of military justice governing the Indiana  
21 national guard relating to courts-martial, their jurisdiction,  
22 and the limits of punishment; and  
23 (2) the rules and regulations prescribed under the uniform  
24 code of military justice;

25 are in full force and effect as provided for in IC 10-16-9-1.

26 (b) An officer or enlisted person of the Indiana guard reserve  
27 may not be arrested on any warrant, except for treason or felony,  
28 while going to, remaining at, or returning from a place where  
29 ordered to attend for military duty. An officer and enlisted person  
30 of the Indiana guard reserve is, during the service in the Indiana  
31 guard reserve, exempt from service upon any posse comitatus.

32 **Sec. 13.** The adjutant general of Indiana, with the approval of  
33 the governor, may procure a policy of group insurance for and  
34 covering members of the military forces of Indiana covering and  
35 insuring against any injury received or had by members from any  
36 accident while on drill or active duty.

37 **Sec. 14. (a)** The members of the Indiana guard reserve provided  
38 for in this chapter shall receive pay quarterly for time spent in  
39 authorized drill and instruction to be paid from any appropriation  
40 enacted for that purpose.

41 (b) The adjutant general shall:

- 42 (1) cause quarterly payrolls to be prepared and submitted;

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1 and

2 (2) provide by regulations for the processing of payrolls.

3 (c) This section applies only to drill and instruction pay and does  
4 not apply to payroll for active duty.

5 Sec. 15. (a) Adequate provisions shall be made to allow the  
6 enlistment and induction of able bodied citizens of each and all  
7 racial groups in Indiana into all branches and departments of the  
8 Indiana guard reserve organized to defend and enforce the laws of  
9 Indiana. To that end, all racial groups in Indiana are entitled to  
10 that representation in each branch or department of the Indiana  
11 guard reserve in approximate proportion to the group or groups  
12 to the population of Indiana. However, this section or any other  
13 statute may not be construed so as to allow racial segregation.

14 (b) Race or color may not be a cause for excluding the  
15 application to serve or the service of any person in any branch of  
16 service provided for in this chapter.

17 Chapter 9. Court-Martial Procedures

18 Sec. 1. (a) Except as otherwise provided, if the Indiana national  
19 guard is in active service on behalf of the state:

20 (1) in case of:

21 (A) public disaster;

22 (B) riot;

23 (C) tumult;

24 (D) breach of the peace; or

25 (E) resistance of process;

26 (2) whenever called upon in aid of civil authorities;

27 (3) under martial law;

28 (4) at encampments or any scheduled training periods or  
29 drills for which a member is entitled to pay, within or outside  
30 Indiana; or

31 (5) upon any other duty requiring the entire time of the  
32 Indiana national guard, or any part of the Indiana national  
33 guard;

34 the uniform code of military justice governing the armed forces of  
35 the United States with any subsequent change approved by the  
36 adjutant general as applicable to Indiana military law, is in force  
37 and regarded as a part of this article for the Indiana national  
38 guard until the Indiana national guard is relieved from duty.

39 (b) Confinement in a penitentiary under this article must be in  
40 a penitentiary in Indiana. An offense committed by the member of  
41 the national guard while in active service may be tried and  
42 punished by a court-martial lawfully appointed.

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1 (c) Except as provided in subsections (d) and (e), if the accused  
 2 member of the Indiana national guard is found guilty, the  
 3 convicted member shall be punished according to the uniform code  
 4 of military justice and the rules and regulations governing the  
 5 United States armed forces but within the limits prescribed by  
 6 federal law for court-martial in the national guard.

7 (d) If the offense charged is also an offense by the civil law of  
 8 Indiana, the officer whose duty it is to approve the charge may  
 9 order the person charged to be turned over to the civil authorities  
 10 for trial.

11 (e) Punishment under the rules and articles of the uniform code  
 12 of military justice that extend to the taking of life may not be  
 13 inflicted, except in time of actual war, invasion, or insurrection,  
 14 declared by proclamation of the governor to exist, or to be  
 15 threatened or anticipated.

16 (f) If a:

17 (1) person resisting the laws of the state or unlawfully or  
 18 riotously assembled for that purpose; or

19 (2) bystander or other person in the vicinity;

20 is killed or injured by state forces called into active service under  
 21 this article and acting in obedience to the orders of its commanding  
 22 officer, the officer or member of the Indiana national guard is not  
 23 subject to indictment, trial, or any civil process other than by a  
 24 court-martial, to be convened for that purpose by the governor.

25 (g) The finding of the court-martial, when submitted to and  
 26 approved by the governor, in accordance with the uniform code of  
 27 military justice, is final and conclusive on all persons.

28 (h) If an indictment is found or information filed against the  
 29 person, a writ or other process may not be issued by the clerk of  
 30 the court where the indictment was returned or information filed  
 31 against the defendant. The clerk shall immediately transmit to the  
 32 governor a certified copy, and, upon the receipt, the governor shall  
 33 cause to be convened a court-martial to determine the truth of the  
 34 charges and the punishment, if any, to be inflicted.

35 Sec. 2. (a) The military courts of Indiana shall be organized as  
 36 follows:

37 (1) General court-martial.

38 (2) Special court-martial.

39 (3) Summary court-martial.

40 (b) The courts shall be constituted, have cognizance of the same  
 41 subject, and possess like powers, except as to punishments, as  
 42 similar courts provided for by the laws and regulations governing

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1 the armed forces of the United States. The proceedings of the  
2 courts-martial must follow the forms and modes of procedure  
3 prescribed for the courts governing the armed forces of the United  
4 States and as approved by the adjutant general.

5 (c) A general court-martial may be convened by orders of the  
6 governor and may try a person subject to military law. The general  
7 court-martial may impose fines of not more than two hundred  
8 dollars (\$200) and sentence a person to:

- 9 (1) a forfeit of pay and allowances;  
10 (2) a reprimand;  
11 (3) dismissal or dishonorable discharge from the services;  
12 (4) reduction of noncommissioned officers to the ranks; or  
13 (5) any combination of two (2) or more of the punishments  
14 described in subdivisions (1) through (4).

15 (d) The adjutant general or the commanding officer of each  
16 camp or other place, division, regiment, separate battalion, air  
17 squadron, group, or other detached command may appoint a  
18 special court-martial for that command. However, a special  
19 court-martial may be appointed by superior authority if the  
20 superior authority considers it desirable. The special  
21 court-martial:

- 22 (1) may try any person subject to military law, except a  
23 commissioned officer, for any crime or offense made  
24 punishable by the military laws of the United States or state;  
25 and  
26 (2) has the same powers of punishment as does a general  
27 court-martial, except that fines imposed by the courts may not  
28 exceed one hundred dollars (\$100).

29 (e) The adjutant general or the commanding officer of each  
30 camp or other place, division, regiment, battalion, company, air  
31 squadron, group, or other detachment of the national guard may  
32 appoint for the place or command a summary court to consist of  
33 one (1) officer, who may administer oaths and try the enlisted  
34 persons of the place or command for breaches of discipline and  
35 violations of laws when governing the organizations. The court,  
36 when satisfied of the guilt of the soldier, may:

- 37 (1) impose fines of not more than twenty-five dollars (\$25) for  
38 any offense;  
39 (2) sentence noncommissioned officers to reduction in rank;  
40 and  
41 (3) sentence to forfeiture of pay and allowances.

42 The proceedings of the court must be informal and the minutes

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1 must be the same as prescribed for summary courts of the armed  
2 forces of the United States.

3 (f) All courts-martial of the Indiana national guard, including  
4 summary courts, may sentence to confinement instead of imposing  
5 an authorized fine if the sentence of confinement does not exceed  
6 one (1) day for each one dollar (\$1) of fine authorized.

7 (g) A sentence of dismissal from the service or dishonorable  
8 discharge imposed by a national guard court-martial may not be  
9 executed until approved by the governor.

10 (h) A conviction by court-martial that has been approved by the  
11 convening authority under this article may be appealed to a  
12 military court of appellate review. The military court of appellate  
13 review must consist of three (3) Indiana national guard judge  
14 advocates appointed to the military court of appellate review by  
15 the adjutant general.

16 (i) Presidents of courts-martial and summary courts officers  
17 may do the following:

18 (1) Issue warrants to arrest an accused person and to bring  
19 the person before the court for trial if the person has  
20 disobeyed an order in writing from the convening authority  
21 to appear before the court. A copy of the charge must be  
22 delivered to the accused with the order.

23 (2) Issue subpoenas duces tecum.

24 (3) Enforce by attachment attendance of witnesses and the  
25 production of books and papers.

26 (4) Sentence for a refusal to be sworn or to answer as  
27 provided in action before civil courts.

28 (j) All processes of a court-martial, when it is impracticable to  
29 be executed by the military forces of the state, shall be:

30 (1) brought in the name of the state; and

31 (2) executed by the civil officers designated by the president  
32 of the court-martial or summary court officer issuing the  
33 process.

34 The designated civil officer shall execute all processes and return  
35 the processes to the officer who issued the processes. The civil  
36 officer shall be paid the fees and allowances provided for like  
37 processes in civil actions of the state. The fees shall be charged in  
38 case of conviction of the accused as a part of the penalty of the  
39 offense of which the accused may be convicted whether the  
40 punishment for the offense is imprisonment or a fine, or both. The  
41 payment of the costs in addition to the payment of the fine imposed  
42 shall be enforced by imprisonment until the payment is satisfied,



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1 at a rate of one dollar (\$1) per day of the costs or fine, or both.

2 **Sec. 3. (a) Fines may be collected in the following manner:**

3 (1) By the retention of any pay or allowances due or to  
4 become due from the state or the United States.

5 (2) By commitment to a jail designated by the reviewing  
6 authority until the fine is paid or until one (1) day is served  
7 for each one dollar (\$1) of the fine imposed.

8 (3) By payment to the county treasurer. The county treasurer  
9 shall immediately transmit the payment to the treasurer of  
10 state. The treasurer of state shall quarterly pay the sums to  
11 the armory board, and the sums are appropriated  
12 continuously for the purposes of IC 10-16-3-11. It is sufficient  
13 to record upon the payroll opposite the name of the person  
14 fined a notation of the sentence of the court-martial and the  
15 date of approval of the sentence, together with the name and  
16 rank of the reviewing authority.

17 (b) A sentence of imprisonment imposed by a court-martial  
18 during active service or at camps of instruction shall be carried out  
19 by confinement in a guardhouse, tent, or other places designated  
20 by the reviewing authority. A sentence of imprisonment imposed  
21 by court-martial upon persons not in active service or at camps of  
22 instruction shall be carried out by confinement in a jail to be  
23 designated by the reviewing authority.

24 **Sec. 4. If a fine is assessed by a court-martial against a member**  
25 **of the Indiana national guard to whom pay is not due or about to**  
26 **become due, the member of the Indiana national guard fails or**  
27 **refuses to make payment to the treasurer of the state and the**  
28 **proceedings of the court have been approved by the reviewing**  
29 **authority, the reviewing authority in the case of a general or**  
30 **special court-martial, or the summary court officer in the case of**  
31 **a summary court-martial, shall issue a writ in a form approved by**  
32 **the adjutant general for the confinement of the member of the**  
33 **Indiana national guard until the:**

34 (1) fine has been paid; or

35 (2) member has served one (1) day for each one dollar (\$1) of  
36 fine imposed and costs of the action accrued.

37 **Sec. 5. If a sentence of imprisonment is to be served in a place**  
38 **other than in a guardhouse or tent, the reviewing authority in the**  
39 **case of a general or special court-martial and the summary court**  
40 **officer in the case of a summary court-martial shall issue to the**  
41 **sheriff of the county where the confinement has been ordered by**  
42 **the reviewing authority an order of confinement in a form**

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1 approved by the adjutant general.

2 **Sec. 6. (a) The commanding officer of any detachment,**  
3 **company, or other unit or organization may impose disciplinary**  
4 **punishment upon any enlisted member of the officer's command.**

5 **(b) An officer exercising command normally exercised by a**  
6 **general officer may impose disciplinary punishment upon any**  
7 **warrant or commissioned officer of the exercising officer's**  
8 **command.**

9 **(c) A punishment imposed by authority of this section may**  
10 **include the following:**

11 **(1) Admonition.**

12 **(2) Reprimand.**

13 **(3) Withholding privileges for up to seven (7) twenty-four (24)**  
14 **hour duty days.**

15 **(4) Restriction to specific area limits for up to seven (7)**  
16 **twenty-four (24) hour duty days.**

17 **(5) Imposition of a fine of not more than two-thirds (2/3) of**  
18 **one (1) month's pay to which the member would have been**  
19 **entitled during the month of the offense.**

20 **(d) A commanding officer may also:**

21 **(1) order a member of the officer's command to be confined**  
22 **under correctional custody for not more than eight (8) days;**

23 **(2) reduce the member's rank to the next inferior grade; or**

24 **(3) order a member confined and reduce the member's rank**  
25 **as provided in subdivisions (1) and (2).**

26 **However, only the commanding officer who holds promotion**  
27 **authority over the member charged with an offense may prescribe**  
28 **the punishment of correctional custody, fine, or reduction in rank.**

29 **(e) Fines shall be collected as directed under section 3 of this**  
30 **chapter.**

31 **(f) Confinement shall be carried out in compliance with sections**  
32 **5 and 11 of this chapter.**

33 **(g) This section may not be construed to be a waiver of the right**  
34 **to trial by court-martial.**

35 **(h) A sentence may not be executed until the right of appeal has**  
36 **been exhausted or waived as prescribed in the uniform code of**  
37 **military justice.**

38 **Sec. 7. (a) Officers, warrant officers, and enlisted persons of the**  
39 **Indiana national guard may be placed in arrest by their military**  
40 **superiors for violations of military offenses committed during**  
41 **periods of authorized military duty.**

42 **(b) If any member of the Indiana national guard fails or refuses**

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1 to report to the member's appointed place of duty, the  
2 commanding officer may:

- 3 (1) arrest or cause to be arrested the member; and  
4 (2) have the member brought before the commanding officer  
5 at the member's unit or organization headquarters.

6 (c) If military personnel are not available to make the arrest or  
7 if the commanding officer considers it advisable, the commanding  
8 officer may issue a warrant to any sheriff, constable, or other law  
9 enforcement officer authorized to serve warrants of arrest under  
10 civil law. The law enforcement officer shall serve the warrant in  
11 the same manner as other warrants of arrest and make return of  
12 the warrant to the commanding officer issuing the warrant.

13 Sec. 8. (a) The president or military judge of a general and a  
14 special court-martial and a summary court officer may each  
15 appoint by warrant and at any time remove one (1) or more  
16 marshals. A marshal shall do the following:

- 17 (1) If ordered by the president of a general or special  
18 court-martial or summary court officer, execute any process,  
19 mandate, or order issued by the president or court or officer.  
20 (2) Perform all acts and duties authorized to be performed by  
21 any sheriff, marshal, or constable under this article.

22 (b) A commanding officer imposing disciplinary punishment  
23 under section 6 of this chapter may request the summary court  
24 officer having jurisdiction over the unit to appoint a marshal to  
25 carry out the process, mandate, or order issued by the  
26 commanding officer.

27 Sec. 9. An action on civil proceeding may not be presented  
28 against:

- 29 (1) any member of the armed forces of Indiana who prefers  
30 charges against any person subject to military discipline; or  
31 (2) any member of a military court or officer or person acting  
32 under the court's authority or reviewing its proceedings on  
33 account of the:

- 34 (A) approval, imposition, or execution of any sentence;  
35 (B) imposition or collection of a fine or penalty; or  
36 (C) execution of any warrant, writ, execution, process or  
37 mandate of a military court.

38 Sec. 10. The jurisdiction of the courts and boards established by  
39 this chapter is presumed, and the burden of proof rests on any  
40 person seeking to oust the courts or boards of jurisdiction in any  
41 action or proceedings.

42 Sec. 11. (a) The reviewing authority shall designate:

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1           (1) the jail of any county; and  
 2           (2) when ordered out of the state for duty, an appropriate  
 3           place of confinement;  
 4 as the place where any sentence of confinement by a military court  
 5 shall be executed.

6           (b) With regard to punishment under section 6 of this chapter,  
 7 confinement shall be at the county jail designated by the officer  
 8 holding appellate jurisdiction over the case and having the advice  
 9 of a staff judge advocate as to the legality of the proceedings.  
 10 However, at the discretion of the officer holding appellate  
 11 jurisdiction, short term confinement may be carried out in an  
 12 acceptable municipal jail.

13           (c) Unless the commanding officer who ordered the sentence  
 14 directs otherwise, a sentence of confinement or correctional  
 15 custody shall be served on a consecutive day basis.

16           Sec. 12. (a) A person connected with the military service:  
 17           (1) shall treat a court-martial with respect; and  
 18           (2) in default of respectful consideration, may be proceeded  
 19           against by arrest and trial.

20           (b) A person who is not connected with the military service shall  
 21 behave with respect and decorum toward a court-martial.

22           (c) A person who engages in disorderly conduct in the presence  
 23 of a court-martial commits a Class C infraction.

24           Sec. 13. The general principle and spirit of the military laws and  
 25 regulations for the government of the armed forces of the United  
 26 States, when not in conflict with the express provisions of this  
 27 chapter or the Constitution of the State of Indiana, shall be the  
 28 guide of commanding officers and courts-martial.

29           Sec. 14. A lack of form may not vitiate the proceedings of a  
 30 court-martial.

31           Sec. 15. An officer may administer oaths when necessary under  
 32 this article.

33           **Chapter 10. Public Property and Military Equipment**

34           Sec. 1. (a) The officer in permanent or temporary command of  
 35 a station is responsible for the security of all public property of the  
 36 command, whether in use or in store. Although for purposes of  
 37 periodical accountability to proper authorities, the public property  
 38 has been officially accepted and receipted for by any subordinate  
 39 officers, the commanding officer is responsible and pecuniarily  
 40 liable for the strict observance of the regulations in regard to its  
 41 preservation, use, and issue. The officer shall take care that:

42           (1) all storehouses are properly guarded;

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1 (2) only reliable agents are employed; and

2 (3) only trustworthy enlisted persons are detailed for duty in  
3 storehouses or in connection with the property.

4 (b) If an officer, a soldier, or an airman responsible for state and  
5 federal property:

6 (1) resigns;

7 (2) is promoted;

8 (3) is dismissed; or

9 (4) is discharged;

10 the officer, soldier, or airman shall deliver all arms, accoutrements,  
11 or stores only to the officer appointed to receive the arms,  
12 accoutrements, or stores and take duplicate receipts for the arms,  
13 accoutrements, or stores and file a duplicate receipt with the  
14 adjutant general. In case of the death of an officer, a soldier, or an  
15 airman responsible for state and federal property, the next in  
16 command shall immediately take charge of the arms,  
17 accoutrements, or stores and deliver them to the person appointed  
18 to receive the arms, accoutrements, or stores. However, if the  
19 officer, soldier, or airman is commissioned in place of the deceased,  
20 the officer, soldier, or airman shall execute and file duplicate  
21 receipts for the arms, accoutrements, and stores with the adjutant  
22 general.

23 (c) An officer responsible for state and federal property shall be  
24 charged for any damage to or loss or destruction of the property  
25 unless the officer shows to the satisfaction of the adjutant general,  
26 by proper evidence, that the damage, loss, or destruction was  
27 caused by unavoidable causes and without fault or neglect on the  
28 officer's part.

29 (d) If an article of state or federal property is lost or damaged  
30 by the neglect or fault of an officer, a soldier, or an airman, the  
31 officer, soldier, or airman shall pay for the value of the property or  
32 the cost of repairs, in a sum to be determined by the proper  
33 authority, upon the demand of the adjutant general.

34 (e) The amount charged against an enlisted soldier or airman on  
35 the muster and payrolls for loss of or damage or repairs to military  
36 property may not exceed the value of the article or cost of repairs.  
37 The charge may only be made:

38 (1) on conclusive proof; and

39 (2) with an inquiry if the soldier or airman demands it.

40 (f) The adjutant general may pay from the funds appropriated  
41 to the military department for operating expenses the expenses  
42 necessary for the apprehension and prosecution of any person

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1 absconding with property belonging to the state or United States  
2 if the person is not in Indiana.

3 Sec. 2. (a) If an officer, a soldier, or an airman or a former  
4 officer, soldier, or airman responsible for any national guard, state  
5 or federal equipment, property, or military stores has:

6 (1) failed to return the property or any part of the property  
7 on demand of proper authority;

8 (2) damaged beyond the injury resulting from the necessary  
9 use of the arms or other issues; or

10 (3) has caused a deficiency in the number or quantity of the  
11 state and federal arms, property, or military stores;

12 the amount of the unnecessary damages or losses shall be  
13 determined by a board of survey appointed in accordance with  
14 appropriate national guard regulations.

15 (b) The amounts due under subsection (a) shall be collected by  
16 law in the name of the state of Indiana and paid into the state  
17 military fund.

18 (c) The attorney general shall bring the suit in the name of the  
19 state of Indiana and cause the amounts collected to be paid into the  
20 state military fund.

21 Sec. 3. The uniforms, arms, and equipment of a member of the  
22 national guard, together with any military property of any  
23 detachment company, battery, battalion, regiment, division, air  
24 squadron, or group, are exempt from execution for debt.

25 Sec. 4. If property owned by the state for the use of the Indiana  
26 national guard is determined by the governor or the adjutant  
27 general to not be of value to the Indiana national guard, the  
28 governor or the adjutant general may enter in the records of the  
29 military department an entry to the effect that the property is not  
30 valuable to the Indiana national guard.

31 Sec. 5. (a) If an entry under section 4 of this chapter is made, the  
32 governor or adjutant general may order the property sold at public  
33 or private sale as in their judgment will be for the best interests of  
34 the state.

35 (b) Payment for a sale of property under subsection (a) shall be  
36 made in cash to the adjutant general who shall:

37 (1) enter of record the receipt of the money;

38 (2) turn the property over to the purchaser; and

39 (3) pay the money to the treasurer of the state.

40 The money becomes and remains a part of the military fund to be  
41 used for the benefit of the Indiana national guard.

42 Sec. 6. A loan company or pawnbroker that possesses a license

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1 issued by the state or by a municipal corporation shall make a  
 2 report, in writing, to the adjutant general, on a form prescribed  
 3 and furnished by the adjutant general, showing, by item and serial  
 4 number, all property of the United States government:

- 5 (1) received as security for a loan or loans of money; or
- 6 (2) purchased or otherwise obtained without the advancement  
 7 of a loan;

8 and which is marked with the words "Property of the United States  
 9 Government" or is stamped as to indicate that it is the property of  
 10 one (1) of the military branches of the United States government.

11 **Sec. 7.** A loan company or pawnbroker may not sell or otherwise  
 12 dispose of any property described in section 6 of this chapter,  
 13 unless the loan company or pawnbroker has obtained a written  
 14 permit from the adjutant general authorizing the sale or  
 15 disposition of the property and that states that the property:

- 16 (1) cannot be identified as being the property of the United  
 17 States government or of any of its military branches; and
- 18 (2) may be lawfully sold or otherwise disposed of according to  
 19 the laws of Indiana and the United States.

20 **Sec. 8. (a)** An officer shall report illegal disposition of property.

21 (b) All law enforcement officers and all commissioned and  
 22 noncommissioned officers of the national guard shall seize  
 23 immediately all military property:

- 24 (1) found in the possession of any person who is not the legal  
 25 custodian or owner of the property; or
- 26 (2) from a person who may secrete, sell, dispose of, offer for  
 27 sale, purchase, or retain the military property;

28 after a demand has been made upon the person or the person's  
 29 legal representative for the return of the military property.

30 (c) A law enforcement officer, commissioned officer, or  
 31 noncommissioned officer of the national guard shall report the  
 32 officer's action to the adjutant general.

33 **Sec. 9. (a)** A bill or an account may not be made by an officer or  
 34 enlisted person with a view of the bill or account being paid by the  
 35 state unless the expenditure is expressly authorized by the laws of  
 36 Indiana or the adjutant general.

37 (b) An account may not be paid unless it is accompanied by  
 38 vouchers or receipts showing by whomever paid or are to be paid,  
 39 to whom paid, date of service, authority for, and amount of the  
 40 expenditure, and for what purpose the expenditure was made.

41 **Sec. 10.** A personal payment may not be made under this article  
 42 to the accountable officer of an organization or unit who does not

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1 fully and satisfactorily account to the adjutant general for all  
2 money paid or property issued to the accountable officer under this  
3 article.

4 **Sec. 11. (a) Federal property loaned to the state for use by the**  
5 **Indiana national guard or other purposes shall be issued and**  
6 **accounted for in the manner prescribed by national guard**  
7 **regulations or other pertinent federal directives.**

8 **(b) State property shall be issued and accounted for in the**  
9 **manner prescribed by the governor or state laws.**

10 **(c) All public property:**

11 **(1) shall be used in the manner and for the purposes intended**  
12 **in the public service; and**

13 **(2) may not be used by an individual for the individual's**  
14 **personal benefit, pleasure, or gain.**

15 **Chapter 11. Military Funds**

16 **Sec. 1. The general assembly may appropriate the sums**  
17 **necessary to constitute a contingency fund to be known as the**  
18 **governor's civil and military contingency fund.**

19 **Sec. 2. The governor's civil and military contingency fund:**

20 **(1) remains in the state treasury; and**

21 **(2) shall be drawn on the warrant of the governor:**

22 **(A) for the expenses as may accrue under this chapter; and**

23 **(B) to pay the expenses of all encampments ordered or**  
24 **approved by the governor, inspections, courts-martial,**  
25 **boards of inquiry, inspection, examination and survey, and**  
26 **pay of officers and soldiers on state active duty.**

27 **Sec. 3. The governor may, by general order:**

28 **(1) provide for the disbursement of the governor's civil and**  
29 **military contingency fund for the proper organization of the**  
30 **national guard and the promotion of its discipline, instruction**  
31 **and military efficiency;**

32 **(2) appoint boards of examination, inquiry, and survey; and**

33 **(3) provide for the collection of any fine, penalty, or forfeiture**  
34 **due from any officer or member of the Indiana national guard**  
35 **out of any payment to be made to the officer or member by**  
36 **the state.**

37 **Sec. 4. (a) The commanding officer of a company and regiment**  
38 **shall convene a council of administration at least two (2) times each**  
39 **year.**

40 **(b) A council of administration must consist of:**

41 **(1) three (3) officers next in rank to the commanding officer;**

42 **(2) if there are only two (2) officers next in rank, then the next**

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- 1           two (2);  
 2           (3) if there is only one (1) officer next in rank, then the next  
 3           one (1); or  
 4           (4) if there is not any other officer other than the commanding  
 5           officer, then the commanding officer shall act alone.
- 6           **Sec. 5. (a) The junior member of the council shall:**  
 7           (1) record the proceedings of the council in a book; and  
 8           (2) submit the book to the commanding officer.
- 9           **(b) If the commanding officer disapproves the proceedings and**  
 10          **the council, after reconsideration, adheres to its decisions, a copy**  
 11          **shall be sent by the commanding officer to the next higher**  
 12          **commander. The decision of the next higher commander:**  
 13          (1) is final; and  
 14          (2) shall be entered in the council book.
- 15          **The decision and council book shall be published for the**  
 16          **information and government of all concerned.**
- 17          **Sec. 6. (a) The proceedings of councils of administration shall be**  
 18          **signed by the senior member of the council and recorded. The**  
 19          **recorder of each meeting, after entering the whole proceedings,**  
 20          **together with the final order, shall deposit the book with the**  
 21          **commanding officer.**
- 22          **(b) The approval or disapproval of the officer ordering the**  
 23          **council shall be signed by the officer.**
- 24          **Sec. 7. The council of administration shall:**  
 25          (1) audit and settle the account of the organization for which  
 26          the council is appointed; and  
 27          (2) pass specific resolves for all expenditures of the funds of  
 28          the organization.
- 29          **Sec. 8. (a) An officer or a member of the Indiana national guard**  
 30          **may not receive any compensation for duty at drills, parades, or**  
 31          **encampments unless personally present for the duty, whether**  
 32          **excused or not. A substitute for the member may not receive**  
 33          **compensation.**
- 34          **(b) Officers and members shall sign payrolls before the last day**  
 35          **of services for duty performed. The signature of a soldier shall be**  
 36          **made in the presence of the member's commanding officer. If the**  
 37          **member signs by mark, the mark must be attested to by the officer.**
- 38          **(c) The payrolls described in subsection (b) shall be prepared**  
 39          **and submitted according to the orders and regulations of the state**  
 40          **military department.**
- 41          **Sec. 9. An officer of the Indiana national guard charged with the**  
 42          **disbursement or safekeeping of public money or of any of the funds**

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1 authorized to be established by this article who does not:

2 (1) render to the proper authorities a satisfactory account of  
3 the money; or

4 (2) pay over to a successor the money:

5 (A) in the officer's hands; or

6 (B) the officer failed satisfactorily to account for;

7 shall be proceeded against as is provided in cases of fines by  
8 court-martial. The proceedings of the council of administration  
9 shall be taken as evidence in the case.

10 Sec. 10. (a) The governor, as trustee, may receive from the  
11 Secretary of Defense of the United States the funds:

12 (1) designated as "Other Funds" in the custody of the  
13 Secretary of Defense;

14 (2) that were collected by certain Indiana national guard  
15 organizations for their own use and benefit; and

16 (3) that have not been disposed of because the Indiana  
17 national guard organizations for whose benefit the funds were  
18 collected have been broken up and have never been  
19 reconstituted.

20 (b) The governor, as trustee, may receive from any branch of  
21 the United States government any military funds that may be  
22 recovered from the United States government. The funds received  
23 shall be:

24 (1) paid into the state treasury; and

25 (2) kept as a separate and distinct fund; and

26 (3) distributed for the benefit of the Indiana national guard.

27 The funds are appropriated in the manner determined by the  
28 governor.

29 **Chapter 12. Awards and Decorations**

30 Sec. 1. The following awards and decorations are established to  
31 be bestowed upon the officers and enlisted persons of the armed  
32 forces of Indiana under the conditions and in the manner provided  
33 in this article:

34 (1) An Indiana Distinguished Service Cross shall be awarded  
35 to any commissioned officer or enlisted person of the militia,  
36 who:

37 (A) performs, at great personal danger and risk of life or  
38 limb in peace or war, any act of heroism designed to  
39 protect life or property; or

40 (B) in the face of a military or armed enemy of the United  
41 States government or of the state of Indiana, performs an  
42 act over and beyond the call of duty, which act, danger, or

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- 1 risk the officer or enlisted person could have failed to  
 2 perform or incur without being subject to censure for  
 3 neglect of duty.
- 4 **(2) An Indiana Distinguished Service Medal shall be awarded**  
 5 **to a commissioned officer or an enlisted person of the militia**  
 6 **and other officers, enlisted persons, and civilians, who**  
 7 **perform unusually distinguished or meritorious service, that:**  
 8 **(A) to a marked degree is reflected in the increased**  
 9 **efficiency of the militia; or**  
 10 **(B) brings exceptional and great honor or credit to the**  
 11 **Indiana armed forces and commands the attention and**  
 12 **respect of the citizens of Indiana and of the military**  
 13 **establishment throughout the United States.**
- 14 **(3) Long Service Medals shall be awarded to officers and**  
 15 **enlisted persons for honest and faithful service in the federally**  
 16 **recognized Indiana national guard for periods of:**  
 17 **(A) ten (10) years;**  
 18 **(B) fifteen (15) years;**  
 19 **(C) twenty (20) years;**  
 20 **(D) twenty-five (25) years; and**  
 21 **(E) for longer periods.**
- 22 A symbol shall be worn on the ribbon of each medal, one (1)  
 23 for each year in addition to the period for which the medal  
 24 was issued, until the officer or enlisted person is entitled to a  
 25 medal for the next period for which a different long service  
 26 medal is issued.
- 27 **(4) An Indiana national guard commendation medal shall be**  
 28 **awarded to any commissioned officer or enlisted person of the**  
 29 **militia and other officers, enlisted persons, and civilians, who**  
 30 **have distinguished themselves by meritorious achievement or**  
 31 **meritorious service. The required meritorious achievement or**  
 32 **meritorious service while of lesser degree than that required**  
 33 **for the award of the Indiana distinguished service medal must**  
 34 **have been accomplished with distinction. The award may be**  
 35 **made for acts of outstanding courage that do not meet the**  
 36 **requirements for award of the Indiana distinguished service**  
 37 **medal. It is particularly desirable that emphasis be placed on**  
 38 **the award of this decoration to outstanding company grade**  
 39 **officers, warrant officers, and enlisted personnel whose**  
 40 **achievements and service meet the prescribed standards.**
- 41 **(5) An Indiana Emergency Service Ribbon shall be awarded**  
 42 **to all currently assigned officers, warrant officers, and**

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1 enlisted members of the Indiana national guard who have  
 2 served on state active duty during a state emergency. For  
 3 purposes of this subdivision, "state emergency" means any  
 4 emergency for any period declared by the governor or the  
 5 adjutant general. The Indiana emergency service ribbon shall  
 6 be awarded to denote honorable state active military duty by  
 7 members of the Indiana army and air national guard during  
 8 state emergencies.

9 (6) Other medals for any war or campaign or mobilization for  
 10 which a medal has not been awarded by the federal  
 11 government may be:

- 12 (A) established by executive order of the governor; and  
 13 (B) awarded to members of any federally recognized  
 14 military force of the state who participated in the military  
 15 force.

16 For the purposes of this article, officers and enlisted persons of the  
 17 regular army assigned to the armed forces of Indiana as  
 18 instructors and assistant instructors shall be considered as officers  
 19 and enlisted persons of the Indiana armed forces.

20 Sec. 2. The medals and decorations provided for in this chapter  
 21 must be of a character and design that shall be decided upon and  
 22 approved by a board of officers of the federally recognized Indiana  
 23 national guard selected by the adjutant general by order of the  
 24 governor. The board shall select proper and appropriate designs  
 25 for medals and ribbons and symbols that reflect the history and  
 26 traditions of Indiana.

27 Sec. 3. The governor, through the military department, shall  
 28 publish general orders necessary to:

- 29 (1) carry out this chapter; and  
 30 (2) prepare the rules and procedure by which  
 31 recommendations or applications shall be made for any of the  
 32 awards and decorations established under this chapter and  
 33 for the method and manner of approving the  
 34 recommendations and applications and the making of awards.

### 35 Chapter 13. Naval Battalion

36 Sec. 1. In addition to the military forces authorized in Indiana,  
 37 a naval or military school in Indiana that is receiving recognition  
 38 from the United States Department of the Navy under 34 U.S.C.  
 39 312, approved June 29, 1906, may organize not more than four (4)  
 40 companies of naval militia that constitute a battalion to be known  
 41 as the naval battalion of the Indiana national guard.

42 Sec. 2. The naval battalion is under the command of the

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1        **commandant of the school, who shall hold the ex officio rank of**  
 2        **lieutenant colonel.**

3        **Sec. 3. The officers of each naval battalion consist of one (1)**  
 4        **commander and a staff to consist of the following:**

5            (1) **One (1) executive officer, with the rank of lieutenant**  
 6            **commander.**

7            (2) **One (1) navigating officer and four (4) watch officers with**  
 8            **the rank of lieutenant.**

9            (3) **One (1) chief engineer, one (1) paymaster, and one (1)**  
 10           **surgeon, each with the rank of lieutenant.**

11        **Sec. 4. Each company consists of the following:**

12           (1) **One (1) cadet lieutenant.**

13           (2) **One (1) cadet lieutenant (junior grade).**

14           (3) **One (1) cadet ensign.**

15           (4) **At least forty (40) and not more than one hundred (100)**  
 16           **petty officers and enlisted persons.**

17        **Sec. 5. (a) The commissions of the battalion officers shall be**  
 18        **issued by the governor upon the recommendation of the**  
 19        **commandants and of the chairman of the board of trustees of the**  
 20        **school.**

21        **(b) The commissions of cadet officers may be issued by the**  
 22        **commandant. However, a cadet officer may not acquire any**  
 23        **authority over militiamen other than a cadet of the school because**  
 24        **of the issuance of the commission of cadet officer.**

25        **Sec. 6. The graduation and service of retired or honorably**  
 26        **discharged United States naval officers and graduates of the United**  
 27        **States Naval Academy may be accepted as evidence of fitness**  
 28        **without further examination for appointment as officers of the**  
 29        **naval battalion.**

30        **Sec. 7. The minimum age for the enlistment of cadets is fourteen**  
 31        **(14) years of age and the minimum term of enlistment is one (1)**  
 32        **year.**

33        **Sec. 8. When the regular term of the naval school is over for the**  
 34        **year, the officers and cadets of the schools may:**

35           (1) **return to their homes; and**

36           (2) **be excused from weekly drills and from other duties and**  
 37           **formalities;**

38        **until the school reopens, unless the officers and cadets are called**  
 39        **together for special duty by the governor or the President of the**  
 40        **United States.**

41        **Sec. 9. (a) In all matters not otherwise specifically provided for,**  
 42        **the provisions of this article that provide for the organization of**

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1 the Indiana national guard apply to the naval battalion.

2 (b) An officer or a cadet of the school may not receive from the  
3 state any allowance for uniform or any pay for drills, target  
4 practice, or any other military or naval duties unless called into the  
5 service of the state by the governor in accordance with  
6 IC 10-16-7-17.

7 Sec. 10. (a) The general routine of duty, discipline, and exercise  
8 of naval battalions and posts must conform with the laws, customs,  
9 and usages of the navy, as far as the laws, customs, and usages of  
10 the navy apply.

11 (b) If the laws, customs, and usages of the navy do not apply,  
12 then the routine of duty, discipline, and exercise must conform to  
13 the laws governing the volunteer forces of the state.

14 Chapter 14. Naval Force

15 Sec. 1. In addition to the land military forces of the state, there  
16 is established a naval force to be known as the Indiana naval force.

17 Sec. 2. (a) The governor is the commander in chief of the  
18 Indiana naval force.

19 (b) The naval force is under the immediate command and  
20 jurisdiction of the adjutant general. The adjutant general has all  
21 the rights, powers, and duties in connection with the naval force as  
22 the adjutant general has in connection with the land military  
23 forces.

24 (c) The governor, as commander in chief, may:

- 25 (1) make all necessary rules; and  
26 (2) issue orders;

27 the governor considers necessary for the organization,  
28 administration, and discipline of the naval force. The rules must  
29 conform, as far as practicable, with the military and naval laws of  
30 the state and the United States.

31 Sec. 3. All provisions of law relating to governing, maintaining,  
32 and equipping the land military forces of Indiana apply equally to  
33 and govern the naval forces, except for provisions that are  
34 inconsistent with the different nature of the service.

35 Sec. 4. The commander in chief may accept from the United  
36 States Navy or from any other source for the naval force, and use  
37 any vessel, lifeboat, boat gear, boat equipment, life-saving  
38 equipment, rifles, field pieces, and other naval equipment or  
39 life-saving equipment necessary to properly safeguard the lives and  
40 property of the citizens of Indiana.

41 Chapter 15. Marine Corps Battalion

42 Sec. 1. In addition to the land military forces of the state

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1 authorized by law, there is established a naval force to be known  
2 as the Indiana marine corps battalion of militia.

3 **Sec. 2. (a) The governor is the commander in chief of the marine  
4 corps militia forces of Indiana.**

5 **(b) The marine corps militia shall be under the immediate  
6 command and jurisdiction of the adjutant general. The adjutant  
7 general has all the rights, powers and duties in connection with the  
8 marine corps militia, as the adjutant general has in connection with  
9 the land military forces.**

10 **(c) The marine corps battalion of militia shall be divided into the  
11 following three (3) divisions by the adjutant general:**

12 **(1) One (1) for the southern division of the state.**

13 **(2) One (1) for the northern division.**

14 **(3) One (1) for the central division.**

15 **The adjutant general shall determine where each division shall be  
16 located.**

17 **(d) A person may not be appointed as an officer of the marine  
18 corps militia who does not hold a United States marine corps  
19 reserve commission.**

20 **(e) The governor, as commander in chief, may:**

21 **(1) make all necessary rules; and**

22 **(2) issue orders;**

23 **the governor considers necessary for the organization,  
24 administration, and discipline of the marine corps militia. The  
25 rules must conform, as far as practicable, with the military and  
26 naval laws of Indiana and the United States.**

27 **Sec. 3. All provisions of law relating to governing, maintaining,  
28 and equipping the land military forces of Indiana apply equally to  
29 and govern the marine corps militia forces, except provisions that  
30 are inconsistent with the different nature of the service.**

31 **Sec. 4. The commander in chief may accept and use from the  
32 United States Navy, or from any other source, for the marine corps  
33 militia and use any vessel, lifeboat, boat gear, boat equipment,  
34 life-saving equipment, rifles, field pieces, and any other naval  
35 equipment or life-saving equipment necessary to properly  
36 safeguard the lives and property of the citizens of Indiana.**

37 **Sec. 5. (a) The lieutenant colonel in command of the battalion of  
38 the marine corps militia shall be appointed by the governor from  
39 the regular marine corps reserve officers in Indiana.**

40 **(b) The lieutenant colonel shall act as chief of staff subject to the  
41 orders of the:**

42 **(1) governor;**

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1 (2) adjutant general; and

2 (3) major general commandant of the United States Marine  
3 Corps.

4 **Chapter 16. Military Academy Officers and Miscellaneous**  
5 **Provisions**

6 **Sec. 1. An officer and enlisted person of the Indiana national**  
7 **guard is exempt from:**

8 (1) service on any jury in any court of Indiana; and

9 (2) from service in any posse comitatus.

10 **Sec. 2. A person who:**

11 (1) fails to perform a duty imposed on the person by this  
12 article; or

13 (2) otherwise violates this article;

14 **commits a Class C infraction.**

15 **Sec. 3. Upon recommendation of the superintendent of any**  
16 **military, naval, or air academy in Indiana where:**

17 (1) there is stationed by the United States Department of  
18 Defense at least one (1) officer; and

19 (2) there is established at least one (1) unit of the reserve  
20 officers training corps;

21 **upon approval of the adjutant general, the governor may appoint**  
22 **the members of faculties and staffs as officers. In the unassigned**  
23 **Indiana national guard, the appointment may not be above the**  
24 **rank of colonel. In the Indiana naval forces, the appointment may**  
25 **not be above the rank of lieutenant commander.**

26 **Sec. 4. The military or naval laws of Indiana pertaining to the**  
27 **Indiana national guard or the Indiana naval forces do not apply to**  
28 **officers appointed under section 3 of this chapter. These**  
29 **commissions do not have any authority over the Indiana armed**  
30 **forces.**

31 **Sec. 5. The commissions made under section 3 of this chapter**  
32 **are in force at the pleasure of the governor and during the term of**  
33 **the governor and expire:**

34 (1) at the end of the term of office of the governor who made  
35 the appointment; and

36 (2) upon the termination of any officer as a member of the  
37 faculty or staff of the military, naval, or air academy.

38 **Chapter 17. Division of Graves Registration**

39 **Sec. 1. The director of the division of graves registration**  
40 **established by the adjutant general shall:**

41 (1) be a member of a patriotic organization;

42 (2) be appointed by the adjutant general; and

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1 (3) serve without compensation.

2 **Sec. 2. (a) A burial permit may not be issued by an officer in**  
 3 **Indiana having authority to issue burial permits until the following**  
 4 **information is secured, if practicable, and except where an**  
 5 **immediate burial should be made to avoid the danger of contagion:**

6 (1) Was the deceased a veteran of any of the wars in which the  
 7 United States has been engaged?

8 (2) If so, what is the date when the veteran entered the service,  
 9 and what is the date on which the veteran was discharged?

10 (3) What medals and decorations were won by the veteran?

11 (4) What was the division or regiment in which the veteran  
 12 was enlisted?

13 (b) If the death certificate shows that the deceased was a veteran  
 14 of any war in which the United States has been engaged, that  
 15 information shall be placed upon the burial permit.

16 **Sec. 3. There is annually appropriated to the governor an**  
 17 **amount of not more than one thousand dollars (\$1,000) from the**  
 18 **state general fund to pay any expenses that are incurred in the**  
 19 **administration and enforcement of this chapter.**

20 **Chapter 18. Stout Field; Ban on Commercial Flights**

21 **Sec. 1. A contract may not be entered into by the adjutant**  
 22 **general or the armory board that provides for the use of Stout**  
 23 **Field, Indianapolis, for purposes of commercial flying by**  
 24 **transportation companies.**

25 SECTION 8. IC 10-17 IS ADDED TO THE INDIANA CODE AS  
 26 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 27 2003]:

28 **ARTICLE 17. VETERANS' AFFAIRS**

29 **Chapter 1. Indiana Veterans' Affairs**

30 **Sec. 1. The purpose of this chapter is to create a department**  
 31 **with full authority to aid and assist veterans of the armed forces of**  
 32 **the United States entitled to benefits or advantages provided on or**  
 33 **after March 3, 1945, by the United States, the state, or another**  
 34 **state or government.**

35 **Sec. 2. (a) The Indiana department of veterans' affairs is**  
 36 **established. The:**

37 (1) department;

38 (2) commission of veterans' affairs;

39 (3) director of veterans' affairs;

40 (4) county and city officers; and

41 (5) assistants and employees of persons described in  
 42 subdivisions (1) through (4);

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1 acting under the supervision of and under the rules of the  
 2 department may act at the request of any veteran of the armed  
 3 forces or a veteran's spouse, surviving spouse, or dependent as  
 4 necessary or reasonably incident to obtaining or attempting to  
 5 obtain for the person making the request any advantage, benefit,  
 6 or compensation accruing, due, or believed to be accruing or due  
 7 to the person under any law of the United States, Indiana, or any  
 8 other state or government by reason of the service of the veteran  
 9 in the armed forces of the United States.

10 (b) The:

11 (1) veterans' affairs commission shall supervise and control  
 12 the department; and

13 (2) director of veterans' affairs shall administer the  
 14 department under the commission's supervision and control;  
 15 as provided in this article.

16 (c) The domicile of the department is in Indianapolis. Suitable  
 17 offices and quarters shall be provided in Indianapolis.

18 Sec. 3. (a) There is established a veterans' affairs commission.  
 19 The commission consists of four (4) members appointed by the  
 20 governor for four (4) year terms. However, terms of office of  
 21 commission members terminate with the term of office of the  
 22 governor or when successors are appointed and qualified.  
 23 Members of the commission must be honorably discharged  
 24 veterans who have had at least six (6) months service in the armed  
 25 forces of the United States and are citizens of the United States and  
 26 Indiana. Not more than two (2) members of the commission may  
 27 be:

28 (1) active members of the same veterans' organization; or

29 (2) members of the same political party.

30 Vacancies in the commission must be filled by the governor, and  
 31 the appointees shall serve for the remainder of the term of office of  
 32 the original appointee. Each member of the commission before  
 33 entering upon the member's duties shall take and subscribe an oath  
 34 that the member will support the Constitution of the United States  
 35 and the Constitution of the State of Indiana and will faithfully  
 36 discharge all the duties devolving upon the member as a member  
 37 of the commission.

38 (b) Members of the commission shall each be paid ten dollars  
 39 (\$10) for each day devoted to the work of the commission but not  
 40 more than one thousand dollars (\$1,000) each in any one (1) fiscal  
 41 year. Members are also entitled to reimbursement for necessary  
 42 traveling and other expenses.



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1 (c) The commission shall elect annually one (1) commission  
2 member as chairperson. The:

3 (1) principal office of the commission must be maintained in  
4 Indianapolis in space:

5 (A) provided by the proper state officials; or

6 (B) rented or otherwise provided if suitable space cannot  
7 be obtained in state buildings;

8 (2) records of the commission must be maintained in the  
9 principal office; and

10 (3) regular meetings of the commission must be held at the  
11 principal office unless the chairperson finds it is necessary or  
12 convenient in the performance of the duties of the commission  
13 to meet at some other place in Indiana.

14 At least one (1) regular meeting must be held per quarter. Special  
15 meetings may be held at times and places specified by the call of  
16 the chairperson, a majority of the commission, or the governor.  
17 Notice of the date, time, and place of meetings must be given in  
18 person or by mail by the director of veterans' affairs. A majority  
19 of the members of the commission constitutes a quorum for the  
20 transaction of business. The director of veterans' affairs shall act  
21 as secretary of the commission and shall keep adequate records  
22 and minutes of the commission's business and official actions.

23 (d) The governor may remove any member of the commission  
24 if the governor considers the member to be guilty of misconduct,  
25 incapability, or neglect of duty.

26 Sec. 4. The commission may do acts necessary or reasonably  
27 incident to the fulfillment of the purposes of this chapter, including  
28 the following:

29 (1) Adopt rules under IC 4-22-2 to administer this chapter.

30 (2) Advise the veterans' state service officer in problems  
31 concerning the welfare of veterans.

32 (3) Determine general administrative policies within the  
33 department.

34 Sec. 5. (a) The position of director of veterans' affairs is  
35 established. The governor shall appoint the director for a four (4)  
36 year term. However, the term of office of the director terminates  
37 when the term of office of the governor terminates or when a  
38 successor to the director is appointed and qualified. The director  
39 must be:

40 (1) an honorably discharged veteran who has at least six (6)  
41 months service in the armed forces of the United States; and

42 (2) a citizen of Indiana and a resident of Indiana for at least

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1 five (5) years immediately preceding the director's  
2 appointment.

3 (b) The director is entitled to reimbursement for necessary  
4 traveling and other expenses.

5 (c) The governor may remove the director if the governor  
6 considers the director guilty of misconduct, incapability, or neglect  
7 of duty.

8 (d) The governor shall appoint an assistant director of veterans'  
9 affairs. The assistant director is entitled to receive reimbursement  
10 for necessary traveling and other expenses. The assistant director  
11 has the same qualifications as the director of veterans' affairs and  
12 shall assist the director in carrying out this chapter.

13 **Sec. 6. (a) The director of veterans' affairs:**

14 (1) is the executive and administrative head of the department  
15 of veterans' affairs; and

16 (2) shall direct and supervise the administrative and technical  
17 activities of the department;

18 **subject to the general supervision of the commission.**

19 (b) The duties of the director include the following:

20 (1) To attend all meetings of the commission and to act as  
21 secretary and keep minutes of the commission's proceedings.

22 (2) To appoint, by and with the consent of the commission,  
23 under this chapter and notwithstanding IC 4-15-2, the  
24 employees of the department necessary to carry out this  
25 chapter and to fix the compensation of the employees.

26 **Employees of the department must be:**

27 (A) honorably discharged veterans who have had at least  
28 six (6) months service in the armed forces of the United  
29 States and who are citizens of the United States and  
30 Indiana; or

31 (B) spouses, surviving spouses, parents, or children of an  
32 individual described in clause (A).

33 **An employee must qualify for the job concerned.**

34 (3) To carry out the program for veterans' affairs as directed  
35 by the governor and the commission.

36 (4) To carry on field direction, inspection, and coordination of  
37 county and city service officers as provided in this chapter.

38 (5) To prepare and conduct service officer training schools  
39 with the voluntary aid and assistance of the service staffs of  
40 the major veterans' organizations.

41 (6) To maintain an information bulletin service to county and  
42 city service officers for the necessary dissemination of

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material pertaining to all phases of veterans' rehabilitation and service work.

(7) To perform the duties described in IC 10-17-11 for the Indiana state veterans' cemetery.

Sec. 7. The director of veterans' affairs may act as agent of a veteran under a power of attorney authorizing the director to act on behalf of the veteran in obtaining a benefit or advantage provided under Indiana law.

Sec. 8. The commission may adopt rules necessary to:

(1) obtain benefits under present and future enactments of the Congress of the United States concerning veterans' affairs; and

(2) enter into on behalf of the state contracts or agreements with the government of the United States to receive benefits under present and future federal enactments concerning veterans' aid and benefits.

A contract or agreement entered into under subdivision (2) must first be approved by the governor and attorney general.

Sec. 9. (a) A county executive:

(1) shall designate and may employ a county service officer; and

(2) may employ service officer assistants; to serve the veterans of the county.

(b) The fiscal body of a city may provide for the employment by the mayor of a city service officer and service officer assistants to serve the veterans of the city.

(c) If the remuneration and expenses of a county or city service officer are paid from the funds of the county or city employing the service officer, the service officer shall:

(1) have the same qualifications and be subject to the same rules as other employees of the department of veterans' affairs; and

(2) serve under the supervision of the director of veterans' affairs.

(d) County and city fiscal bodies may appropriate funds necessary for the purposes described in this section.

Sec. 10. A county or city service officer shall, in the discretion of the director of veterans' affairs, undergo a course of training to adequately address problems of discharged veterans in the service officer's county or city, including a thorough familiarization with laws, rules, and regulations of the federal government and the state that affect benefits to which the veterans and dependents of the

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1 veterans are entitled.

2 **Chapter 2. County Recording of Military Discharge**

3 **Sec. 1.** To provide a special and permanent record of discharges  
4 from a branch of the military service of the United States of  
5 members of a branch of the service who are residents of Indiana,  
6 the county recorder shall procure a sufficiently large and well  
7 bound book of good material in which the county recorder shall  
8 record all discharges.

9 **Sec. 2.** A book providing for the recording of discharges from  
10 the army, navy, or any other branch of the service must consist of  
11 printed forms in blank, similar to and in conformity with the  
12 wording of the forms of discharge used by the United States  
13 government, the size of type being reduced to permit the printing  
14 of the form of the discharge on one (1) page of the record. Each  
15 book must be provided with an alphabetical index.

16 **Sec. 3.** A fee may not be collected for recording a discharge  
17 under this chapter. The recorder shall immediately provide the  
18 discharged person with a certified copy of the discharge at no  
19 charge in accordance with IC 10-17-3-2.

20 **Chapter 3. Certified Copies of Discharge Documents**

21 **Sec. 1.** As used in this chapter, "honorably discharged veterans"  
22 includes persons placed on inactive duty under honorable  
23 conditions but not discharged from military service.

24 **Sec. 2.** The state or a political subdivision shall provide upon  
25 request, without charge or fee, one (1) certified copy of a document  
26 or record if it is shown that the certified copy is necessary to secure  
27 benefits to:

- 28 (1) members of the military service;  
29 (2) honorably discharged veterans; or  
30 (3) surviving spouses or dependents of an individual described  
31 in subdivision (1) or (2);  
32 under a federal or state law.

33 **Sec. 3.** The state or a political subdivision may collect a charge  
34 per copy of not more than the amount specified in IC 36-2-7-10(b)  
35 if a person requests more than one (1) certified copy of the  
36 document or record. The funds received under this section shall be  
37 placed in the general fund of the state or county.

38 **Chapter 4. Leave of Absence for Military Training**

39 **Sec. 1. (a)** A person who:

- 40 (1) is a qualified member of the reserve components of the  
41 armed forces;  
42 (2) is a member of the Ready Reserve;

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1 (3) is a member of an organized unit;  
 2 (4) in order to receive military training with the armed forces  
 3 of the United States not to exceed fifteen (15) days in one (1)  
 4 calendar year:

5 (A) leaves a position other than a temporary position in the  
 6 employ of an employer; and

7 (B) provides evidence:

8 (i) defining date of departure and date of return for  
 9 purposes of military training ninety (90) days before the  
 10 date of departure; and

11 (ii) of the satisfactory completion of the training  
 12 immediately after the training is completed; and

13 (5) is qualified to perform the duties of the position described  
 14 in clause (A);

15 is entitled to be restored to the person's previous or a similar  
 16 position with the same status and pay.

17 (b) Seniority continues to accrue during a period of absence  
 18 described in subsection (a), and the period of absence for military  
 19 training must be construed as an absence with leave. At the  
 20 discretion of the employer, the leave may be with or without pay.

21 Sec. 2. Absence for military training does not affect an  
 22 employee's right to receive normal vacation, sick leave, bonus,  
 23 advancement, and other advantages of the employee's particular  
 24 position.

25 Sec. 3. If an employer fails to comply with sections 1 and 2 of  
 26 this chapter, an employee may:

27 (1) bring an action at law for damages for the employer's  
 28 noncompliance; or

29 (2) apply to the circuit court for equitable relief that is just  
 30 and proper under the circumstances.

31 Sec. 4. (a) A person who, as a reserve member of the armed  
 32 forces of the United States, is called upon to receive temporary  
 33 military training is entitled to a temporary leave of absence from  
 34 the person's employer not to exceed fifteen (15) days per calendar  
 35 year. A person described in this section shall:

36 (1) provide the employer with evidence of the dates of the  
 37 person's departure and return as soon as practicable before  
 38 the person's departure; and

39 (2) furnish the employer, upon the person's return, evidence  
 40 of the person's satisfactory completion of the training.

41 Upon the person's return, the person shall be restored to the  
 42 person's previous or similar position, with the same status that the

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1 person held before leaving for the person's training period.

2 (b) A leave granted under this section may be granted, with or  
3 without pay, within the discretion of the employer.

4 (c) A temporary leave of absence granted under this section does  
5 not affect the rights of the person to vacation leave, sick leave, or  
6 other normal benefits of the person's employment.

7 **Sec. 5.** An employer that refuses to grant an employee a  
8 temporary leave of absence as provided in section 4 of this chapter  
9 is subject to a suit for any damages sustained by the person denied  
10 the leave of absence.

11 **Chapter 5. Veteran Benefits**

12 **Sec. 1.** A person who:

13 (1) served in the:

14 (A) armed forces of the United States in World War II;

15 (B) active military or naval service on or after September  
16 16, 1940, and before the termination of World War II;

17 (C) armed forces of the United States during the Korean  
18 crisis on or after June 25, 1950; or

19 (D) armed services of the United States during the Vietnam  
20 conflict on or after August 5, 1964;

21 (2) sustained injury or disease in the line of duty:

22 (A) as a direct result of armed conflict;

23 (B) while engaged in extra-hazardous service, including  
24 service under conditions simulating war; or

25 (C) while the United States was engaged in war; and

26 (3) was discharged or released from the service specified  
27 under subdivision (1) under conditions other than  
28 dishonorable;

29 and the spouse, surviving spouse, or child of a person described in  
30 subdivisions (1) through (3) who is a resident of Indiana has the  
31 rights and privileges held by soldiers, sailors, nurses, or other  
32 veterans, spouses, surviving spouses, and children of World War  
33 I under section 2 of this chapter or other statutes.

34 **Sec. 2.** The:

35 (1) soldiers and sailors of World War I;

36 (2) soldiers and sailors of the war with Spain;

37 (3) soldiers and sailors of the war in the Philippine Islands;

38 (4) soldiers who were in service on the Mexican border during  
39 the years 1916 and 1917; and

40 (5) soldiers and sailors who are in the regular service of the  
41 United States;

42 who are residents of Indiana and the surviving spouses and

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1 orphans of individuals specified in subdivisions (1) through (5)  
 2 have the rights and privileges held by the soldiers and sailors of the  
 3 Civil War and the surviving spouses and orphans of the soldiers  
 4 and sailors of the Civil War.

5 **Sec. 3. (a) A nurse who:**

- 6 (1) served as a nurse during World War I with the armed  
 7 forces of the United States;  
 8 (2) was honorably discharged from service; and  
 9 (3) is a resident of Indiana;

10 has the benefits, rights, privileges, and immunities conferred under  
 11 Indiana law upon honorably discharged soldiers, sailors, and  
 12 marines who served in World War I.

13 (b) The benefits, rights, privileges, and immunities described in  
 14 subsection (a) that are conferred under Indiana law upon a  
 15 representative, an heir, or a relative of an honorably discharged  
 16 deceased soldier, sailor, or marine who served in the armed forces  
 17 of the United States during World War I are also conferred upon  
 18 a representative, an heir, or a relative of a deceased nurse  
 19 described in subsection (a).

20 **Chapter 6. Contracts of Minor Veterans Under Servicemen's**  
 21 **Readjustment Act of 1944**

22 **Sec. 1. (a) A person who is:**

- 23 (1) less than twenty-one (21) years of age; and  
 24 (2) authorized to participate in the rights, privileges, and  
 25 benefits conferred by the federal Servicemen's Readjustment  
 26 Act of 1944, as amended, and other acts of Congress granting  
 27 a right, privilege, or benefit to veterans;

28 and the minor spouse of a person described in subdivisions (1) and  
 29 (2) may execute a contract that is necessary to the full realization  
 30 of the rights, privileges, and benefits conferred under the federal  
 31 law if the person is otherwise competent to enter into agreements  
 32 and contracts.

33 (b) A contract entered into under subsection (a) by a person who  
 34 is less than eighteen (18) years of age has the same force and effect  
 35 as contractual obligations of a person who is at least eighteen (18)  
 36 years of age.

37 **Chapter 7. Dependent Benefits of Vietnam Prisoners**

38 **Sec. 1. As used in this chapter, "dependent" means a child:**

- 39 (1) born before or during the period during which the child's  
 40 father was a prisoner of war or person missing in action; or  
 41 (2) legally adopted or in the legal custody of the child's father  
 42 before and during the period during which the father was a

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1 prisoner of war or person missing in action.

2 **Sec. 2.** As used in this chapter, "prisoner of war or person  
3 missing in action" means a person who:

4 (1) was a resident of Indiana at the time the person entered  
5 service of the United States armed forces; and

6 (2) while serving in the United States armed forces, was  
7 declared a prisoner of war or a person missing in action as  
8 established by the United States Secretary of Defense after  
9 January 1, 1960.

10 **Sec. 3. (a)** A dependent of a prisoner of war or person missing  
11 in action, upon the person's acceptance for enrollment in an  
12 Indiana state supported institution of higher education or state  
13 supported vocational school, may obtain a bachelor's degree or  
14 certificate of completion without tuition or charge as long as the  
15 dependent is eligible.

16 (b) A dependent is entitled to the benefits of this chapter  
17 notwithstanding any circumstance, including the return of the  
18 father or the reported death of the father.

19 **Chapter 8. Reporting of Veterans Exposed to Chemicals**

20 **Sec. 1.** As used in this chapter, "agent orange" means the  
21 herbicide composed primarily of trichlorophenoxyacetic acid and  
22 dichlorophenoxyacetic acid.

23 **Sec. 2.** As used in this chapter, "department" refers to the  
24 Indiana department of veterans' affairs.

25 **Sec. 3.** As used in this chapter, "director" refers to the director  
26 of veterans' affairs.

27 **Sec. 4.** As used in this chapter, "veteran" means an individual  
28 who:

29 (1) was a resident of Indiana:

30 (A) at the time of the individual's induction into the armed  
31 forces of the United States; or

32 (B) on or before March 31, 1983; and

33 (2) served in Vietnam, Cambodia, or Laos during the Vietnam  
34 conflict.

35 **Sec. 5. (a)** A physician who has primary responsibility for  
36 treating a veteran who believes the veteran may have been exposed  
37 to chemical defoliants or herbicides or similar agents, including  
38 agent orange, while serving in the armed forces of the United  
39 States shall, at the request of the veteran, submit a report to the  
40 department on a form provided by the department. If there is no  
41 physician having primary responsibility for treating the veteran,  
42 the hospital treating the veteran shall, at the request of the veteran,

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1 submit the report to the department. If the veteran desires to  
 2 submit a report directly to the department, the veteran must  
 3 submit the report on a form provided by the department and made  
 4 available to the veteran at physicians' offices, hospitals, and county  
 5 courthouses.

6 (b) The department shall provide forms to all physicians,  
 7 hospitals, and county courthouses in Indiana for distribution to a  
 8 veteran who believes that the veteran may have been exposed to  
 9 chemical defoliant or herbicides or similar agents while serving in  
 10 the armed forces of the United States. Forms provided under this  
 11 subsection must request the following information:

12 (1) Symptoms of the veteran that may be related to exposure  
 13 to a chemical defoliant or herbicide or similar agent,  
 14 including agent orange.

15 (2) Diagnosis of the veteran.

16 (3) Methods of treatment prescribed.

17 (c) The department may require the veteran to provide other  
 18 information determined by the director.

19 Sec. 6. (a) The department, in consultation and cooperation with  
 20 a department certified medical toxicologist and herbicide specialist,  
 21 shall compile information submitted under this chapter into a  
 22 report. The report must contain an evaluation of the information  
 23 and shall be distributed annually to the legislative services agency,  
 24 the United States Department of Veterans Affairs, the state  
 25 department of health, and other veterans groups. The report must  
 26 also contain:

27 (1) current research findings on the exposure to chemical  
 28 defoliant or herbicides or similar agents, including agent  
 29 orange; and

30 (2) statistical information compiled from reports submitted by  
 31 physicians or hospitals.

32 (b) The department shall forward to the United States  
 33 Department of Veterans Affairs a copy of all forms submitted to  
 34 the department under section 5 of this chapter.

#### 35 Chapter 9. Indiana Veterans' Home

36 Sec. 1. The conduct and maintenance of the Indiana Veterans'  
 37 Home, located near Lafayette in Tippecanoe County, Indiana, are  
 38 governed by this chapter and IC 16-19-6.

39 Sec. 2. The home may receive for the use of the institution and  
 40 expend as the donor directs:

41 (1) gifts;

42 (2) legacies;

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1           (3) devises; and  
 2           (4) conveyances;  
 3 of real and personal property that are made, given, or granted to  
 4 or for the home or in its name.

5           Sec. 3. The board of county commissioners in each county may  
 6 appropriate money out of the general fund of the county to erect  
 7 cottages or any other needed building on the grounds of the home.

8           Sec. 4. The superintendent of the Indiana Veterans' Home,  
 9 subject to applicable orders and rules made by the administrative  
 10 unit for special institutions of the state department of health:

11           (1) has the immediate charge and management of the  
 12 institution;

13           (2) directs and controls the resident employees; and

14           (3) superintends the care and management of the members in  
 15 the home.

16           Sec. 5. (a) A person may not be appointed or employed in a  
 17 office or a place in the institution by the superintendent of the  
 18 Indiana Veterans' Home because of the political views or affiliation  
 19 of the appointee or employee or for a reason other than capacity  
 20 and fitness for the duties to be performed by the appointee or  
 21 employee. However, among applicants for appointment found  
 22 capable and fit, preference shall be given to an honorably  
 23 discharged military veteran and the spouse, widow, widower,  
 24 mother, and child of an honorably discharged military veteran.

25           (b) In appointing a candidate for the position of superintendent  
 26 of the Indiana Veterans' Home, the state health commissioner shall  
 27 give preference to a person who has been honorably discharged  
 28 after service in the armed forces of the United States.

29           Sec. 6. The superintendent may remove or suspend an employee  
 30 appointed by the superintendent of the Indiana Veterans' Home  
 31 only for cause and subject to the state personnel act under  
 32 IC 4-15-2.

33           Sec. 7. (a) The following persons who are legal residents of  
 34 Indiana for at least three (3) years immediately preceding  
 35 application for admission and who are disabled or destitute are  
 36 eligible for admission to the home:

37           (1) An honorably discharged member of the armed forces who  
 38 has served with the United States in any of its wars.

39           (2) An honorably discharged member of the armed forces who  
 40 has served in an authorized campaign of the United States and  
 41 who has a service connected disability, as evidenced by a  
 42 pension certificate or the award of compensation.

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1           **(3) The spouse of an honorably discharged member of the**  
 2           **armed forces described in subdivision (1) or (2).**

3           **(4) The surviving spouse of an honorably discharged member**  
 4           **of the armed forces described in subdivision (1) or (2).**

5           **(b) The administrative head of the administrative unit for**  
 6           **special institutions of the state department of health or its**  
 7           **successor shall adopt rules concerning admission to the home.**

8           **(c) In adopting rules governing the admission, maintenance, and**  
 9           **discharge of members of the veterans' home, the administrative**  
 10           **head of the administrative unit for special institutions of the state**  
 11           **department of health or its successor may establish a fund called**  
 12           **the veterans' home comfort and welfare fund. The administrative**  
 13           **head shall deposit all money collected from the members for the**  
 14           **cost of their care and maintenance in the fund. The administrative**  
 15           **head shall expend this money in any manner that adds to the**  
 16           **comfort and welfare of the members of the institutions.**

17           **(d) A part of the veterans' home comfort and welfare fund may**  
 18           **be withdrawn and deposited in a special fund called the veterans'**  
 19           **home building fund. The veterans' home building fund shall be**  
 20           **used for the construction, maintenance, remodeling, or repair of**  
 21           **buildings of the Indiana Veterans' Home.**

22           **(e) Preference under this section may be given to a person who**  
 23           **served in an Indiana military organization. Except in cases where**  
 24           **the surviving spouse of a veteran marries another veteran, the**  
 25           **benefits of this chapter extend only to a surviving spouse and the**  
 26           **spouse of a veteran if the contract of marriage was entered into**  
 27           **more than five (5) years before the date of death of the veteran.**  
 28           **Except as otherwise provided by law, upon the death of a person in**  
 29           **the home, money paid to the person or due to the person from a**  
 30           **bank, a trust company, a corporation, or an individual becomes an**  
 31           **asset of the person's estate and shall be distributed in the manner**  
 32           **prescribed by the probate law of the state.**

33           **Sec. 8. (a) Each member, the estate of a deceased member, or**  
 34           **the estate of a member under guardianship is liable for the costs of**  
 35           **maintenance of the member in an amount up to one hundred**  
 36           **percent (100%) of the daily per capita cost of personal services and**  
 37           **all other operating expenses for the preceding fiscal year. The per**  
 38           **capita charge may be adjusted to reflect the level of care provided.**

39           **(b) The level of care must be as consistent as possible with:**

40           **(1) the care category of the facility in which the member is**  
 41           **placed;**

42           **(2) the rules of the Indiana health facilities council adopted**



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1 under IC 16-28; and

2 (3) the applicable code of the federal government covering  
3 reimbursement from the United States Department of  
4 Veterans' Affairs or another department of the federal  
5 government.

6 (c) The liability created for the costs of maintenance of a  
7 member constitutes a lien upon the real property of the member if  
8 the lien is recorded as provided in this chapter. The lien has  
9 priority over all liens subsequently acquired.

10 Sec. 9. (a) The billing and collection of the maintenance cost of  
11 a member under section 8 of this chapter shall be made by the  
12 superintendent of the Indiana Veterans' Home based on the per  
13 capita cost for the preceding fiscal year.

14 (b) All money collected shall be deposited in the veterans' home  
15 comfort and welfare fund. The fund shall be used in part by the  
16 state health commissioner for the comfort and welfare of the  
17 members and in part to reimburse the state general fund in an  
18 amount specified by the general assembly.

19 (c) Excess money in the veterans' home comfort and welfare  
20 fund shall be placed in the veterans' home building fund.

21 (d) The fund shall be used for new construction, maintenance,  
22 remodeling, and repair of the buildings at the Indiana Veterans'  
23 Home.

24 Sec. 10. (a) The superintendent of the Indiana Veterans' Home,  
25 with the approval of the state health commissioner, may accept  
26 payment at a lesser rate than prescribed in section 8 of this  
27 chapter. The superintendent of the Indiana Veterans' Home, in  
28 determining whether or not to accept the lesser amount, shall  
29 consider the amount of money necessary to maintain or support a  
30 dependent of the member. An agreement to accept a lesser amount  
31 is subject to cancellation or modification at any time by the  
32 superintendent of the Indiana Veterans' Home with the approval  
33 of the state health commissioner.

34 (b) A member who is issued a statement of a sum due as  
35 maintenance charges may petition the superintendent of the  
36 Indiana Veterans' Home for a release from or modification of the  
37 statement. The superintendent shall submit a written statement of  
38 the facts to the state health commissioner for a final determination.

39 Sec. 11. (a) The superintendent of the Indiana Veterans' Home,  
40 with the approval of the state health commissioner, may adopt a  
41 standard method of determining a lesser rate to be accepted in  
42 settlement of maintenance charges due from a member of the

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1 home. A member shall receive at least thirty dollars (\$30) per  
2 month for personal needs before a maintenance charge is levied  
3 against current income.

4 (b) The monthly maintenance charge may not exceed  
5 one-twelfth (1/12) of the annual per capita cost of the preceding  
6 year.

7 (c) The superintendent may adjust the standard for determining  
8 the lesser rate to provide that in the case of married members with  
9 the spouses residing at the home this standard will allow at least  
10 forty dollars (\$40) to be deducted from income by the member  
11 before the charge for maintenance is applied.

12 (d) The superintendent, in adopting the standard method of  
13 determining a lesser rate to be accepted in settlement of  
14 maintenance charges due from a member of the home, shall take  
15 into account as current income:

- 16 (1) a pension;
- 17 (2) compensation or income from any source; and
- 18 (3) benefits from:
  - 19 (A) the federal Social Security Administration;
  - 20 (B) the railroad retirement law; or
  - 21 (C) a retirement annuity or insurance annuity.

22 (e) The agreement to accept a lesser rate from current income  
23 does not relieve the estate of the member of the charge for the full  
24 per capita cost for the period the member resided in the home.  
25 However, the claim for the full per capita cost will not be filed or  
26 allowed if there is a surviving spouse, dependent child less than  
27 eighteen (18) years of age, or dependent parent.

28 Sec.12. (a) If charges for the cost of maintenance of a member  
29 remain unpaid in whole or in part for a period of six (6) months,  
30 the superintendent of the Indiana Veterans' Home may file, in the  
31 office of the county recorder of the county in which the real  
32 property is located, a notice of lien designating:

- 33 (1) the name and place of residence of the member against  
34 whose property the lien is asserted;
- 35 (2) the date when the charges become delinquent for more  
36 than six (6) months; and
- 37 (3) a legal description of the real property subject to the lien.

38 One (1) copy of the notice of lien shall be retained by and filed in  
39 the office of the superintendent, and one (1) copy shall be furnished  
40 to the member or guardian.

41 (b) From the date on which notice of lien is recorded in the  
42 office of the county recorder, the recorded notice constitutes due

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1 notice of a lien against the member or the member's estate for any  
2 amounts then recoverable and any amounts that become  
3 recoverable under this chapter and gives a specific lien in favor of  
4 the Indiana Veterans' Home. The lien continues from the date of  
5 filing until the lien is satisfied or released.

6 Sec. 13. (a) The attorney general, upon notification of the  
7 superintendent of the Indiana Veterans' Home, shall file a claim in  
8 the name of the state on behalf of the superintendent of the home  
9 against the estate of a person who fails to make payment as  
10 required in this chapter. If the claim is allowed or judgment is  
11 obtained, the claim or judgment constitutes a lien against that part  
12 of the estate of the person described in the claim.

13 (b) The attorney general may bring suit against the legal  
14 guardian of a patient for failure to comply with an established  
15 maintenance agreement or for failure to make an agreement. Suit  
16 may be brought for the amount due the state for the maintenance  
17 charges of the member. The court may order the payment of  
18 maintenance charges for a period as the circumstances require. An  
19 order may be entered against one (1) or more of the defendants. An  
20 order for the payment of money may be enforced by attachment,  
21 garnishment, or a proceeding supplemental against the defendants.  
22 Other judgments at law and costs may be adjudged against the  
23 defendants and apportioned among them.

24 (c) The attorney general may bring a proceeding to foreclose on  
25 a lien arising from maintenance charges under section 8 of this  
26 chapter during the lifetime of the member if the superintendent  
27 believes it is in the best interest of the veterans' home to foreclose  
28 on the lien.

29 (d) Upon:

- 30 (1) the death of a member whose property is encumbered by  
31 a lien arising under section 8 of this chapter; and  
32 (2) notification by the superintendent;

33 the attorney general shall file a claim against the member's estate  
34 for recovery of all charges for maintenance that have accrued at  
35 the date of death. Notwithstanding any other law, a claim filed for  
36 recovery of charges for maintenance has priority in order of  
37 payment from the estate over all other claims except prior  
38 recorded encumbrances, taxes, reasonable costs of administration,  
39 and reasonable funeral expenses. However, if real property of the  
40 deceased member is occupied by a surviving spouse of the member,  
41 the home may not assert its lien or claim during the lifetime of the  
42 surviving spouse. However, if other claimants or persons have

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1 opened an estate and are attempting to enforce their claims, or if  
 2 there have been fraudulent attempts to avoid the claim or lien, the  
 3 veterans' home shall file and assert the claim for recovery of costs  
 4 of treatment and maintenance.

5 **Sec. 14.** The superintendent of the Indiana Veterans' Home may  
 6 make agreements with instrumentalities of the federal government  
 7 for application of monetary awards to be applied toward the  
 8 maintenance charges to provide a sufficient amount of the periodic  
 9 award to be deposited in the member's trust account to meet the  
 10 immediate personal needs of a member. The amount applied  
 11 toward the settlement of maintenance charges may not exceed the  
 12 amount specified in section 8 of this chapter.

13 **Sec. 15. (a)** If space is available, the superintendent of the  
 14 Indiana Veterans' Home, with the approval of the state health  
 15 commissioner, may accept a veteran who is:

- 16 (1) otherwise eligible for admission to the home;
- 17 (2) in need of nursing home care; and
- 18 (3) transferred at the request of the United States Department  
 19 of Veterans' Affairs from one (1) of its facilities.

20 **(b)** The United States Department of Veterans' Affairs under  
 21 United States Department of Veterans' Affairs regulations shall  
 22 award the cost of care to the home. A rate of charge described in  
 23 section 8 of this chapter may not be used to determine the cost of  
 24 care under this section.

25 **Sec. 16. (a)** The treasurer of state may require an investigation  
 26 to determine the true number of members in the home at any time.

27 **(b)** Twenty percent (20%) of the money annually allowed by the  
 28 government of the United States for a military veteran maintained  
 29 in the home shall be deposited in the state general fund to the  
 30 credit of the veterans' home building fund. Money deposited in the  
 31 state general fund may be invested in securities of the United States  
 32 government. The money in the building fund shall be used only for  
 33 the maintenance, remodeling, or repair of buildings at the Indiana  
 34 Veterans' Home. Money deposited in the building fund is  
 35 appropriated and subject to allocation by the budget committee.  
 36 The remaining eighty percent (80%) of the money annually  
 37 allowed by the government of the United States for a military  
 38 veteran maintained in the home shall be deposited in the state  
 39 general fund as a reimbursement to the general fund for operating  
 40 expenses of the home.

41 **Chapter 10. Veterans' Burial Allowance**

42 **Sec. 1. If:**

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1 (1) a person who dies:

2 (A) has served as a member of the armed forces of the  
 3 United States as a soldier, sailor, or marine in the army, air  
 4 force, or navy of the United States or as a member of the  
 5 women's components of the army, air force, or navy of the  
 6 United States, is a resident of Indiana, and while a member  
 7 of the armed forces and before discharge from the armed  
 8 forces or after receiving an honorable discharge from the  
 9 armed forces; or

10 (B) is the spouse or surviving spouse of a person described  
 11 in clause (A) who is a resident of Indiana; and

12 (2) a claim is filed for a burial allowance:

13 (A) by an interested person with the board of  
 14 commissioners of the county of the residence of the  
 15 deceased person; and

16 (B) stating the fact:

17 (i) of the service, death, and discharge if discharged from  
 18 service before death; and

19 (ii) that the body has been buried in a decent and  
 20 respectable manner in a cemetery or burial ground;

21 the board of commissioners shall hear and determine the claim like  
 22 other claims and, if the facts averred are found to be true, shall  
 23 allow the claim of not more than one hundred dollars (\$100) for  
 24 service rendered and material furnished in care of the body and  
 25 where necessary an amount of not more than twenty-five dollars  
 26 (\$25) for a place of burial of the body.

27 Sec. 2. (a) Not more than one (1) claim may be allowed for a  
 28 decedent who qualifies under this chapter.

29 (b) The total sum of the claim filed and for which allowances  
 30 must be made may not exceed one hundred dollars (\$100).  
 31 However, if the federal government provides a marker for the  
 32 grave of the person, the board of commissioners shall make a  
 33 further allowance of not more than one hundred dollars (\$100) for  
 34 setting of the marker.

35 Sec. 3. Money expended by a county under this chapter shall be  
 36 considered a gift. Persons for and on behalf of the state or a  
 37 political subdivision of the state may not file a claim for a lump  
 38 sum death benefit with the federal Social Security Administration  
 39 claiming reimbursement for money so expended.

40 Sec. 4. Before a person enters into a contract to set a grave  
 41 marker provided by the federal government as described in section  
 42 2(b) of this chapter with a person who receives the grave marker

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1 from the federal government or the person's representative, the  
 2 person who will set the grave marker must disclose the following  
 3 information to the person who receives the grave marker or the  
 4 person's representative:

5 (1) The price of the least expensive installation procedure that  
 6 the person who will set the grave marker will charge and a  
 7 description of the goods and services included in the  
 8 procedure.

9 (2) The prices of any other installation procedures or options  
 10 that may be performed or provided by the person who will set  
 11 the grave marker and a description of the goods and services  
 12 included in the procedures or options.

13 **Chapter 11. Indiana State Veterans' Cemetery**

14 **Sec. 1.** As used in this chapter, "cemetery" refers to the Indiana  
 15 state veterans' cemetery established by this chapter.

16 **Sec. 2.** As used in this chapter, "commission" refers to the  
 17 veterans' affairs commission established by IC 10-17-1-3.

18 **Sec. 3.** As used in this chapter, "department" refers to the  
 19 Indiana department of veterans' affairs established by  
 20 IC 10-17-1-2.

21 **Sec. 4.** The Indiana state veterans' cemetery is established.

22 **Sec. 5.** The cemetery consists of real property located on the  
 23 grounds of Madison State Hospital in Jefferson County, Indiana.

24 **Sec. 6.** The director of veterans' affairs or the director's  
 25 designee may act under this chapter as the official representative  
 26 for the commission in accordance with IC 10-17-1-8.

27 **Sec. 7.** The department may do the following:

28 (1) Adopt rules under IC 4-22-2 to carry out this chapter.

29 (2) Contract with persons or agencies to carry out the duties  
 30 established under this chapter.

31 **Sec. 8.** The department shall do the following:

32 (1) Oversee the construction of the cemetery.

33 (2) Operate and maintain the cemetery.

34 **Sec. 9. (a)** The Indiana state veterans' cemetery fund is  
 35 established as a dedicated fund for the purpose of providing money  
 36 for planning, construction, operation, and maintenance of the  
 37 cemetery. The fund shall be administered by the director of  
 38 veterans' affairs.

39 **(b)** The expenses of administering the fund shall be paid from  
 40 money in the fund. The fund consists of the following:

41 (1) Money appropriated by the general assembly for purposes  
 42 of this chapter.

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1           **(2) Money donated to the department and designated for use**  
 2           **under this chapter.**

3           **(3) Funds received from the federal government.**

4           **(4) Funds received in payment for services.**

5           **(c) The treasurer of state shall invest the money in the fund not**  
 6           **currently needed to meet the obligations of the fund in the same**  
 7           **manner as other public funds may be invested. Interest that**  
 8           **accrues from investments shall be deposited in the fund.**

9           **(d) Money in the fund at the end of a state fiscal year does not**  
 10           **revert to the state general fund. However, if the fund is abolished**  
 11           **by the budget agency, all money in the fund reverts to the state**  
 12           **general fund.**

13           **(e) All earnings accruing to the state veterans' cemetery fund is**  
 14           **appropriated continuously for the purposes specified in this**  
 15           **section.**

16           **(f) Except as provided in subsection (e), money in the fund must**  
 17           **be retained in the fund unless the money is appropriated for a**  
 18           **specific purpose by the general assembly upon the recommendation**  
 19           **of the budget committee.**

20           **Sec. 10. (a) A veteran who is eligible to be buried in a national**  
 21           **cemetery according to 38 U.S.C. 2402 is eligible to be buried in the**  
 22           **Indiana state veterans' cemetery established under this chapter.**

23           **(b) The spouse of a veteran who is eligible to be buried in a**  
 24           **national cemetery according to 38 U.S.C. 2402 is eligible to be**  
 25           **buried in the Indiana state veterans' cemetery established under**  
 26           **this chapter.**

27           **SECTION 9. IC 10-18 IS ADDED TO THE INDIANA CODE AS**  
 28           **A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 29           **2003]:**

30           **ARTICLE 18. WAR MEMORIALS**

31           **Chapter 1. Indiana War Memorials Commission**

32           **Sec. 1. As used in this chapter, "commission" refers to the**  
 33           **Indiana war memorials commission established by section 2 of this**  
 34           **chapter.**

35           **Sec. 2. (a) The Indiana war memorials commission is**  
 36           **established.**

37           **(b) The commission consists of ten (10) members. Each Indiana**  
 38           **congressional district must be represented by at least one (1)**  
 39           **member who is:**

40           **(1) a resident of that congressional district;**

41           **(2) a veteran of service in the armed forces of the United**  
 42           **States of America in time of war;**

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- 1           **(3) a citizen of Indiana at the time of the service; and**  
 2           **(4) appointed:**  
 3               **(A) in the manner;**  
 4               **(B) for the terms;**  
 5               **(C) to have the powers; and**  
 6               **(D) to perform the duties;**  
 7           **as provided in this chapter.**  
 8           **(c) The commission:**  
 9               **(1) as the commission and in the commission's name, may**  
 10              **prosecute and defend suits; and**  
 11              **(2) has all other duties, rights, and powers that are:**  
 12                  **(A) necessary to implement this chapter; and**  
 13                  **(B) not inconsistent with this chapter.**  
 14           **(d) The members of the commission are not liable in their**  
 15           **individual capacity, except to the state, for any act done or omitted**  
 16           **in connection with the performance of their duties under this**  
 17           **chapter.**  
 18           **(e) A suit against the commission must be brought in a court**  
 19           **with jurisdiction in Marion County. Notice or summons of the suit**  
 20           **shall be served upon the president, vice president, or secretary of**  
 21           **the commission. In a suit against the commission, it is not necessary**  
 22           **to name the individual members of the commission as either**  
 23           **plaintiff or defendant. Commission members may sue and be sued**  
 24           **in the name of the Indiana war memorials commission.**  
 25           **(f) The commission shall:**  
 26               **(1) report to the governor through the adjutant general; and**  
 27               **(2) be under the adjutant general for administrative**  
 28               **supervision.**  
 29           **Sec. 3. (a) The governor shall appoint members of the**  
 30           **commission for a term of three (3) years, subject to removal as**  
 31           **provided in this section.**  
 32           **(b) The commissioners:**  
 33               **(1) must be persons of high standing and character; and**  
 34               **(2) serve without compensation, except for reimbursement for**  
 35               **any reasonable expenses necessarily incurred by the**  
 36               **commissioners in the performance of their duties.**  
 37           **(c) The commissioners shall be selected without regard to their**  
 38           **political affiliations. However, not more than six (6) of the**  
 39           **commissioners at any time may be members of the same political**  
 40           **party.**  
 41           **(d) The governor may, for just cause, based upon written**  
 42           **charges specifying alleged misconduct, remove any member of the**

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1 commission, after notice to the member and a public hearing.

2 (e) The governor shall appoint a qualified person to fill the  
3 unexpired term of a member who does not complete the member's  
4 term.

5 Sec. 4. (a) The governor shall execute a certificate of  
6 appointment that makes reference to this chapter and sets forth the  
7 term of appointment for each member of the commission. The  
8 governor shall deposit the certificates of appointment in the office  
9 of the secretary of state, who shall record the certificates in a book  
10 kept for that purpose.

11 (b) The secretary of state shall notify each person appointed as  
12 a commissioner of the person's appointment. The person's  
13 acceptance of the appointment shall be signified by subscribing to  
14 an oath, to be endorsed on the certificate of appointment:

15 (1) to support the Constitution of the United States and the  
16 Constitution of the State of Indiana; and

17 (2) to faithfully and honestly discharge the person's duty  
18 under the law as a commissioner.

19 (c) The secretary of state shall deliver the certificate, when  
20 recorded, to the person named in the certificate. The certificate  
21 constitutes the commission of the person named as a member of the  
22 commission for the term specified.

23 (d) If a person appointed fails to qualify under this section  
24 within ten (10) days after notice of the person's appointment, the  
25 governor shall appoint another qualified person as a commissioner.

26 Sec. 5. (a) The commission shall elect the following:

27 (1) One (1) member of the commission to serve as president.

28 (2) One (1) member of the commission to serve as vice  
29 president.

30 (3) One (1) qualified person who is not a member of the  
31 commission to serve as secretary of the commission.

32 The commission shall elect officers each year. Officers shall hold  
33 their respective offices for one (1) year or during the pleasure of  
34 the commission.

35 Sec. 6. (a) The president and vice president of the commission  
36 shall, before entering upon the discharge of their duties, give bond  
37 to the approval of the governor, each in the sum of ten thousand  
38 dollars (\$10,000), conditioned for the faithful performance of the  
39 duties as may be imposed upon them by law.

40 (b) The officers and any other officers required to give a bond  
41 under this chapter may furnish as surety any surety company  
42 authorized to transact business in Indiana that meets the approval

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1 of the commission, and the premium on any such shall be paid as  
2 a part of the expenses of the commission.

3 **Sec. 7. (a) The president shall do the following:**

4 (1) Preside over the meetings of the commission.

5 (2) Sign all vouchers approved by the commission under this  
6 chapter.

7 (3) Sign all contracts and agreements in the name of the  
8 commission that have been authorized by the commission. The  
9 secretary shall attest to contracts signed by the president.

10 (b) If the president is absent or unable to act, the vice president  
11 shall perform the president's duties.

12 **Sec. 8. (a) The secretary appointed by the commission shall take  
13 an oath to faithfully perform the duties of the secretary's office.**

14 (b) The secretary shall do the following:

15 (1) Keep a record of the proceedings of the commission.

16 (2) Make a record of contracts and obligations.

17 (3) Furnish each contractor with a copy of the contractor's  
18 contract that:

19 (A) is endorsed "approved by order of the commission";

20 (B) lists the date of the approval; and

21 (C) is signed by the secretary.

22 A contract is not valid until endorsed and delivered by the  
23 secretary.

24 (4) Certify all vouchers ordered by the commission.

25 (5) Keep a set of books to show the financial condition of the  
26 commission.

27 (6) Make quarterly statements as provided in this chapter of  
28 the costs and expenditures of the commission, a complete list  
29 of vouchers, and for what purpose and to whom paid. The  
30 reports shall be filed with the auditor of state as provided in  
31 this chapter and are open to the inspection and use of the  
32 general assembly.

33 (c) The secretary shall give a bond in the sum of ten thousand  
34 dollars (\$10,000) for the faithful performance of the secretary's  
35 duties.

36 (d) The contracts for any purpose connected with the Indiana  
37 World War Memorial shall be recorded by the secretary in a book  
38 kept for that purpose. The secretary shall retain on file all  
39 vouchers and other valuable papers of value to the commission, to  
40 the contractor, and to the public.

41 **Sec. 9. (a) The commission may employ a superintendent.**

42 (b) The superintendent shall give bond in an amount and with

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1 surety to be approved by the commission.

2 (c) The superintendent's duties and compensation shall be  
3 prescribed by the commission.

4 **Sec. 10. (a) The commission shall employ an individual who is  
5 responsible for the care and preservation of all personal property  
6 owned by the commission that has historic significance.**

7 (b) The individual employed by the commission under  
8 subsection (a) must meet the qualifications set by the division of  
9 state museums and historic sites of the department of natural  
10 resources.

11 **Sec. 11. (a) The commission shall do the following:**

12 (1) Keep a record of the commission's proceedings.

13 (2) Make a quarterly report for public use that includes the  
14 following:

15 (A) A detailed account of the expenditures of the  
16 commission.

17 (B) A summary of the commission's proceedings that  
18 includes:

19 (i) a statement of all contracts let;

20 (ii) the name of the person to whom the contracts were  
21 let; and

22 (iii) the amount of each contract.

23 (b) The report required under subsection (a) must be filed with  
24 the auditor of state.

25 (c) Reports created and filed under this section are public  
26 records.

27 **Sec. 12. (a) The commission may adopt rules that set forth:**

28 (1) the time, place, and method of calling and conducting  
29 meetings; and

30 (2) the manner and method of the conduct of business,  
31 including:

32 (A) the government and regulation of the commission's  
33 employees; and

34 (B) the management of the ground and premises under the  
35 commission's care and control;

36 as the commission considers prudent and not inconsistent with this  
37 chapter and other statutes.

38 (b) The commission shall meet at the call of the commission's  
39 president or at the time set forth in the commission's rules. A  
40 majority of the members constitutes a quorum for the transaction  
41 of business. However, all official action of the commission must  
42 receive the approval in a meeting of a majority of all the members

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1 of the commission.

2 **Sec. 13. (a) The commission shall designate one (1) of its**  
 3 **members to do the following:**

4 **(1) Assume general charge of and preserve all Indiana battle**  
 5 **flags.**

6 **(2) Have custody of all battle and organization flags in the**  
 7 **possession of the state that were used by any of the military**  
 8 **organizations of the state:**

9 **(A) in any of the wars or campaigns in which the United**  
 10 **States has been engaged; and**

11 **(B) in which Indiana veterans have participated.**

12 **(3) In the preservation of the battle flags, as far as possible,**  
 13 **see that the name and the branch of service in which the**  
 14 **organization served are attached to or preserved with the flag.**

15 **(4) Collect data in reference to each organization or military**  
 16 **unit whose flag is in the possession of the commission and**  
 17 **place the data with the flag or banner of each of the**  
 18 **organizations or military units.**

19 **(b) The commission shall do the following:**

20 **(1) Collect Indiana battle flags not in the possession of the**  
 21 **state from the United States, patriotic societies, or individuals.**

22 **(2) Reinforce, collect the data for, and otherwise prepare all**  
 23 **battle flags for preservation.**

24 **(3) Collect, systematize, and prepare a brief history of each**  
 25 **flag and index and catalogue each flag.**

26 **(4) Collect, purchase, and procure all necessary materials for**  
 27 **the preservation of the flags.**

28 **(5) For the purpose of collecting and preparing the necessary**  
 29 **data, reinforcing the flags, and performing other duties**  
 30 **required by this chapter:**

31 **(A) with the approval of the budget agency, employ and fix**  
 32 **the compensation of employees as may be necessary; and**

33 **(B) purchase material of any character that is required in**  
 34 **carrying out this chapter.**

35 **Sec. 14. (a) The Civil War flags fund is established to restore**  
 36 **and preserve Civil War flags.**

37 **(b) The commission:**

38 **(1) shall administer the fund; and**

39 **(2) may spend the money in the fund for the purposes of the**  
 40 **fund.**

41 **(c) The expenses of administering the fund shall be paid from**  
 42 **money in the fund.**

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1 (d) The treasurer of state shall invest the money in the fund not  
 2 currently needed to meet the obligations of the fund in the same  
 3 manner as other public funds may be invested. Interest that  
 4 accrues from these investments shall be deposited in the fund.

5 (e) All money accruing to the fund is appropriated continuously  
 6 for the purposes of the fund.

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

9 Sec. 15. (a) All flag cases completed shall be in the custody of the  
 10 commission. The superintendent shall have the cases cleaned  
 11 periodically as necessary.

12 (b) The commission may determine the method and manner in  
 13 which the flags shall be preserved.

14 Sec. 16. (a) Out-lot five (5) and out-lot thirty-six (36), in  
 15 Indianapolis, according to the original plat of the city, are  
 16 dedicated and set apart as grounds for the Indiana War Memorial  
 17 subject to the provisions of this chapter.

18 (b) Out-lots five (5) and thirty-six (36) dedicated in subsection  
 19 (a), together with all or any part of squares five (5) and sixteen (16)  
 20 or any part of those squares, in Indianapolis, according to the  
 21 original plat of the city, that are acquired, dedicated, and set apart  
 22 and added to the real estate dedicated in subsection (a) by:

23 (1) the state; or

24 (2) Indianapolis, by Marion County, or Indianapolis and  
 25 Marion County jointly and then conveyed by the city, county,  
 26 or city and county jointly by proper deed, grant, or contract  
 27 to the state;

28 for War Memorial and other public purposes constitutes and shall  
 29 be referred to as "Memorial Place". The permanent name of  
 30 "Memorial Place" shall be selected by the commission.

31 (c) A necessity is declared to exist to limit:

32 (1) the kind, character, and height of buildings upon; and

33 (2) the use of real estate and buildings that are located within  
 34 three hundred (300) feet of the outside boundaries of;

35 Memorial Place as constituted in this chapter. The commission  
 36 may acquire, by purchase, donation, or condemnation, the right to  
 37 limit the kind, character, and height of buildings upon and the use  
 38 of real estate and buildings on real estate within three hundred  
 39 (300) feet of the outside boundaries of Memorial Place.

40 (d) The commission shall erect and maintain in Indianapolis,  
 41 upon or within grounds dedicated or acquired under this chapter,  
 42 as the commission considers best, a suitable structure or

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1 structures:

2 (1) to commemorate the valor and sacrifice of the soldiers,  
3 sailors, and marines of the United States and of all others who  
4 rendered faithful, loyal, heroic, and self-sacrificing service at  
5 home and overseas in World War I;

6 (2) to provide a place or places of meeting and headquarters  
7 for organizations of soldiers, sailors, and marines or any other  
8 patriotic societies or associations;

9 (3) to keep records, archives, documents, flags, mementos, and  
10 relics; and

11 (4) for other public meetings and other public purposes;

12 to inculcate a true understanding and appreciation of the duties,  
13 benefits, and privileges of American citizenship and inspire  
14 patriotism and respect for the law to the end that peace may  
15 prevail, good will be promoted, justice be administered and  
16 established, public order maintained, and liberty and freedom  
17 under the law perpetuated.

18 Sec. 17. (a) If squares five (5) and sixteen (16) or any part of  
19 those squares in Indianapolis, according to the original plat of the  
20 city, are acquired, dedicated, and set apart and added to the real  
21 estate dedicated in this chapter by the state for war memorial and  
22 other public purposes by Indianapolis, by Marion County, or by  
23 the city and county jointly by proper deed, contract, or grant, by  
24 which the city or county, or the city and county jointly, convey the  
25 real estate or any part of the real estate to the state for war  
26 memorial and other public purposes, the commission may accept  
27 from the city, the county, or the city and county jointly the deed,  
28 grant, or contract by which the real estate or any part of the real  
29 estate is conveyed to the state for war memorial and other public  
30 purposes, subject to the terms, conditions, and provisions  
31 contained in the deed, grant, or contract.

32 (b) The commission may agree that, to the extent that the city,  
33 the county, or the city and county jointly appropriate and use  
34 money in the acquisition of the real estate or any part of the real  
35 estate, the real estate and interests in the real estate and the  
36 memorial structures erected on the real estate (to the extent of the  
37 money so appropriated and used by the city, by the county, or by  
38 the county and city jointly) shall be a city war memorial, a county  
39 war memorial, or a joint war memorial.

40 (c) If the real estate or any part of the real estate is acquired and  
41 conveyed to the state, the commission may erect structures on  
42 outlots five (5) and thirty-six (36) dedicated in this chapter or upon

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1 any part of the real estate so dedicated or acquired as provided in  
2 this chapter as the commission considers best.

3 (d) The commission shall develop any part or all of the real  
4 estate described in this chapter that has been dedicated or acquired  
5 as provided in this chapter as a memorial place, together with  
6 square twenty-five (25), known as University Square in  
7 Indianapolis, according to the original plat of the city, to secure a  
8 harmonious and unified architectural and aesthetic effect of the  
9 entire series of grounds used and dedicated for memorial purposes.  
10 The grounds must include square twenty-five (25), known as  
11 University Square, which shall be and constitute a part of the  
12 memorial park, and shall be used as a public park.

13 (e) The commission may sell buildings and improvements  
14 situated on outlots five (5) and sixteen (16) when they come under  
15 the commission's jurisdiction, custody, and control or remove the  
16 buildings and improvements as the commission considers best. The  
17 commission may contract with Indianapolis, with Marion County,  
18 or with the county and city jointly, concerning the use and rents of  
19 the buildings and improvements on squares five (5) and sixteen (16)  
20 until it is necessary to remove the buildings for the purpose of  
21 erecting the memorial structure or structures. The commission  
22 may contract with the city or county or the city and county jointly  
23 with reference to the sale of buildings and improvements upon the  
24 real estate that may be acquired and conveyed to the state by the  
25 city or county or by the city and county jointly for War Memorial  
26 and other public purposes. The contracts must provide how the  
27 proceeds from the rent or sale of buildings and improvements shall  
28 be applied.

29 **Sec. 18. The commission may do the following:**

30 (1) Make and execute contracts and other instruments that  
31 may be required in connection with the erection and  
32 maintenance of a suitable structure or structures upon or  
33 within Memorial Place.

34 (2) Adopt rules for the following:

35 (A) The proper management, government, and use of  
36 Memorial Place and the structures situated on Memorial  
37 Place.

38 (B) The government of employees.

39 (3) Acquire by condemnation the right to limit the kind,  
40 character, and height of buildings upon and the use of real  
41 estate or buildings located within three hundred (300) feet of  
42 the outside boundaries.

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1           **(4) Adopt reasonable rules as are proper to limit the kind,**  
 2           **character, and height of buildings located or erected within**  
 3           **three hundred (300) feet of the outside boundaries of**  
 4           **Memorial Place and the use of the buildings or real estate. A**  
 5           **building constructed or maintained or business conducted in**  
 6           **violation of any rule may be abated as a nuisance in an action**  
 7           **begun and prosecuted by the commission.**  
 8           **(5) Receive donations, gifts, devises, and bequests and use**  
 9           **them in connection with the purposes of this chapter.**  
 10          **Sec. 19. (a) The grounds that belong to the state in Indianapolis:**  
 11           **(1) designated in the Constitution of the State of Indiana as**  
 12           **Governor's Circle;**  
 13           **(2) later called "Circle Park"; and**  
 14           **(3) known and designated as "Monument Place";**  
 15          **shall be known and designated as "Monument Circle".**  
 16           **(b) All written instruments and all laws that relate to the**  
 17           **grounds described in subsection (a) in statutes are effective for the**  
 18           **purpose intended when the grounds are described and designated**  
 19           **as Monument Circle.**  
 20          **Sec. 20. The commission shall adopt rules for the government of**  
 21           **the monument and Monument Circle. The rules are binding and**  
 22           **effective when approved by the governor.**  
 23          **Sec. 21. (a) The commission:**  
 24           **(1) has general control of the State Soldiers' and Sailors'**  
 25           **Monument Circle; and**  
 26           **(2) may employ a superintendent.**  
 27           **(b) The superintendent may, with the advice and consent of the**  
 28           **commission, appoint engineers, elevator operators, electricians,**  
 29           **and watchmen as are actually required, all of whom are subject to**  
 30           **removal at any time by the commission for any reason satisfactory**  
 31           **to the commission.**  
 32           **(c) The superintendent:**  
 33           **(1) has direct charge and supervision of the monument and**  
 34           **Monument Circle, subject to the orders of the commission;**  
 35           **and**  
 36           **(2) may require watchmen to act as elevator operators and**  
 37           **elevator operators to act as watchmen.**  
 38           **(d) The superintendent and the engineers, watchmen, and**  
 39           **elevator operators have police powers with all powers of a**  
 40           **constable.**  
 41          **Sec. 22. (a) The superintendent shall execute a bond in the penal**  
 42           **sum of five thousand dollars (\$5,000), to be approved by the**

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1 commission.

2 (b) The superintendent shall:

3 (1) on the first day of each month, make a sworn statement to  
4 the auditor of state of all receipts and expenditures, with  
5 vouchers attached for the preceding month, on account of the  
6 monument; and

7 (2) at the same time, pay over to the treasurer of state all  
8 money received by the superintendent from all sources in the  
9 operation of the monument for the preceding month.

10 The auditor of state shall draw a warrant on the treasurer of state,  
11 payable to the superintendent, engineers, elevator operators, and  
12 watchmen, for the amounts due them as salaries and to the  
13 superintendent for a total of expenditures other than salaries  
14 incurred in the management of the monument and Monument  
15 Circle as shown by the vouchers.

16 Sec. 23. The Soldiers' and Sailors' Monument and all  
17 approaches to the monument and all surroundings belonging to the  
18 state shall be maintained perpetually and inviolate for the purpose  
19 originally designed.

20 Sec. 24. A person may not desecrate the Soldiers' and Sailors'  
21 Monument in Indianapolis, the street known as Monument Circle,  
22 or any of the premises or approaches surrounding the monument  
23 by building a wall, fence, or other obstruction in or about the  
24 premises, approaches, or street known as Monument Circle  
25 surrounding the monument:

26 (1) to sell or offer to sell any article of merchandise;

27 (2) to have or to hold any show, carnival, circus, or  
28 masquerade;

29 (3) to maintain any tent or building in or about the street,  
30 premises, or approaches;

31 (4) to hold a political meeting;

32 (5) to in any way obstruct the view or approaches to the  
33 street, or premises; or

34 (6) to use the premises, street, or approaches;

35 for purposes other than those intended in this chapter.

36 Sec. 25. A person who intentionally damages or removes any of  
37 the property of the state on Monument Circle is liable for the  
38 payment of a penalty not less than twice the sum necessary to  
39 repair the damage or restore the lost property. The penalty may be  
40 collected by the commission in a civil action.

41 Sec. 26. (a) The commission may do the following:

42 (1) Make or sell the following:

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- 1           (A) Pictures, models, books, and other representations of
- 2           the monuments and grounds.
- 3           (B) Souvenirs.
- 4           (2) Establish and maintain souvenir shops on property that
- 5           the commission manages.
- 6           (3) Hire and pay salaries for full-time or part-time employees
- 7           for the souvenir shops.
- 8           (4) Contract with a nonprofit organization or corporation for
- 9           the continuous management of the souvenir shops.
- 10          (5) Report annually to the governor on the activities,
- 11          revenues, expenditures, and profits of the souvenir shops.
- 12          (b) Notwithstanding section 27 of this chapter, the following
- 13          apply to the profits from souvenir shop sales:
- 14           (1) The souvenir shop fund is established. The souvenir shop
- 15           fund shall be administered by the commission.
- 16           (2) Profits from the sales at souvenir shops established under
- 17           subsection (a) shall be deposited in the souvenir shop fund.
- 18           (3) The treasurer of state shall invest the money in the
- 19           souvenir shop fund not currently needed to meet the
- 20           obligations of the fund in the same manner as other public
- 21           funds may be invested.
- 22           (4) The expenses of administering the souvenir shop fund shall
- 23           be paid from money in the fund.
- 24           (5) The commission may spend the money in the souvenir
- 25           shop fund for the following purposes:
- 26           (A) Maintenance or repair of properties managed by the
- 27           commission.
- 28           (B) Maintenance, repair, and acquisition of the following:
- 29           (i) Battle flags.
- 30           (ii) Appropriate artifacts.
- 31           (iii) Appropriate memorabilia.
- 32           (6) All money accruing to the souvenir shop fund is
- 33           appropriated continuously for the purposes listed in
- 34           subdivision (5).
- 35           (7) Money in the souvenir shop fund at the end of a state fiscal
- 36           year does not revert to the state general fund.
- 37          (c) A person may not make or sell pictures, models, books, or
- 38          other representations of the monuments or grounds unless the
- 39          person is authorized to do so by the commission.
- 40          Sec. 27. Money recovered or accrued under this chapter shall be
- 41          used:
- 42           (1) to keep:

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- 1 (A) the State Soldiers' and Sailors' Monument and  
 2 subsidiary monuments; or  
 3 (B) the Monument Circle and its decorations and  
 4 improvements;  
 5 in repair; and  
 6 (2) to restore any parts of the monuments or the Monument  
 7 Circle that have been broken, destroyed, removed, or injured.
- 8 **Sec. 28. The superintendent of the State Soldiers' and Sailors'**  
 9 **Monument and of Monument Circle and those serving under the**  
 10 **superintendent who are appointed by the commission have police**  
 11 **powers and may make arrests or do other things as may be needed**  
 12 **to enforce the laws for the protection and care of the monuments**  
 13 **and Monument Circle.**
- 14 **Sec. 29. The commission may grant the use for public purposes**  
 15 **of any structures or any parts of structures erected by the**  
 16 **commission under this chapter without rent or charge or for only**  
 17 **a nominal rental:**  
 18 (1) to any organizations of soldiers, sailors, and marines and  
 19 others as a place for their meeting and headquarters and for  
 20 the keeping of records, archives, documents, flags, mementos,  
 21 and relics; and  
 22 (2) for other public meetings and other public purposes not  
 23 inconsistent with the purpose of this chapter;  
 24 for the time and upon the terms and conditions as the commission  
 25 determines.
- 26 **Sec. 30. (a) The commission may not enter into a contract for:**  
 27 (1) the purchase or sale of property, material, or supplies; or  
 28 (2) the performance of work or labor, except for salaries of  
 29 employees;  
 30 if the work and labor or materials and supplies cost more than ten  
 31 thousand dollars (\$10,000) without first giving notice of its  
 32 intention to purchase or sell the materials or supplies or to contract  
 33 for the work or labor by publication in a newspaper of general  
 34 circulation printed and published in the English language in  
 35 Indianapolis for two (2) successive weeks before the time fixed for  
 36 the letting of the contract or the sale of the property.
- 37 (b) A contract under this section must be in writing. The other  
 38 contracting party shall furnish bond for the faithful performance  
 39 of the contract in an amount fixed by the commission and with  
 40 surety to the commission's approval, conditioned upon the faithful  
 41 performance of the contract. However, if the commission decides  
 42 to purchase a patented article or material or an article or material

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1 of a special type, character, or design of construction or make that  
 2 may be purchased from only one (1) person, firm, limited liability  
 3 company, or corporation, their agents or representatives, or for  
 4 which there is a fixed, standard price, the commission is not  
 5 required to take or receive competitive bids. However, the  
 6 commission shall publish in the manner set forth under subsection  
 7 (a) the number and character of the article or kind and quality of  
 8 material proposed to be purchased, the unit price, and the total  
 9 sum to be paid.

10 (c) A contract made in violation of this section is void.

11 Sec. 31. (a) The Indiana War Memorial fund:

12 (1) is subject to the laws of this state that concern the deposits  
 13 and safekeeping of public funds; and

14 (2) shall be deposited under the advisory supervision of the  
 15 state board of finance in the same way and manner and at the  
 16 same rate of interest and under the same restriction as state  
 17 funds.

18 (b) Interest that accrues to the fund shall be added to and  
 19 become a part of the Indiana War Memorial fund.

20 (c) The Indiana War Memorial fund and the accounts of each  
 21 public officer, employee, or person entrusted by law with the  
 22 raising, disposition, or expenditure of the fund or any part of the  
 23 fund are subject to the same penalties and the same provisions for  
 24 publicity as are provided by law for state funds and state officers.

25 Sec. 32. The commission, with the approval of the governor,  
 26 may let a contract for the erection of additional structures on the  
 27 site of the Indiana World War Memorial, in accordance with plans  
 28 and specifications adopted by the commission, with the approval  
 29 of the governor, to any competent and reliable contractor.

30 Sec. 33. (a) The commission shall commemorate the valor of  
 31 those loyal citizens of this state who served with the armed forces  
 32 of the United States during World War II and the Korean Conflict  
 33 by placing their names in the archives of the World War Memorial  
 34 located at Indianapolis.

35 (b) The names must be placed in the archives in the same  
 36 manner as those honored by Indiana who served in World War I.

37 Sec. 34. (a) The commission shall commemorate the valor of  
 38 those loyal citizens of Indiana who served with the armed forces of  
 39 the United States during the Vietnam conflict by placing their  
 40 names in the archives of the World War Memorial located at  
 41 Indianapolis.

42 (b) The names must be placed in the archives in the same

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1 manner as those honored by Indiana who served in World War I,  
2 World War II, and the Korean Conflict.

3 Sec. 35. A suit to enjoin the enforcement of this chapter or to  
4 prevent the levy or collection of taxes under this chapter may not  
5 be commenced.

6 Sec. 36. All property of every nature and kind constituting a  
7 memorial or used in connection with a memorial is exempt from  
8 taxation for all purposes.

9 Sec. 37. Except as otherwise provided in this chapter, a person  
10 who violates this chapter commits a Class B infraction.

11 Sec. 38. It is a Class D felony for a member of the commission or  
12 the architect, secretary, superintendent, or any other person in the  
13 employ of the commission to:

14 (1) knowingly be interested in or derive any profit from any  
15 contract, employment, or purchase connected with the  
16 Indiana World War Memorial or with any action of the  
17 commission; or

18 (2) knowingly be interested in any claim against the  
19 commission or the state growing out of the erection or  
20 maintenance of the Indiana World War Memorial;

21 other than for the compensation for their services or for their  
22 expenses as provided in this chapter.

#### 23 Chapter 2. World War Memorials

24 Sec. 1. As used in this chapter, "world war memorial" means:

25 (1) World War I memorial parks and artificial lakes in World  
26 War I memorial parks; or

27 (2) World War I structures.

28 Sec. 2. (a) A county may through its county executive acquire  
29 by:

30 (1) purchase;

31 (2) donation; or

32 (3) condemnation;

33 suitable real estate to construct and maintain structures to  
34 commemorate the bravery, courage, valor, and sacrifice of the  
35 soldiers, sailors, and marines of the United States and of all others  
36 who rendered faithful, loyal, heroic, and self-sacrificing service at  
37 home or overseas in World War I.

38 (b) At a world war memorial, a county may do the following:

39 (1) Provide a place for meetings and headquarters for  
40 organizations of active or retired military personnel or any  
41 other patriotic associations.

42 (2) Provide storage for the keeping of records, archives,

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- 1 documents, flags, mementos, and relics.
- 2 (3) Provide space for public meetings and for other public
- 3 purposes.
- 4 (4) Inculcate an understanding and appreciation of the duties,
- 5 benefits, and privileges of American citizenship.
- 6 (5) Inspire patriotism and respect for the law to the end that
- 7 peace may prevail.
- 8 (6) Promote good will and justice.
- 9 (7) Perpetuate liberty and freedom.
- 10 (c) In addition to the powers provided under subsections (a) and
- 11 (b), a county may do the following:
- 12 (1) Acquire by purchase, donation or condemnation any
- 13 interest in real property to be dedicated by the county and
- 14 added to any real property that is dedicated by the state for
- 15 World War Memorial and other public purposes, by proper
- 16 contract, deed or grant. The real property acquired shall be
- 17 conveyed by the county to the state for World War Memorial
- 18 and other public purposes as provided in the contract, deed,
- 19 or grant.
- 20 (2) Join with any city located in the county to acquire by
- 21 purchase, donation, or condemnation, interests in real
- 22 property to be dedicated by the county and the city jointly
- 23 and added to any real property that is dedicated by the state
- 24 for World War Memorial and other public purposes, by
- 25 proper contract, deed, or grant. The real property acquired
- 26 shall be conveyed by the county and city jointly to the state
- 27 for World War Memorial purposes and other public purposes
- 28 as provided in the contract, deed, or grant.
- 29 (3) Join with any city located in the county to:
- 30 (A) acquire by purchase, donation, or condemnation
- 31 interests in real property;
- 32 (B) construct and maintain on the real property a joint city
- 33 and county World War Memorial; and
- 34 (C) use the real property for other public purposes as
- 35 provided in this chapter.
- 36 Sec. 3. (a) A county executive may appropriate, without any
- 37 appropriation by the county council of the funds of the county for
- 38 a world war memorial and other public purposes.
- 39 (b) Funds appropriated for a world war memorial may not
- 40 exceed one-half of one percent (0.5%) of the adjusted value of
- 41 taxable property of the county, to be determined under IC 36-1-15.
- 42 (c) The county shall use the funds appropriated to acquire real

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1       estate and construct structures for a world war memorial and  
2       other public purposes, as authorized by this chapter.

3       **Sec. 4. (a) A county and its county executive may appropriate**  
4       **money for any or all of the purposes as provided in this chapter:**

5           (1) out of the general funds of the county; or

6           (2) from the proceeds of a bond issue.

7       **(b) A county may issue and sell bonds for the purpose of raising**  
8       **funds to comply with this chapter.**

9       **(c) If:**

10           (1) a county executive decides to establish a world war  
11           memorial; and

12           (2) there is sufficient money in the county's general fund to  
13           pay the entire cost of the world war memorial;

14       **money from the county's general fund may be appropriated.**

15       **(d) If there is not sufficient money in a county's general fund,**  
16       **the county auditor shall certify to the county executive, who may**  
17       **authorize and make a loan not exceeding one-half of one percent**  
18       **(0.5%) of the adjusted value of the taxable property of the county,**  
19       **to be determined under IC 36-1-15.**

20       **(e) It is not necessary to obtain:**

21           (1) the authorization of the county council; or

22           (2) the appropriation by the county council;

23       **for any money for the payment of the bonds authorized under this**  
24       **section or the interest on the bonds.**

25       **(f) A county executive may issue bonds in the name of a county**  
26       **to fund or refund a loan or loans as authorized by this chapter.**

27       **(g) A bond for world war memorials shall be issued in any**  
28       **denomination of not more than one thousand dollars (\$1,000) each**  
29       **and in not less than twenty (20) or more than fifty (50) series.**

30       **(h) Each bond series is to be for an amount determined by the**  
31       **county executive and shall be payable one (1) series each year,**  
32       **beginning on July 1 of the fifth year after the bonds are issued.**

33       **(i) A bond shall be negotiable as inland bills of exchange and**  
34       **shall bear interest at a rate not exceeding five percent (5%) per**  
35       **annum, payable semiannually on July 1 and January 1 of each**  
36       **year.**

37       **(j) A bond shall be exempt from taxation for any and all**  
38       **purposes.**

39       **(k) All proceeds of bonds issued and sold under this chapter by**  
40       **a county, including any premium, shall be kept in a separate and**  
41       **specific fund to be known as the world war memorial fund.**

42       **(l) Any surplus remaining in a world war memorial fund after**

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1 all the demands of the county have been paid and discharged shall  
 2 be transferred by the county executive to the world war memorial  
 3 bond funds.

4 (m) A series of bonds issued under this chapter may not be for  
 5 less than one-fiftieth (1/50) of the total amount of bonds issued.

6 (n) A suit to question the validity of bonds authorized to be  
 7 issued by this chapter may not be instituted after the date set for  
 8 the sale of the bonds. All bonds are incontestable for any cause  
 9 except for excess of constitutional limit.

10 Sec. 5. (a) If a county issues bonds for a world war memorial  
 11 under this chapter, the county fiscal body, county executive, and  
 12 any other county official who fixes rates or levies taxes shall yearly  
 13 tax all real and personal property within the county at a rate on  
 14 each one hundred dollars (\$100) of taxable property to meet the  
 15 interest and principal on world war memorial bonds as they  
 16 mature.

17 (b) Taxes levied for world war memorial bonds:

18 (1) shall be collected by the treasurer of a county or other  
 19 proper officer in the same manner as other taxes are collected  
 20 and enforced;

21 (2) shall be kept in a separate fund to be known as the world  
 22 war memorial bond fund;

23 (3) shall be applied to the payment of the bonds issued under  
 24 this chapter and interest as the bonds mature; and

25 (4) shall be deposited in an interest earning account with one  
 26 (1) or more of the depositories in the county, with all interest  
 27 earned becoming a part of the fund.

28 Sec. 6. (a) A county executive establishing a world war memorial  
 29 shall adopt a design and a plan for the construction of a world war  
 30 memorial.

31 (b) A county executive:

32 (1) may employ architects and other personnel necessary to  
 33 design and supervise the building of a world war memorial;  
 34 and

35 (2) shall not adopt any design or plan for a world war  
 36 memorial that, together with the cost of real estate and other  
 37 expenses for the establishment of the memorial, exceeds the  
 38 amount authorized for the project. However, this limitation  
 39 may not restrict the right of a county executive to enter into  
 40 any contract with any city located in the county for the joint  
 41 construction of a world war memorial.

42 Sec. 7. All changes made in the designs or plans for a world war

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1 memorial are subject to the following:

2 (1) Changes must be agreed upon in writing, in advance,  
3 between the county executive and the contractor and  
4 architect.

5 (2) Compensation may not be paid for design or plan changes.

6 (3) Changes may not be made that will increase the total cost  
7 of the world war memorial.

8 (4) Changes may not affect the obligation of or release any  
9 surety or bondsmen on any contract or bond executed or  
10 given in connection with the building of the world war  
11 memorial. However, the liability shall be extended to embrace  
12 and cover the changes.

13 **Sec. 8. The architect employed to supervise the building of  
14 world war memorial structures:**

15 (1) shall, at the time of employment, execute a proper bond in  
16 an amount fixed by the county executive and with surety to  
17 the approval of the county executive;

18 (2) is liable on the bond for:

19 (A) any failure in faithfully discharging duties;

20 (B) all losses and damages that may be incurred on account  
21 of negligence; or

22 (C) violating this chapter; and

23 (3) is entitled to receive compensation as agreed upon in  
24 advance.

25 **Sec. 9. (a) If a county executive has adopted designs or plans for  
26 the construction of world war memorial structures as provided in  
27 section 6 of this chapter, the county executive shall:**

28 (1) contract with a reliable contractor for all or any part of  
29 the construction of the world war memorial structure, as  
30 provided in this chapter; and

31 (2) publish for at least three (3) weeks, one (1) time each week,  
32 in a newspaper of general circulation published in the county  
33 a notice informing the public and contractors:

34 (A) of the nature of the structures to be constructed;

35 (B) that the designs and plans are on file in the office of the  
36 county executive; and

37 (C) that sealed proposals for contractors to work on the  
38 construction of the world war memorial are due not earlier  
39 than thirty (30) days from the first published notice.

40 (b) A county executive shall, by order, impose conditions upon:

41 (1) bidders;

42 (2) contractors;

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1           **(3) subcontractors; and**  
 2           **(4) materialmen;**  
 3           **with regard to bond and surety and guaranteeing the faithful**  
 4           **completion of work according to contract.**  
 5           **(c) All contracts with builders, architects, or materialmen must**  
 6           **reserve to the county executive for good cause shown the right to**  
 7           **cancel a contract and to relet work to others. If a contract is**  
 8           **canceled, at least ten percent (10%) shall be reserved from**  
 9           **payments on estimates on work done in progress until the contracts**  
 10           **are completed and the work done, inspected, and accepted by the**  
 11           **county executive.**  
 12           **(d) A payment, partial or final, may not be construed as a**  
 13           **waiver of defective work or materials or as a release for damages**  
 14           **on account of defective work or materials.**  
 15           **(e) A surety may not be released from any obligation on its bond**  
 16           **if the contractor is paid the whole or any part of the percentages**  
 17           **required to be reserved from current estimates. A surety may not**  
 18           **be released by any final payment made to the contractor.**  
 19           **Sec. 10. (a) If a county has appropriated money to be used by**  
 20           **the county executive under this chapter, the county executive may**  
 21           **enter into a contract with any city located in the county for the**  
 22           **joint acquisition of real estate for a world war memorial.**  
 23           **(b) Contracts between counties and cities for the joint**  
 24           **acquisition of real estate for developing a world war memorial**  
 25           **shall be made through the city's board of public works with the**  
 26           **approval of the mayor.**  
 27           **(c) If a county executive decides to contract with a city for the**  
 28           **joint acquisition of real estate and development of a world war**  
 29           **memorial, the county executive shall adopt a resolution signifying**  
 30           **their desire and send a certified copy of a resolution to the mayor**  
 31           **of the city. The mayor shall refer the resolution to the board of**  
 32           **public works for action. Within sixty (60) days after the receipt of**  
 33           **the resolution, the board of public works shall determine by**  
 34           **resolution whether or not the city will join with the county in the**  
 35           **execution of any contract for any purpose authorized by this**  
 36           **chapter.**  
 37           **(d) If a county and city agree to join in the acquisition of real**  
 38           **estate to be dedicated for a world war memorial as authorized by**  
 39           **this chapter, the county executive shall execute a contract between**  
 40           **the county and the city describing the real estate and interests in**  
 41           **the real estate to be acquired jointly and the costs for the county**  
 42           **and the city. The contract shall be executed in duplicate and shall**

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1 be included in the minutes of the proceedings of the county  
2 executive and of the board of public works of the city.

3 (e) If a county and city agree to establish a joint world war  
4 memorial, then the county executive, acting for the county, and the  
5 board of public works, with the approval of the mayor, shall  
6 execute a contract between the county and city that must provide  
7 the following:

8 (1) For the acquisition of real estate and the construction of a  
9 joint world war memorial suitable for the county and city.

10 (2) The respective parts of the total cost of the world war  
11 memorial that shall be paid by the county and by the city and  
12 the time and manner of the payments.

13 (3) That the acquisition of real estate and the execution of all  
14 necessary contracts for the construction of the joint world  
15 war memorial shall be made by a board of trustees consisting  
16 of five (5) members to be appointed and have the powers and  
17 perform the duties as provided in this chapter.

18 (4) That the total costs of the acquisition of the real estate for  
19 the joint world war memorial and the construction of the  
20 world war memorial may not exceed the amount of money  
21 appropriated by the county executive and the common council  
22 of the city.

23 (5) That the necessary cost and expenses for the management,  
24 maintenance, repairs, and improvement of the memorial shall  
25 be paid by the county and city in the same proportion that  
26 they contribute to the establishment of the memorial.

27 (6) That the contract may contain any other terms, conditions,  
28 and provisions that may be agreed upon between the county  
29 and city, not inconsistent with this chapter.

30 (f) The county shall pay its part due under any contract  
31 executed by the county with any city within the county under this  
32 chapter from:

33 (1) the general funds of the county; or

34 (2) the proceeds of bond issue as provided in this chapter.

35 (g) The county, acting through its county executive, may issue  
36 and sell bonds for the purpose of raising funds to pay its part of the  
37 cost under any contract executed by the county with any city  
38 located within the county under this chapter.

39 (h) The county executive shall issue and sell the necessary bonds  
40 and levy and collect the necessary taxes to pay the bonds as they  
41 mature, together with interest, all as authorized in this chapter.

42 Sec. 11. (a) If a county enters into a contract with any city for

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1 the establishment of a joint county and city world war memorial,  
 2 as provided in this chapter, there is established a board of trustees  
 3 that consists of five (5) members, to be known as "Trustees of the  
 4 World War Memorial for the County of \_\_\_\_\_ and the  
 5 City of \_\_\_\_\_ ", giving the name of the county and the  
 6 name of the city.

7 (b) The trustees shall be appointed as follows:

8 (1) Three (3) trustees shall be appointed by the county  
 9 executive of the county.

10 (2) Two (2) trustees shall be appointed by the mayor of the  
 11 city.

12 (c) One (1) of the trustees appointed by the mayor shall be  
 13 appointed for a term of two (2) years and one (1) for a term of  
 14 three (3) years. Subsequently, the trustees shall be appointed by the  
 15 mayor for a term of three (3) years. Two (2) of the trustees  
 16 appointed by the county executive shall be appointed for a term of  
 17 two (2) years and one (1) for a term of three (3) years.  
 18 Subsequently, the trustees shall be appointed by the county  
 19 executive for a term of three (3) years.

20 (d) The trustees shall be selected without regard to their  
 21 political affiliations. Not more than three (3) trustees may be of the  
 22 same political party. The mayor may not appoint more than one (1)  
 23 trustee from any political party. The county executive may not  
 24 appoint more than two (2) trustees from any political party.

25 (e) The board of trustees must be persons of high standing and  
 26 character and serve without compensation but may receive  
 27 reimbursement for any reasonable expenses necessarily incurred  
 28 by them in the performance of their duties.

29 (f) The mayor or county executive may, for just cause, based  
 30 upon written charges specifically alleging the misconduct, remove  
 31 any member appointed by the mayor or county executive, after  
 32 notice to the trustee board and a public hearing.

33 (g) In case of vacancy caused by removal or otherwise, the  
 34 mayor or the county executive making the original appointment  
 35 shall appoint a qualified person to fill the unexpired term.

36 (h) Each trustee shall do the following:

37 (1) Execute a bond to the county and city in the sum of five  
 38 thousand dollars (\$5,000), conditioned for the faithful  
 39 performance of duties as a trustee, with sureties to be fixed  
 40 and approved by the judge of the circuit court.

41 (2) Take an oath that the trustee will support the Constitution  
 42 of the United States and the Constitution of the State of

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1 Indiana and will faithfully discharge all of the duties as a  
 2 trustee. The oath shall be endorsed on the bond, and the bond  
 3 and oath shall be filed with the clerk of the circuit court.

4 (i) If a joint county and city world war memorial is established,  
 5 the board of trustees shall have all the powers and perform all the  
 6 duties in relation to the acquisition of the ground and the  
 7 construction of the joint county and city world war memorial as  
 8 provided in this chapter to be done and performed by the county  
 9 executive in relation to a county world war memorial.

10 (j) If a joint county and city world war memorial is established,  
 11 all money appropriated by the county and the city shall be  
 12 disbursed upon estimates submitted by the board of trustees and  
 13 certified to the proper officers of the county and city as provided  
 14 for in the contract between the county and city.

15 (k) A board of trustees may not be established if a county  
 16 contracts with a city located in the county to jointly acquire real  
 17 estate and interests in the real estate to be dedicated and added to  
 18 an existing war memorial operated by the state.

19 **Sec. 12. The county executive shall:**

20 (1) provide a fund as is necessary for the:

21 (A) management;

22 (B) maintenance;

23 (C) repair; and

24 (D) improvement;

25 of any county world war memorial;

26 (2) pay its part of the cost of:

27 (A) management;

28 (B) maintenance;

29 (C) repair; and

30 (D) improvement;

31 of any joint county and city world war memorial, as determined by  
 32 contract; and

33 (3) raise money for the fund by taxation in the manner as  
 34 provided by law for all other county expenses.

35 **Sec. 13. (a) If a county decides to join a city located in the county**  
 36 **to acquire real estate to be dedicated, set apart, and added to any**  
 37 **real estate that may be designated for use or dedicated and set**  
 38 **apart by the state as a world war memorial and other public**  
 39 **purposes, as provided in this chapter, the county, through its**  
 40 **county executive, shall execute proper deeds, grants, or contracts**  
 41 **with the state to convey the real estate to the state for world war**  
 42 **memorial and other public purposes, as authorized by this chapter.**

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**(b) The deed, grant, or contract must provide:**  
**(1) for the use by the county, or by the county and city jointly, of the memorial grounds and structures; and**  
**(2) that, to the extent of the money appropriated and used by the county in the acquisition of the memorial grounds and structures, the memorial grounds and structures shall be a county world war memorial.**

**Sec. 14. (a) A county executive may allow any organizations of soldiers, sailors, and marines, and others to use any structure that is part of a world war memorial constructed under this chapter as a place for meetings and headquarters.**

**(b) A county executive may allow a structure at a world war memorial to be used for any public purposes.**

**(c) A county executive shall determine the terms and conditions of leasing space at a world war memorial under this section, including:**

- (1) whether to charge rent; and**
- (2) if rent is charged, the rental price.**

**Sec. 15. (a) A county may receive donations, gifts, devises, and bequests for the county executive to use in connection with a world war memorial.**

**(b) Any money donated to a county for its world war memorial shall be paid out upon warrants drawn by the auditor of the county, without any appropriation by the county fiscal body, to the county executive.**

**(c) The county may use money received as donations, gifts, or devises for the:**

- (1) construction of a world war memorial, alone or with any city; or**
- (2) acquisition by the county, or jointly by the county and any city located in the county, of real estate and interests in real estate to be dedicated, set apart, and added to any real estate that may have been designated for use or dedicated and set apart by the state for world war memorial and other public purposes;**

**as provided in this chapter.**

**Sec. 16. (a) A county executive, acting jointly with the board of public works of a city located in the county to acquire grounds, real property, and interests in real property, by purchase or condemnation for any of the purposes authorized by this chapter, may proceed under IC 32-24, together with all the powers of eminent domain granted under this chapter.**

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1           **(b) Before a county executive may purchase real property or**  
2 **interests in real property, by the county, jointly by the county and**  
3 **a city located in the county, by the county executive or board of**  
4 **trustees, as provided in section 11 of this chapter, or by the county**  
5 **executive acting jointly with the board of public works of any city**  
6 **located in the county, the county executive must:**

7           **(1) have the real property appraised at its true cash value by**  
8 **at least three (3) disinterested freeholders of the county; and**

9           **(2) may not pay more than the appraised value for any real**  
10 **property and interests in real property.**

11           **(c) If an owner refuses to sell real property at the appraised**  
12 **value, the property must be acquired by condemnation. If a county**  
13 **acts alone, an attorney representing the county shall conduct all the**  
14 **legal proceedings necessary in the purchase or condemnation of**  
15 **real property. The legal department of a city and an attorney**  
16 **representing the county, if the county and city act jointly under this**  
17 **chapter, shall conduct all the necessary legal proceedings, without**  
18 **additional compensation, for the purchase or condemnation of real**  
19 **property.**

20           **(d) If a county acquires real property for any of the purposes**  
21 **provided for by this chapter or joins with a city located in the**  
22 **county in the acquisition of real property for any of the purposes**  
23 **provided for in this chapter, the county, acting by and through its**  
24 **county executive, or the county, by and through its county**  
25 **executive acting jointly with any city located in the county, by and**  
26 **through its board of public works, with the approval of the mayor,**  
27 **may sell the buildings and improvements on the real property.**

28           **(e) The net rent or proceeds of the sale of the building and**  
29 **improvements on the real property at a war memorial, if the real**  
30 **property was acquired by the county, shall be added to and become**  
31 **a part of the county world war memorial fund. If the real property**  
32 **was acquired by the county and any city located in the county**  
33 **jointly, the rent and proceeds of sale shall be added to the county**  
34 **world war memorial fund and the city world war memorial fund**  
35 **in the same proportions that the city and county contributed to the**  
36 **acquisition of the real property, buildings, and improvements, or**  
37 **the county.**

38           **(f) The county and a city located in the county acting jointly, as**  
39 **provided in this chapter, may convey any real property acquired**  
40 **to the state. The contract with the state must provide for the rent**  
41 **of buildings and improvements on real property, until necessary to**  
42 **remove the buildings and improvements, and for the sale of the**

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1 buildings and improvements if the real property is needed by the  
 2 board of trustees for world war memorial and other public  
 3 purposes. The contract must provide how the net rent or proceeds  
 4 will be applied.

5 (g) If a county institutes proceedings to condemn any real  
 6 property or interests in real property or other property under this  
 7 chapter, the suit must be brought:

- 8 (1) in the name of the county;  
 9 (2) by an attorney representing the county; and  
 10 (3) at the direction of the county executive.

11 (h) If the joint condemnation of real property under this chapter  
 12 is by a county and by a city located in the county, the suit must be  
 13 brought in the name of the county, as provided in this section, and  
 14 in the name of the city by its legal department, without additional  
 15 compensation, at the direction of the board of public works. The  
 16 county, or the county and the city jointly, may:

- 17 (1) join in one (1) action naming as defendants the owners and  
 18 all persons interested in one (1) or more tracts of real  
 19 property to be condemned; or  
 20 (2) institute proceedings to condemn separate tracts of real  
 21 property.

22 Sec. 17. (a) A county executive, instead of making a loan or loans  
 23 as provided in section 4 of this chapter, may make a loan for a  
 24 period of not more than ten (10) years for any of the purposes  
 25 authorized by this chapter.

26 (b) A loan issued under this section must be at a rate of interest  
 27 not exceeding six percent (6%) per annum, payable semiannually.  
 28 The loan must be evidenced by the bonds of the county, which shall  
 29 be payable at their maturity and not later than ten (10) years after  
 30 the date of issue.

31 (c) A bond issued under this section is exempt from taxation for  
 32 all purposes.

33 (d) If a bond issued under this section is issued for a longer  
 34 period than five (5) years:

- 35 (1) at least one-fiftieth (1/50) of the total issue of the bonds  
 36 must mature each year after the fifth year; and  
 37 (2) the balance of the bond must mature and be paid or  
 38 refunded not later than ten (10) years after the date of issue.

39 (e) A county executive may refund a loan issued under this  
 40 chapter with another bond issue in accordance with this chapter.

41 (f) A county executive may name the date when the first series  
 42 of refunding bonds is due. However, the first of the series may not

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1 be for a longer period than five (5) years from the date of issue.

2 **Sec. 18.** In the establishment and maintenance of a county world  
3 war memorial, a county executive or a board of trustees of a joint  
4 county and city world war memorial has all the powers and duties  
5 conferred upon the Indiana War Memorials Commission under  
6 IC 10-18-1, in so far as the powers and duties are not inconsistent  
7 with this chapter. However, a county executive or board may not  
8 employ a secretary.

9 **Sec. 19. (a)** If a county executive desires to carry out this  
10 chapter, the county executive must adopt a declaratory resolution  
11 in substance as follows:

12 "Be it resolved, by the county executive of \_\_\_\_\_ County,  
13 that said county should proceed alone, or jointly with the city  
14 of \_\_\_\_\_ located in such county, to carry out the purposes  
15 of IC 10-18-2."

16 (b) The resolution shall be recorded in the proceedings of the  
17 county executive. Notice of the adoption of the declaratory  
18 resolution shall be given by the county executive by the publication  
19 of the resolution in full by two (2) insertions published at least a  
20 week apart in accordance with IC 5-3-1-4.

21 (c) The county executive may:

- 22 (1) appropriate money;  
23 (2) make loans;  
24 (3) issue bonds;  
25 (4) levy taxes; and  
26 (5) do everything that may be necessary to carry out this  
27 chapter.

28 If any bonds are issued under this chapter by a county and the  
29 bonds have to be refunded, it is not necessary for the county  
30 executive to adopt a declaratory resolution.

31 (d) The rights and powers of this chapter vested in any county  
32 executive may not be exhausted by being exercised one (1) or more  
33 times, but are continuing rights and powers.

34 (e) If there is a second or other subsequent exercise of power  
35 under this chapter by any county, it is not necessary for the county  
36 executive to adopt a declaratory resolution. Any county acting a  
37 second or subsequent time may proceed to carry out this chapter  
38 without any appropriation by the county fiscal body and without  
39 being required to comply with any other law relating to  
40 appropriations and budgets except for section 2 of this chapter.

41 **Sec. 20.** A political subdivision (as defined in IC 36-1-2-13) or  
42 municipal corporation (as defined in IC 36-1-2-10) may erect or

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1 cause to be erected a memorial to the armed forces of World War  
2 II under the same conditions that a memorial to the armed forces  
3 of World War I may be built.

4 Sec. 21. A suit to enjoin the enforcement of this chapter or to  
5 prevent the levy or collection of taxes under this chapter may not  
6 be commenced.

7 Sec. 22. All property that is:

- 8 (1) part of a county world war memorial;  
9 (2) part of a joint county and city world war memorial;  
10 (3) used in connection with a world war memorial; or  
11 (4) acquired by a county or jointly by a county and a city  
12 located in the county for any purpose authorized by this  
13 chapter;

14 is exempt from taxation for all purposes.

15 Chapter 3. City and County War Memorials

16 Sec. 1. (a) Counties and cities may provide and maintain a  
17 suitable memorial to commemorate the:

- 18 (1) courage, valor, and sacrifice of the members of the armed  
19 forces who served the United States in World War I or World  
20 War II; and  
21 (2) faithful, loyal, and self-sacrificing service rendered by  
22 others to our country in those wars.

23 (b) A proceeding for the establishment and maintenance of  
24 memorials initiated under the provisions of another law may be  
25 continued and completed under this chapter without compliance  
26 with sections 2 through 5 of this chapter if the board of  
27 commissioners of the county or common council of the city has:

- 28 (1) determined to proceed with the memorial; and  
29 (2) published notice of the determination.

30 (c) Before proceeding under this chapter, the board of  
31 commissioners or common council shall:

- 32 (1) by resolution, declare its intention to establish and  
33 maintain a memorial; and  
34 (2) appoint a board of trustees in accordance with section 6 of  
35 this chapter.

36 Sec. 2. (a) The board of commissioners of a county or the  
37 common council of a city shall, on petition of at least one hundred  
38 (100) adult citizens of the county or city, appoint a committee to be  
39 known as the memorial committee. The appointments may not be  
40 made until after notice of the filing of the petition has been  
41 published for at least two (2) weeks. Publication must occur once  
42 each week in a newspaper of general circulation in the county or

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1 city.

2 (b) The committee must have at least five (5) but not more than  
3 fifteen (15) members. Each committee member must be a citizen of  
4 the county or city in which the memorial is proposed. The members  
5 must be appointed based solely upon their fitness, and the  
6 committee must include representatives of educational, benevolent,  
7 labor, and other interests.

8 (c) The members of the committee serve without compensation.  
9 However, the board of commissioners or common council may  
10 compensate members for necessary expenses in the performance  
11 of their duty, including compensation of expert advisers. The board  
12 of commissioners or common council may make an appropriation  
13 in advance to compensate members for necessary expenses.

14 (d) The committee shall make a careful study of the subject of  
15 a suitable memorial in the county or city and report its conclusions  
16 to the board of commissioners or common council. The report must  
17 include:

- 18 (1) the kind of memorial regarded by the committee as  
19 appropriate;
- 20 (2) the estimated cost of erection and maintenance;
- 21 (3) the method of control; and
- 22 (4) any other matter the committee considers proper.

23 The committee shall make the report within six (6) months after  
24 appointment, unless a longer time is given by the board of  
25 commissioners or common council. A committee that fails to report  
26 within the time allowed is immediately regarded as dissolved, and  
27 the board of commissioners or common council shall appoint a new  
28 committee. A new committee appointed under this subsection is  
29 governed by the same rule regarding the filing of a report and  
30 dissolution.

31 (e) A vacancy in the committee shall be filled by the board of  
32 commissioners or common council.

33 (f) A county or city in which a memorial committee has been  
34 appointed may not erect or provide for the erection of a memorial  
35 until the committee has made its report.

36 Sec. 3. (a) Public notice must be provided in the manner set  
37 forth under subsection (b) if a petition signed by:

- 38 (1) at least five hundred (500) citizens and taxpayers of a  
39 county; or
- 40 (2) at least two hundred (200) citizens and taxpayers of a city;  
41 requests the establishment and maintenance within the county or  
42 city of a memorial for the soldiers and sailors of World War I. The

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1 petition must be addressed to the board of commissioners of the  
 2 county or the common council of the city and filed in the office of  
 3 the auditor of the county or clerk of the city.

4 (b) The auditor or clerk shall:

5 (1) publish a notice that includes a copy of the petition or a  
 6 summary of the petition in a newspaper of general circulation  
 7 printed and published in the county or city;

8 (2) post a notice that includes a copy of the petition or a  
 9 summary of the petition in at least ten (10) public places in the  
 10 county; and

11 (3) post a notice that includes a copy of the petition or a  
 12 summary of the petition at the door of the county courthouse.

13 Notice under this subsection must also include the day the petition  
 14 will be presented to the board. The day of the hearing must be  
 15 fixed by the auditor or clerk at least thirty (30) days but not more  
 16 than forty (40) days after the day of the filing of the petition. Notice  
 17 of the petition signed by the auditor or clerk must be published for  
 18 three (3) consecutive weeks and posted for at least twenty (20) days  
 19 before the day designated by the auditor or clerk for the hearing.

20 Sec. 4. A petition filed under section 3 of this chapter must set  
 21 forth the character and kind of a memorial proposed to be  
 22 established or constructed and the probable cost of the memorial  
 23 to the county or city.

24 Sec. 5. (a) On the day designated by the auditor or clerk for a  
 25 hearing under section 3 of this chapter, the petitioners may make  
 26 proof of the publication and posting of the notice of the hearing  
 27 and present the petition to the board of commissioners or common  
 28 council. However, if on or before the day of the hearing a written  
 29 remonstrance is filed with the board of commissioners or common  
 30 council, the board of commissioners or common council shall fix a  
 31 new hearing date at least thirty (30) days but less than forty (40)  
 32 days after the original hearing date. A written remonstrance must:

33 (1) be signed by citizens and taxpayers of the county or city;

34 (2) be equal in number to the signers of the petition; and

35 (3) ask that the memorial not be established or protest against  
 36 the kind of memorial proposed and provide reasons for the  
 37 protest. Before the new hearing date, additional names of  
 38 citizens and taxpayers may be added to or withdrawn from  
 39 the petition and remonstrance. A person who signs the  
 40 petition may not be counted on a remonstrance against it. On  
 41 or after the first day designated, a taxpayer may be added to  
 42 a petition and remonstrance for hearing.

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1           **(b) If a remonstrance is not filed, the board of commissioners or**  
 2 **common council may grant the petition and order the**  
 3 **establishment of a memorial, subject to the conditions of this**  
 4 **chapter. If a proper remonstrance is filed on the first day**  
 5 **designated for the hearing, the board of commissioners or common**  
 6 **council may grant the petition on or after the second day of the**  
 7 **hearing as fixed by the board of commissioners, unless there is a**  
 8 **greater number of qualified remonstrators against the memorial**  
 9 **than petitioners for the memorial at that time. If this occurs, the**  
 10 **petition shall be dismissed at the cost of the petitioners.**

11           **(c) A taxpayer of the county aggrieved by the action of the**  
 12 **board may appeal its decision to the circuit court of the county**  
 13 **within ten (10) days in the same manner as other appeals are taken**  
 14 **from the action of the board. The cause must be tried de novo.**

15           **Sec. 6. (a) Upon ordering the establishment of a memorial, a**  
 16 **board of trustees must be appointed under this section for the**  
 17 **establishment, maintenance, management, and control of the**  
 18 **memorial.**

19           **(b) The board of commissioners of a county or common council**  
 20 **of a city shall name five (5) trustees, not more than three (3) of**  
 21 **whom may be members of the same political party. The appointees**  
 22 **constitute a board for the establishment, maintenance,**  
 23 **management, and control of the memorial. The trustees shall serve**  
 24 **as follows:**

25                   **(1) One (1) of the trustees named by the board of**  
 26 **commissioners or common council serves until the first**  
 27 **Monday of the following January.**

28                   **(2) One (1) trustee serves until the first Monday of the second**  
 29 **January following the trustee's appointment.**

30                   **(3) One (1) trustee serves until the first Monday of the third**  
 31 **January following the trustee's appointment.**

32                   **(4) Two (2) trustees serve until the first Monday of the fourth**  
 33 **January following the appointment of the trustees.**

34           **On the expiration of the term of a trustee, a successor shall be**  
 35 **appointed under this section to serve a term of four (4) years. Each**  
 36 **subsequent trustee serves a term of four (4) years.**

37           **(c) The board of trustees shall elect a president, vice president,**  
 38 **secretary, and treasurer. Elections must occur annually on the**  
 39 **second Monday in January of each year or as soon after that day**  
 40 **as possible. A trustee serves without compensation, except that a**  
 41 **trustee is allowed all necessary expenses incurred in the**  
 42 **performance of the trustee's duties.**

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1           **(d) Bond for the faithful and honest performance of a trustee's**  
 2 **duties is required. The form and amount of the bond is fixed by the**  
 3 **board of commissioners or common council. If a surety bond is**  
 4 **furnished by a trustee, the expense of the bond shall be borne by**  
 5 **the county or city.**

6           **Sec. 7. (a) As soon as selected, a trustee shall be notified of the**  
 7 **appointment by the auditor or city clerk. The auditor or clerk shall**  
 8 **fix a date for the trustees to meet for the purpose of electing**  
 9 **officers and adopting suitable rules for the government of the**  
 10 **board.**

11           **(b) The board of trustees shall select a proper site for the**  
 12 **memorial. A county memorial must be located at or near the**  
 13 **county seat of the county and must have plans and specifications**  
 14 **drawn for the establishment of the memorial. The plans and**  
 15 **specifications must provide for a memorial of the kind and**  
 16 **character ordered established and constructed by the board of**  
 17 **commissioners or common council.**

18           **Sec. 8. (a) The cost of establishing and constructing a memorial**  
 19 **and the expense of maintaining the memorial shall be derived from**  
 20 **revenue generated by the memorial. If this revenue is not**  
 21 **sufficient, the costs shall be borne by the county or city as provided**  
 22 **in subsections (b) and (c).**

23           **(b) For the purpose of raising money to pay for the**  
 24 **establishment of a memorial, the bonds of the county or city may**  
 25 **be issued, not to exceed the amount of:**

- 26           **(1) the contract price;**
- 27           **(2) expenses incurred and damages allowed prior to the**  
 28 **awarding of the contract;**
- 29           **(3) a sum sufficient to pay the per diem of the engineer,**  
 30 **architect, and superintendent during the construction of the**  
 31 **memorial; and**
- 32           **(4) other estimated costs necessary for the memorial.**

33           **The bonds must be in denominations of at least fifty dollars (\$50)**  
 34 **each, payable not more than twenty (20) years after the date of**  
 35 **issue.**

36           **(c) The bonds shall be sold at not less than face value. The**  
 37 **proceeds shall be kept as a separate and specific fund to be used by**  
 38 **the county or city to pay for construction of the memorial and all**  
 39 **proper expenses incident to construction. A payment may not be**  
 40 **made for more than eighty percent (80%) of the engineer's**  
 41 **estimate of work done by the contractor. The whole amount of the**  
 42 **contract may not be paid until the memorial is fully approved by**

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1 the board of commissioners or common council and the board of  
2 trustees and determined to be completed and satisfactory.

3 Sec. 9. For the purpose of raising money to:

- 4 (1) meet the bonds and interest on the bonds; or
- 5 (2) establish or erect a memorial without the issuance of
- 6 bonds;

7 the county or city authorities shall annually, at the time the general  
8 tax levy is made, levy a special tax on the taxable property of the  
9 county or city, subject to this chapter. Funds may be raised in  
10 yearly amounts until a sufficient amount has accrued to enable the  
11 board or common council to proceed with the erection or  
12 establishment of the memorial.

13 Sec. 10. (a) A county or city may not issue bonds or any other  
14 evidence of indebtedness payable by taxation for the construction  
15 of a memorial if the total issue of the bonds exceeds two percent  
16 (2%) of the adjusted value of the taxable property of the county or  
17 city in which the memorial is located as determined under  
18 IC 36-1-15.

19 (b) Bonds or obligations issued in violation of this section are  
20 void.

21 (c) Bonds issued under section 8 of this chapter are exempt from  
22 taxation.

23 Sec. 11. (a) A surplus remaining from the sale of bonds for the  
24 establishment of a memorial must remain as a separate fund for  
25 the maintenance, repair, improvement, or extension of the  
26 memorial.

27 (b) Each year the board of county commissioners and the county  
28 council or the common council shall provide a fund necessary for  
29 the management, maintenance, repair, improvement, and extension  
30 of the memorial. Money for the fund shall be raised by taxation in  
31 the manner provided by law for other county or city expenses.

32 Sec. 12. (a) If a city desires to erect or establish a memorial and  
33 the common council of the city:

- 34 (1) adopts a resolution declaring the desire;
- 35 (2) pledges the city to proceed promptly to erect the memorial
- 36 in or near the city; and
- 37 (3) files a certified copy of the resolution with the board of
- 38 county commissioners before the board has made an order
- 39 granting a petition for a county memorial;

40 the taxable property of the city is exempt from the taxation  
41 authorized in this chapter for the erection, establishment,  
42 management, maintenance, repair, improvement, and extension of

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1 a county memorial. However, if the city, within one (1) year from  
 2 the date of the order, has not in good faith begun the erection or  
 3 establishment of a memorial that costs as much or more than the  
 4 amount that would be derived from taxation of the taxable  
 5 property of the city for the erection or establishment of the county  
 6 memorial, then the exemption fails, and the property of the city  
 7 shall be taxed for the county memorial in the same manner as other  
 8 property of the county is taxed.

9 (b) If a person, an association, or a corporation establishes or  
 10 erects in a city a suitable memorial for the permanent use of all  
 11 people of the city as provided in section 15 of this chapter, and the  
 12 cost of the memorial is equal to or more than the amount that  
 13 would be derived from taxation of the property of the city for the  
 14 erection or establishment of a county memorial, then the taxable  
 15 property of the city is exempt from the taxation authorized in this  
 16 chapter for the erection, establishment, management, maintenance,  
 17 repair, improvement, and extension of a county memorial.  
 18 However, the exemption fails unless the donor files with the board  
 19 of county commissioners of the county in which a city is located a  
 20 certificate signed by the donor declaring the intention to  
 21 immediately begin the establishment or erection of the memorial.  
 22 The signed certificate must be filed with the board of county  
 23 commissioners before the board has issued an order granting a  
 24 petition for a county memorial.

25 (c) A corporation, instead of filing the certificate described in  
 26 subsection (b), shall file with the board a certified copy of a  
 27 resolution of its board of directors declaring the intention to  
 28 immediately begin the establishment or erection of the memorial.  
 29 The resolution must declare that the title to the memorial and the  
 30 land upon which it is located are held by a board of trustees  
 31 composed of five (5) members. The board of trustees and its  
 32 successors are appointed by each donor. If there is a failure to  
 33 make an appointment, the city council of the city shall have  
 34 appointive power.

35 (d) The donors shall create an efficient organization among the  
 36 people of the city to manage, maintain, repair, and improve the  
 37 memorial under the powers and restrictions described in section 15  
 38 of this chapter. The organization consists of six (6) citizens of the  
 39 city. Members of the organization:

- 40 (1) serve in a manner and for a term as lawfully provided by
- 41 the donors;
- 42 (2) act in conjunction with the board of trustees as a board of

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1 managers; and

2 (3) have full charge and supervision of the establishment and  
3 erection of the memorial and its management, maintenance,  
4 repair, and improvement.

5 If the cost of management, maintenance, repair, and improvement  
6 exceeds the income derived from the memorial, the costs must be  
7 provided by voluntary contributions, donations, or endowments.  
8 The board of managers shall organize and adopt rules and bylaws  
9 for the conduct of its business as are usually adopted by similar  
10 bodies.

11 (e) If the memorial building and ground cease to be used for this  
12 purpose, the trustees shall reconvey the title to the donors, their  
13 heirs, successors, or assigns.

14 **Sec. 13. The board of trustees have:**

15 (1) full charge and supervision of the construction of the  
16 memorial adopted; and

17 (2) authority to employ a superintendent, an engineer, or an  
18 architect.

19 Each person employed must be qualified and experienced and shall  
20 give bond for the faithful performance of the person's duties. The  
21 form and amount of the bond shall be fixed by the board of county  
22 commissioners or common council.

23 **Sec. 14. If the erection or establishment of a memorial is**  
24 **governed by another statute, the procedure for erection,**  
25 **establishment, maintenance, control, and management prescribed**  
26 **by the other statute shall be followed instead of the procedure**  
27 **prescribed by this chapter.**

28 **Sec. 15. (a) If the memorial established is a hall, coliseum, or**  
29 **building of a similar nature, the hall, coliseum, or building must be**  
30 **used for public purposes of all kinds, but especially for the purpose**  
31 **of perpetuating and keeping those principles alive for which World**  
32 **War I was fought.**

33 (b) Space must be provided for memorial tablets, works of art,  
34 relics, souvenirs, war records, and things that are:

35 (1) connected with or growing out of the war; and

36 (2) appropriate in the building in the opinion of the board of  
37 trustees.

38 Institutes, exhibits, shows, and entertainment of all kinds may be  
39 held in the building in the discretion of the board of trustees.

40 (c) The trustees may let the building for hire and fix a charge for  
41 letting the building for hire.

42 (d) A preference may not be shown to a church, political party,

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1 or class of society. However, this provision may not be construed  
 2 to require or permit the use of the building by an organization or  
 3 person to promulgate doctrines inimical to the government of the  
 4 United States or Indiana.

5 (e) The memorial may not be:

6 (1) located, in whole or in part:

7 (A) upon land; or

8 (B) within land;

9 (2) connected to land; or

10 (3) used in connection with a land enclosure or other  
 11 structure:

12 for which an admission fee is charged or that is used or controlled  
 13 by a person or an organization other than the trustees in charge of  
 14 the memorial.

15 Sec. 16. (a) The trustees shall make an annual report under oath  
 16 to the board of county commissioners or common council. The  
 17 annual report must include the activities of the trustees and of the  
 18 receipts and expenditures of the memorial. The trustees shall  
 19 prepare an annual budget and estimate for the board of  
 20 commissioners and county council or common council so that  
 21 adequate appropriation of funds may be made for the proper  
 22 maintenance, repair, improvement, and extension of the memorial.  
 23 A report must be made at other times if required by the board of  
 24 commissioners or common council.

25 (b) All claims for expenditures incident to the maintenance of  
 26 the memorial must be in the form used for the payment of other  
 27 claims by the county or city. The claims must be:

28 (1) approved by the president of the board of trustees of the  
 29 memorial; and

30 (2) allowed by the board of commissioners or common council  
 31 in the same manner as other claims.

32 (c) All revenue from a memorial shall be accounted for by the  
 33 board of trustees and delivered to the county treasurer or city  
 34 fiscal officer on the first Monday of January and July of each year.

35 Sec. 17. This chapter does not prevent a gift or bequest by deed,  
 36 will, or otherwise of property to a county or city for a memorial of  
 37 the kind described in this chapter. A county and city may accept a  
 38 bequest and gift. Property given to the county or city in this  
 39 manner may be used exclusively or in conjunction with other  
 40 donated property or county or city funds for a memorial. If a gift  
 41 or bequest is made to a county or city, proper recognition of the  
 42 gift or bequest shall be shown in connection with the memorial.



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1           **Sec. 18. (a)** The governor may appoint a commission known as  
2 the memorial art commission.

3           **(b)** The commission must consist of not more than seven (7)  
4 qualified persons who serve without pay. However, members are  
5 to be paid necessary expenses as certified by the governor to the  
6 auditor of state.

7           **(c)** The commission shall consider the artistic qualities of a plan  
8 for a proposed memorial.

9           **(d)** A memorial consisting of a building, monument, statue,  
10 tablet, picture, arch, or work of art of any kind may not be erected  
11 without first:

12           **(1)** submitting the plans to the memorial art commission; and

13           **(2)** securing criticism and advice from the commission with  
14 respect to the memorial.

15 If a state art commission is established by law, it is ex officio the  
16 memorial art commission.

17           **Sec. 19.** A bid must be received and a contract awarded for the  
18 memorial in the same manner as provided by law for a county or  
19 city building. Land for a memorial may be acquired under the  
20 power of eminent domain in the same manner as other land is  
21 acquired by a county or city for a public building.

22           **Sec. 20.** This chapter does not authorize the establishment of  
23 more than one (1) memorial at the expense of the county.

24           **Sec. 21. (a)** A trustee of a memorial may be removed and the  
25 position declared vacant by the board, common council, or judge  
26 appointing the trustee upon a showing that the trustee is  
27 incompetent, dishonest, or not performing the duties required by:

28           **(1)** law; or

29           **(2)** the governing rules of the board of trustees.

30           **(b)** At any time after a memorial building has been:

31           **(1)** erected and used for public purposes described in section  
32 15 of this chapter; and

33           **(2)** fully paid for and all bonds or other indebtedness issued  
34 for the construction of the memorial has been retired;

35 the board of county commissioners or common council may by a  
36 two-thirds (2/3) vote of the board of commissioners or common  
37 council abolish and terminate the existence of the memorial board  
38 of trustees. The board of county commissioners or common council  
39 must have a signed petition requesting abolition and termination  
40 by all members of the board of trustees and the consent of the  
41 circuit court judge of the judicial circuit in which the county or city  
42 is situated. The judge's consent must be included on the signed

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1 petition. The board of county commissioners or common council  
2 shall fix a time not less than thirty (30) days or more than ninety  
3 (90) days from the date of the vote when the termination becomes  
4 effective.

5 (c) If the board of trustees has been abolished and terminated,  
6 the county auditor or city clerk shall notify the secretary of the  
7 board of trustees in writing of the time for the termination of the  
8 board of trustees.

9 (d) The board of trustees shall make a full and final report of its  
10 activities in the same manner as other reports required by this  
11 chapter. The report must be completed on or before the day fixed  
12 in the notice for termination.

13 (e) On and after the date fixed for the abolition and termination  
14 of the board of trustees, the custody, control, and management of  
15 the memorial shall be exercised by the officers, board, common  
16 council, or committee of the county or city that manages and  
17 controls other county or city buildings. The officers, board,  
18 common council, or committee of the county or city that manages  
19 and controls other county or city buildings shall perpetuate the  
20 memorial features of the building.

21 **Chapter 4. City War Memorials**

22 **Sec. 1.** As used in this chapter, "board of public works" refers  
23 to the following:

- 24 (1) The board of public works and safety established in a city  
25 under IC 36.  
26 (2) The board of public works in a city that has established a  
27 separate board of public works and a separate board of public  
28 safety under IC 36.

29 The term includes the department of public works in a city in  
30 which a department of public works has been established under  
31 IC 36.

32 **Sec. 2. (a)** A city, acting through its board of public works, with  
33 the approval of its mayor, when money has been appropriated for  
34 that purpose by an ordinance adopted and approved as provided  
35 in section 22 of this chapter, may do the following:

- 36 (1) Acquire, by purchase, donation, or condemnation, suitable  
37 interests in real property located in the city.  
38 (2) Do the following on the real property described in  
39 subdivision (1):  
40 (A) Erect and maintain upon the real property suitable  
41 structures to commemorate the bravery, courage, valor,  
42 and sacrifice of the soldiers, sailors, and marines of the

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1 United States and of all others who rendered faithful, loyal,  
 2 heroic, and self-sacrificing service at home and overseas in  
 3 World War I.

4 (B) Provide a place or places of meeting and headquarters  
 5 for the following:

6 (i) Organizations of soldiers, sailors, and marines or  
 7 patriotic societies or associations.

8 (ii) The keeping of records, archives, documents, flags,  
 9 mementoes, and relics.

10 (iii) Other public meetings and public purposes.

11 (iv) The teaching of a true understanding and  
 12 appreciation of the duties, benefits, and privileges of  
 13 American citizenship to inspire patriotism and respect  
 14 for the law to the end that peace may prevail, good will  
 15 be promoted, justice be administered and established,  
 16 public order maintained, and liberty and freedom under  
 17 the law be perpetuated.

18 (b) In addition to the power given under subsection (a), a city  
 19 may do the following:

20 (1) Acquire, by purchase, donation, or condemnation, any  
 21 interest in real property to be dedicated by the city and added  
 22 to any real property that is dedicated by the state for World  
 23 War memorial and other public purposes by proper contract,  
 24 deed or grant. The real property acquired shall be conveyed  
 25 by the city to the state for World War memorial and other  
 26 public purposes, as provided in the contract, deed, or grant.

27 (2) Join with the county in which the city is located to acquire  
 28 by purchase, donation, or condemnation interests in real  
 29 property to be dedicated by the city and the county jointly  
 30 and added to any real property that may have been or may be  
 31 designated for use, dedicated, or set apart by the state for  
 32 World War memorial and other public purposes by proper  
 33 contract, deed or grant. The real property acquired shall be  
 34 conveyed by the city and the county jointly to the state for  
 35 World War memorial and other public purposes, as provided  
 36 in the contract, deed, or grant.

37 (3) Join with the county in which the city is located to:

38 (A) acquire by purchase, donation, or condemnation of  
 39 interests in real property;

40 (B) construct and maintain on the real property a joint city  
 41 and county World War memorial; and

42 (C) use the real property for other public purposes as

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1 provided in this chapter.

2 **Sec. 3. (a) The legislative body of a city may, upon**  
 3 **recommendation of the mayor and city controller, if applicable, by**  
 4 **ordinance adopted and approved as provided in section 22 of this**  
 5 **chapter, appropriate for the use of the board of public works of the**  
 6 **city money of the city for World War memorial and other public**  
 7 **purposes.**

8 **(b) Any money and the total of all money appropriated under**  
 9 **this chapter may not exceed six-tenths of one percent (0.6%) of the**  
 10 **adjusted value of the taxable property of the city as determined**  
 11 **under IC 36-1-15.**

12 **(c) The board of public works, with the approval of the mayor,**  
 13 **may use the funds so appropriated for any of the purposes**  
 14 **described in section 2 of this chapter.**

15 **Sec. 4. (a) The board of public works of a city, in the acquisition**  
 16 **of real property as authorized by this chapter, shall acquire the**  
 17 **real property under the statutes applicable to the city for**  
 18 **acquisition of real property by donation, purchase, or**  
 19 **condemnation.**

20 **(b) Except as provided in this chapter, the board of public**  
 21 **works, in the construction of a memorial structure authorized by**  
 22 **this chapter, shall act under the statutes related to the letting of**  
 23 **contracts for public work applicable to the city.**

24 **Sec. 5. (a) A city may appropriate money for use of the board of**  
 25 **public works of the city for any of the purposes provided in this**  
 26 **chapter, either out of the general funds of the city or from the**  
 27 **proceeds of a bond issue for those purposes.**

28 **(b) A city may sell bonds for the purpose of raising funds to**  
 29 **comply with this chapter.**

30 **(c) Except as provided in this chapter, the appropriation of**  
 31 **money and the sale of bonds by a city is governed by the law**  
 32 **relating to the appropriation of money and the sale of bonds by the**  
 33 **city for other city purposes.**

34 **(d) The legislative body of a city may, by ordinance adopted and**  
 35 **approved as provided in section 22 of this chapter, do any of the**  
 36 **following:**

37 **(1) Authorize the city controller, if applicable, and the mayor,**  
 38 **in the name of the city, to make permanent loans of money for**  
 39 **any of the purposes of this chapter of any amount not more**  
 40 **than six-tenths of one percent (0.6%) of the adjusted value of**  
 41 **taxable property of the city as determined under IC 36-1-15.**

42 **(2) Authorize the city controller, if applicable, and mayor of**

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1 the city to issue bonds for the purpose of funding or refunding  
 2 loans made by the city under this chapter. Except as provided  
 3 in this chapter, any loans must be made and governed by the  
 4 law concerning permanent loans by cities. Any bonds must  
 5 satisfy all of the following:

6 (A) The bonds may be issued in any denomination of not  
 7 more than one thousand dollars (\$1,000) each and in not  
 8 less than twenty (20) or more than fifty (50) series. Each  
 9 series must be for the amount as provided by the  
 10 ordinance.

11 (B) The bonds must be payable one (1) series each year,  
 12 beginning on July 1 of the fifth year after the issue of the  
 13 bonds.

14 (C) The bonds must be negotiable as inland bills of  
 15 exchange.

16 (D) The bonds must bear interest at the rate of not more  
 17 than six percent (6%) a year, payable semiannually on July  
 18 1 and January 1 of each year.

19 (3) Authorize the city controller, if applicable, and mayor, in  
 20 advertising for the sale of bonds, to ask for competitive bids  
 21 on the bonds on any series of not less than twenty (20) nor  
 22 more than fifty (50). The city controller, if applicable, and  
 23 mayor may accept the bid that, in their judgment, is the most  
 24 advantageous bid to the city.

25 (e) Bonds issued under this chapter are exempt from taxation  
 26 for all purposes.

27 (f) A series of bonds issued under this chapter may not be for  
 28 less than two percent (2%) of the total amount of bonds issued.

29 (g) The proceeds of bonds sold under this chapter by the city,  
 30 including any premium on the bonds, must be kept as a separate  
 31 and specific fund, to be known as the World War memorial fund.  
 32 Money in the fund may be used only for any of the purposes  
 33 described in section 2 of this chapter.

34 (h) The city legislative body may, by ordinance, transfer to the  
 35 World War memorial bond fund any surplus finally remaining in  
 36 the World War memorial fund, after all the demands on the city  
 37 for money in the World War memorial fund have been paid and  
 38 discharged.

39 (i) A suit to question the validity of any bond issued under this  
 40 chapter may not be instituted after the date set for the sale of the  
 41 bonds. All bonds, beginning on the date set for the sale of the  
 42 bonds, are incontestable for any cause.

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1           **Sec. 6. (a) To raise money to pay the bonds and the interest on**  
 2 **the bonds issued under this chapter, the legislative body of the city**  
 3 **and all other officials, whether city or state, shall levy each year, in**  
 4 **addition to all other taxes the city may levy, a tax on all property,**  
 5 **real or personal, within the city, in the manner and at a rate on**  
 6 **each one hundred dollars (\$100) of taxable property in the city as**  
 7 **to meet the principal of the bonds as they severally mature and**  
 8 **interest accruing on the bonds. The legislative body of the city and**  
 9 **the fiscal officer of the city shall certify the taxes levied each year**  
 10 **to the auditor of the county in which the city is located or other**  
 11 **proper officer not later than the first Monday of September in each**  
 12 **year or at the time of the certification of the city's annual tax levy.**

13           **(b) Taxes levied and certified under this section shall be**  
 14 **collected and enforced in the same manner as other taxes are**  
 15 **collected and enforced. As the taxes are collected, the taxes shall**  
 16 **be:**

17           **(1) kept in a separate fund to be known as the "World War**  
 18 **Memorial bond fund"; and**

19           **(2) applied to the payment of the bonds issued under this**  
 20 **chapter and interest accruing on the bonds as they severally**  
 21 **mature, and for no other purpose.**

22           **All money collected for the payment of the bonds and the interest**  
 23 **accruing on the bonds shall be deposited at interest with one (1) or**  
 24 **more of the depositories as other public funds of the city. All**  
 25 **interest collected becomes a part of the fund.**

26           **(c) In a city in which there has been established a sinking fund**  
 27 **and a board of sinking fund commissioners:**

28           **(1) the World War Memorial bond fund shall be under the**  
 29 **care, custody, control, and jurisdiction of the board of sinking**  
 30 **fund commissioners; and**

31           **(2) all taxes authorized and required to be levied and collected**  
 32 **under this section to pay the bonds as they mature and**  
 33 **interest accruing on the bonds shall be used and applied by**  
 34 **the board of sinking fund commissioners to pay the bonds as**  
 35 **they mature with interest on the bonds.**

36           **Sec. 7. (a) The board of public works of the city shall select**  
 37 **designs, plans, and all necessary specifications for the erection of**  
 38 **the World War memorial. The board of public works shall publish**  
 39 **notice:**

40           **(1) in at least:**

41           **(A) three (3) newspapers of general circulation, printed**  
 42 **and published in the English language in Indiana, at least**

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- 1           one (1) of which must be published in the city; and  
 2           (B) seven (7) other newspapers or publications published  
 3           outside Indiana;  
 4           selected by the board of public works; and  
 5           (2) that, not less than four (4) months and not more than eight  
 6           (8) months after the date of publication of the notice, the  
 7           board of public works will receive and examine designs, plans,  
 8           and specifications for the World War memorial structures  
 9           submitted to the board by competing architects or artisans  
 10          skilled in that work.
- 11          (b) Each architect or artisan competing must submit all the  
 12          following:
- 13           (1) Full and careful estimates of the cost of construction of the  
 14           World War memorial structures.  
 15           (2) A sealed proposal of the compensation the architect or  
 16           artisan will require if the architect's or artisan's plan is  
 17           adopted.  
 18           (3) A separate statement of the compensation the architect or  
 19           artisan will require to superintend construction of the  
 20           memorial structures.
- 21          (c) The board of public works may not adopt a design, plan, or  
 22          specification that will cost more than the sum of the following:
- 23           (1) The amount appropriated for the memorial structures.  
 24           (2) The amount of any donations, devises, or bequests the city  
 25           has received at the time the contract is awarded.
- 26          (d) To insure adequate competition, the board of public works  
 27          may offer premiums of not more than fifteen thousand dollars  
 28          (\$15,000) for the best design, plans, or specifications for the World  
 29          War memorial. The amount of any premium must be divided and  
 30          awarded as first, second, and third premiums in the amounts and  
 31          under the rules the board adopts.
- 32          (e) The board of public works may:
- 33           (1) reject any plans, designs, and specifications submitted if  
 34           the board considers them unsuitable; and  
 35           (2) readvertise in the same manner as provided in this section  
 36           for additional designs, plans, and specifications.
- 37          If the board of public works considers none of the designs, plans,  
 38          and specifications suitable, the board may not award the  
 39          premiums. Any premium awarded to the architect who becomes  
 40          the supervising architect in building the World War memorial  
 41          shall be considered fully paid by the commission or percentage  
 42          agreed upon as specified in this chapter.

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1 (f) In the selection of designs, plans, and specifications, the  
 2 board of public works shall call for the assistance of all the  
 3 following:

4 (1) The city's civil engineer.

5 (2) At least one (1) competent architect:

6 (A) of known skill and ability in the architect's profession;  
 7 and

8 (B) who did not submit a design, a plan, or specifications  
 9 for competition.

10 (3) One (1) contractor in good standing in the contractor's  
 11 respective vocation.

12 (4) Other disinterested expert assistants as the board  
 13 considers wise.

14 (g) The board of public works shall give the designs, plans, and  
 15 specifications that have been submitted a thorough, critical  
 16 examination and direct the experts called under subsection (f) to  
 17 thoroughly examine the designs and specifications and carefully  
 18 test the estimates submitted.

19 (h) If the board of public works finds:

20 (1) the specifications and estimates to be correct;

21 (2) that the designs, plans, and specifications, or any of them,  
 22 can be constructed within the limits described in subsection  
 23 (c); and

24 (3) that the designs, plans, and specifications are suitable in  
 25 regard to permanence and appearance, adapted to all the  
 26 purposes and aims for the World War memorial, and in  
 27 keeping with the dignity of the city;

28 the board of public works may select the most meritorious of the  
 29 designs, plans, and specifications and shall notify the successful  
 30 architect of the selection. The board of public works shall return  
 31 the rejected designs, plans, and specifications to the respective  
 32 authors.

33 Sec. 8. (a) Subject to subsections (b) and (c), any changes made  
 34 in the designs, plans, and specifications in the progress of the work:

35 (1) must be agreed upon in advance between the board of  
 36 public works and the contractor and architect; and

37 (2) must have the cost of the changes fixed by contract in  
 38 writing.

39 If changes made do not comply with subdivisions (1) and (2), the  
 40 person making the changes is not entitled to any compensation for  
 41 the changes.

42 (b) A change may not be made that will increase the total cost

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1 of the World War memorial as prescribed in this chapter.

2 (c) Any changes do not affect the obligation of or release any  
3 surety on any contract or bond executed or given in connection  
4 with the building of the World War memorial structures, but the  
5 liability of the surety is extended so as to cover the change.

6 Sec. 9. (a) The architect who is selected as supervising architect  
7 in the building of the World War memorial structures is liable on  
8 the architect's bond for any of the following:

9 (1) Failure in faithfully discharging the architect's duties.

10 (2) All losses and damages that are incurred on account of the  
11 architect:

12 (A) violating this chapter; or

13 (B) neglecting the architect's duties.

14 (b) The architect is entitled to the compensation agreed upon in  
15 advance.

16 Sec. 10. (a) After the board of public works has adopted the  
17 necessary designs, plans, and specifications for construction of the  
18 World War memorial structures as provided in this chapter, the  
19 board of public works shall award contracts for all or any part of  
20 the World War memorial structures to competent and reliable  
21 contractors as provided in this section.

22 (b) The board of public works shall publish for at least three (3)  
23 weeks, once each week, in a newspaper of general circulation,  
24 printed and published in the English language in the city, a notice:

25 (1) informing the public and contractors of the general nature  
26 of the structures to be constructed and of the fact that designs,  
27 plans, drawings, and specifications are on file in the office of  
28 the board of public works; and

29 (2) calling for sealed proposals for the work on a day not  
30 earlier than thirty (30) days from the first of such  
31 publications.

32 (c) The board of public works shall, by order, impose conditions  
33 upon bidders, contractors, subcontractors, and materialmen with  
34 regard to bond and surety, guaranteeing the good faith and  
35 responsibility of the bidders, contractors, subcontractors, and  
36 materialmen and insuring the faithful completion of the work,  
37 according to contract, or for any other purpose.

38 (d) The board of public works shall reserve ten percent (10%)  
39 from payments or estimates on work in progress until the contract  
40 is completed and the work done is inspected and accepted by the  
41 board. All contracts with contractors, subcontractors, architects,  
42 or materialmen must reserve:



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1 (1) to the board of public works, for good cause shown, the  
 2 right to cancel the contract and to award the work to others;  
 3 and

4 (2) at least ten percent (10%) from payments or estimates on  
 5 work in progress until the contract is completed and the work  
 6 done is inspected and accepted by the board.

7 (e) Payment by the board of public works, partial or final, may  
 8 not be construed as a waiver of defective work or materials or as  
 9 a release for damages on account of the defective work or  
 10 materials. A surety may not be released from any obligation on the  
 11 surety's bond if a contractor should be paid the whole or any part  
 12 of the percentage required to be reserved from current estimates.  
 13 A surety may not be released by any final payment made to a  
 14 contractor.

15 Sec. 11. (a) If the board of public works of a city has been  
 16 authorized by an ordinance of the city's legislative body, passed  
 17 and approved under section 22 of this chapter, appropriating  
 18 money to be used by the board of public works under this chapter,  
 19 the board may, with the approval of the mayor of the city, enter  
 20 into a contract with the county in which the city is located, acting  
 21 through the board of commissioners of the county, providing for  
 22 the acquisition jointly by the city and the county by purchase,  
 23 donation, or condemnation of interests in real property to be added  
 24 to real property designated for use by the state for World War  
 25 memorial and other public purposes.

26 (b) The board of public works, with the approval of the mayor,  
 27 may join with the county, acting through its board of  
 28 commissioners, by an appropriate contract, deed, or grant, to  
 29 convey to the state the real property acquired jointly by the city  
 30 and the county for World War memorial and other public  
 31 purposes, under the terms and conditions stated in the contract,  
 32 deed, or grant.

33 (c) The board of public works of a city may contract with the  
 34 county in which the city is located, acting through its board of  
 35 commissioners, providing for the acquisition by purchase,  
 36 donation, or condemnation of interests in real property and the  
 37 construction of a World War memorial suitable for the city and  
 38 county and suitable for other public purposes. If the city, through  
 39 its board of public works and mayor, wants to contract under this  
 40 chapter with the county in which the city is located for any of the  
 41 purposes authorized by this chapter, the board of public works  
 42 must adopt a resolution stating that proposal. A certified copy of

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1 the resolution must be delivered to the board of commissioners of  
 2 the county. The board of commissioners of the county, not later  
 3 than sixty (60) days after the receipt of the resolution, shall  
 4 determine by order or resolution whether the county will join with  
 5 the city in the execution of a contract for a purpose authorized by  
 6 this chapter.

7 (d) If the city and county determine to join in the acquisition of  
 8 interests in real property to be added to any real property  
 9 designated at any time for use by the state for World War  
 10 memorial and other public purposes as authorized by law, then the  
 11 board of public works, acting for the city with the approval of the  
 12 mayor, shall execute a contract on behalf of the city with the  
 13 county, acting through its board of commissioners. The contract  
 14 must describe the real property interests to be acquired jointly by  
 15 the city and the county and the part of the acquisition cost to be  
 16 paid by the city and the part of the acquisition cost to be paid by  
 17 the county. The contract may contain other provisions that the city  
 18 and the county agree upon and that are not inconsistent with this  
 19 chapter. The contract must be executed in duplicate and be  
 20 recorded in the minutes of the proceedings of the board of public  
 21 works of the city and of the board of county commissioners of the  
 22 county.

23 (e) If the county and city determine to establish a joint World  
 24 War memorial, then the board of public works, acting for the city  
 25 with the approval of the mayor, shall execute a contract on behalf  
 26 of the city with the county. The contract must provide as follows:

27 (1) For the acquisition of real property interests and the  
 28 construction on the real property of a joint World War  
 29 memorial suitable for the county and city.

30 (2) For the definite and respective parts of the total cost of the  
 31 World War memorial that will be paid by the county and by  
 32 the city and the time and manner of the payments.

33 (3) That the acquisition of the real property and the execution  
 34 of all necessary contracts for the construction of the joint  
 35 World War memorial shall be made by a board of trustees,  
 36 consisting of five (5) members, to be appointed and have the  
 37 powers and perform the duties as provided in this chapter.

38 (4) That the total cost of the acquisition of the real property  
 39 for the joint World War memorial and the construction of the  
 40 memorial may not exceed the sum of the following:

41 (A) The amount appropriated for the memorial by the city  
 42 and by the board of commissioners of the county.

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- 1           **(B) Any amounts donated, contributed, or received by the**  
 2           **city and by the county for the purpose of the World War**  
 3           **memorial.**
- 4           **(5) That the necessary cost and expenses for the management,**  
 5           **maintenance, repairs, and improvement of the World War**  
 6           **memorial shall be paid by the county and city in the same**  
 7           **proportion that they contribute to the establishment of the**  
 8           **memorial.**
- 9           **(6) Any other provisions that may be agreed upon between the**  
 10          **county and the city consistent with this chapter.**
- 11          **(f) The city shall pay for its part due under any contract**  
 12          **executed with the county under this chapter either from the city's**  
 13          **general funds or from the proceeds of bonds sold under this**  
 14          **chapter.**
- 15          **(g) The legislative body of the city may authorize by ordinance**  
 16          **the sale of bonds of the city for the purpose of raising funds to pay**  
 17          **the city's part of the cost under a contract that it executes with the**  
 18          **county under this chapter.**
- 19          **(h) The sale of bonds shall comply with a contract executed by**  
 20          **a city with the county in which the city is located for any purpose**  
 21          **authorized by this chapter, and the levy of taxes to pay the bonds,**  
 22          **with interest accruing on the bonds, is governed by this chapter.**  
 23          **The legislative body of the city and other proper officers shall sell**  
 24          **the necessary bonds and levy and collect the necessary taxes to pay**  
 25          **the bonds as they mature and the interest accruing on the bonds as**  
 26          **provided in this chapter.**
- 27          **Sec. 12. (a) Except as provided in subsection (f), if a city enters**  
 28          **into a contract with the county in which it is located to establish a**  
 29          **joint city and county World War memorial, there is established a**  
 30          **board of trustees that consists of five (5) members, named**  
 31          **"Trustees of the World War Memorial for the County**  
 32          **\_\_\_\_\_ and the city of \_\_\_\_\_", giving the name**  
 33          **of the county and the name of the city. The mayor of the city shall**  
 34          **appoint two (2) trustees, and the board of commissioners of the**  
 35          **county shall appoint three (3) trustees. The trustees shall be**  
 36          **appointed by the mayor for a term of three (3) years. The trustees**  
 37          **shall be appointed by the board of commissioners for a term of**  
 38          **three (3) years.**
- 39          **(b) The trustees shall be selected without regard to their**  
 40          **political affiliations, but not more than three (3) trustees may be**  
 41          **members of the same political party. The mayor may not appoint**  
 42          **more than one (1) trustee from any political party, and the board**

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1 of commissioners may not appoint more than two (2) trustees from  
 2 any political party. The trustees must be persons of high standing  
 3 and character. The trustees shall serve without compensation but  
 4 may be reimbursed for any reasonable expenses necessarily  
 5 incurred by them in the performance of their duties.

6 (c) The judge of the circuit court may, for just cause, based  
 7 upon written charges:

8 (1) specifying the alleged misconduct; and

9 (2) filed by the mayor of the city or the board of  
 10 commissioners;

11 remove any member of the board of trustees, after notice to the  
 12 member and a public hearing. In case of a vacancy caused by  
 13 removal or otherwise, the mayor or board of commissioners  
 14 making the original appointment shall appoint some qualified  
 15 individual to fill the unexpired term.

16 (d) Each trustee shall execute a bond to the county and city in  
 17 the sum of five thousand dollars (\$5,000), conditioned for the  
 18 faithful performance of the trustee's duties as trustee, with surety  
 19 approved by the judge of the circuit court. Each of the trustees  
 20 shall take and subscribe an oath that the trustee will:

21 (1) support the Constitution of the United States and the  
 22 Constitution of the State of Indiana; and

23 (2) faithfully discharge all of the duties as trustee.

24 The oath must be endorsed on the bond, and the bond and oath  
 25 must be filed with the circuit court clerk.

26 (e) If a joint county and city World War memorial is established  
 27 under this chapter, the following apply:

28 (1) The board of trustees established by this chapter for that  
 29 purpose has all the powers and may perform all the duties in  
 30 relation to the acquisition of the real property and the  
 31 construction of the joint county and city World War  
 32 memorial as is conferred upon a board of commissioners  
 33 erecting a county World War memorial.

34 (2) All money appropriated by the city and the county for the  
 35 World War memorial shall be disbursed upon estimates  
 36 submitted by the board of trustees and certified to the proper  
 37 officers of the city and the proper officers of the county for  
 38 the respective proportions as provided in the contract  
 39 between the city and county. Upon these certifications, the  
 40 proper city and county officers shall draw warrants to pay the  
 41 amounts certified.

42 (f) A board of trustees may not be established under this section

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1 if the city enters into a contract with the county in which it is  
2 located to join the county in acquiring interests in real property to  
3 be dedicated by the city and the county and added to real property  
4 that may be designated by the state for World War memorial and  
5 other public purposes.

6 Sec. 13. (a) The board of public works of a city, acting for the  
7 city or acting jointly with the board of commissioners of the county  
8 in which the city is located, may proceed under IC 32-24 and has  
9 all powers of eminent domain granted in this chapter or any other  
10 statute to acquire interests in real property by purchase or  
11 condemnation for any of the purposes authorized by this chapter.

12 (b) Before the board of public works may purchase an interest  
13 in real property, either by the city or jointly by the city and the  
14 county in which it is located:

- 15 (1) the board of public works;
- 16 (2) the board of trustees, as provided in section 12 of this
- 17 chapter; or
- 18 (3) the board of public works acting jointly with the board of
- 19 commissioners of the county in which the city is located;

20 must have the real property appraised at its true cash value by at  
21 least three (3) disinterested freeholders of the city and may not pay  
22 more than the appraised value for any interest in real property. If  
23 an owner refuses to sell the owner's interest in real property at the  
24 appraised value, the interest in real property must be acquired by  
25 condemnation. The legal department of the city shall conduct all  
26 necessary proceedings for the purchase or condemnation of an  
27 interest in real property by the city and county jointly, for any  
28 purpose under this chapter, without additional compensation.

29 (c) If a city institutes proceedings to condemn an interest in real  
30 property under this chapter, the suit must be brought in the name  
31 of the city by the legal department of the city, without additional  
32 compensation, at the direction of the board of public works. If  
33 there is a joint condemnation of an interest in real property by a  
34 city and the county in which it is located, the suit must be brought  
35 in the name of the city as provided in this section and in the name  
36 of the county, by an attorney representing the county, at the  
37 direction of the board of county commissioners of the county. The  
38 city or the city and county jointly may:

- 39 (1) join in one (1) action as defendants the owners and all
- 40 persons interested in one (1) or more interests in real property
- 41 to be condemned; or
- 42 (2) institute proceedings to condemn separate interests in real

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1           property.  
 2           **Sec. 14.** If a city decides to acquire or to join with the county in  
 3 which it is located in the acquisition of interests in real property as  
 4 provided in this chapter to be added to real property designated by  
 5 the state for World War memorial and other public purposes, as  
 6 provided in this chapter, the city, through its board of public  
 7 works, with the approval of the mayor, may execute proper deeds,  
 8 grants, or contracts with the state through the state's proper  
 9 officers having the custody and control of the state World War  
 10 memorial, by which the real property acquired by the city or by  
 11 the city and the county jointly is conveyed to the state for World  
 12 War memorial and other public purposes, as authorized by this  
 13 chapter. The deed, grant, or contract must provide for the use by  
 14 the city or by the city and county jointly of the memorial grounds  
 15 and structures and that the grounds and structures shall be a city  
 16 World War memorial to the extent of the money appropriated and  
 17 used by the city in the acquisition of the grounds and structures.

18           **Sec. 15.** The board of public works of a city may grant the use  
 19 of any structure or any part of a structure constructed by the city,  
 20 with or without rent or charge, to any organization of soldiers,  
 21 sailors, marines, and others as a place or places of their meetings  
 22 and headquarters, for the time and upon the conditions as the  
 23 board of public works may determine. The board of public works  
 24 may also grant the use of the structure for any other lawful public  
 25 purpose not inconsistent with this chapter for which the structure  
 26 may be suitable, either with or without rent or charge, as the board  
 27 of public works determines.

28           **Sec. 16.** A city may receive donations, gifts, devises, and  
 29 bequests for use by the board of public works for the purposes of  
 30 this chapter. Any money received by the city may, without  
 31 appropriation by the city's legislative body, be used for the  
 32 purposes for which the money was donated, as provided in this  
 33 chapter.

34           **Sec. 17. (a)** If a city acquires real property for any of the  
 35 purposes provided for in this chapter or joins with the county in  
 36 which the city is located in the acquisition of real property for any  
 37 of the purposes provided for by this chapter:

- 38           (1) the city, through its board of public works with the  
 39 approval of the mayor; or  
 40           (2) the city, through its board of public works with the  
 41 approval of the mayor, acting jointly with the board of  
 42 commissioners of the county in which the city is located;

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1 may grant the use of any real property or buildings and  
 2 improvements on the real property to any organization of soldiers,  
 3 sailors, or marines of the United States and others with or without  
 4 rent or charge, upon the conditions as may be determined.

5 (b) The city, or the city and county, acting as provided in this  
 6 section, may sell the buildings and improvements on any real  
 7 property acquired under this chapter.

8 (c) The net rent or proceeds of the sale of the buildings and  
 9 improvements, after deducting an amount sufficient to pay for the  
 10 maintenance and repair of the buildings and improvements, must  
 11 be deposited as follows:

12 (1) In the city World War memorial fund if the World War  
 13 memorial was acquired by the city.

14 (2) In the city World War memorial fund and in the county  
 15 World War memorial fund if the World War memorial was  
 16 acquired by the city and county jointly. The money shall be  
 17 deposited in the respective funds in the same proportion that  
 18 the city and county contributed to the acquisition of the  
 19 World War memorial.

20 (d) The city, or the city and county acting as provided in this  
 21 chapter, may convey any real property acquired under this chapter  
 22 to the state and provide in the contract with the state as to the rent  
 23 of the buildings and improvements on the real property until  
 24 necessary to remove the buildings and improvements and for the  
 25 sale of the buildings and improvements if the real estate is needed  
 26 by a board of trustees established under this chapter for World  
 27 War memorial and other public purposes. The contract must  
 28 provide how the net rent or proceeds must be applied.

29 Sec. 18. (a) The legislative body of a city may, upon the  
 30 recommendation of the mayor and city controller, if applicable, of  
 31 the city, instead of selling bonds as provided in section 5 of this  
 32 chapter, sell bonds:

33 (1) with a maturity of not more than ten (10) years;

34 (2) for any of the purposes authorized by this chapter;

35 (3) at a rate of interest not more than six percent (6%) a year,  
 36 payable semiannually; and

37 (4) payable at their maturity, but not later than ten (10) years  
 38 after the date of the issuance of the bonds.

39 If the bonds are issued for a period longer than five (5) years, at  
 40 least two percent (2%) of the total issue of the bonds must mature  
 41 each year after the fifth year, and the balance must mature and be  
 42 paid or refunded not later than ten (10) years after the date of

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1 issuance.

2 (b) Bonds issued under this section, the taxes to pay the bonds  
3 as they mature, and interest accruing on the bonds must be levied  
4 in accordance with sections 5 and 6 of this chapter.

5 (c) The city's legislative body may refund bonds sold under this  
6 section with other bond issues in accordance with section 5 and  
7 other provisions of this chapter relating to the sale of bonds. The  
8 city's legislative body may name the date when the first series of  
9 refunding bonds is due. However, the due date of the first series  
10 due may not be more than five (5) years from the date of issue.

11 Sec. 19. In the establishment and maintenance of a World War  
12 memorial, a city's board of public works or the board of trustees  
13 of a joint county and city World War memorial has all the powers  
14 and duties conferred upon the Indiana war memorials commission  
15 under IC 10-18-1 to the extent the powers and duties conferred in  
16 IC 10-18-1 are not inconsistent with this chapter. However, this  
17 chapter does not authorize a city's board of public works or a  
18 board of trustees of a joint county and city World War memorial  
19 to employ a secretary.

20 Sec. 20. A person may not bring suit to enjoin the enforcement  
21 of this chapter or to prevent the levy or collection of taxes under  
22 this chapter.

23 Sec. 21. All property:

- 24 (1) constituting a city World War memorial;  
25 (2) constituting a joint county and city World War memorial;  
26 or  
27 (3) used or acquired in connection with a city or a joint county  
28 and city World War memorial;

29 for any purpose authorized by this chapter is exempt from taxation  
30 for all purposes.

31 Sec. 22. (a) If a city legislative body wants to implement this  
32 chapter, the legislative body must adopt an ordinance that must be  
33 in substance as follows:

34 "Be it resolved by \_\_\_\_\_ (name of the city's legislative  
35 body) that the city should proceed (or jointly with \_\_\_\_\_  
36 County, in which it is located) to carry out the purposes of  
37 IC 10-18-4."

38 The ordinance must be submitted to the mayor of the city for  
39 approval. If the ordinance is approved by the mayor, the city clerk  
40 shall give notice of the adoption of the ordinance by the publication  
41 of the ordinance in full by two (2) insertions published at least a  
42 week apart under IC 5-3-1-4.

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1           (b) The city may appropriate money, issue bonds, levy taxes,  
2 and do everything necessary to implement this chapter.

3           (c) If a city issues bonds under this chapter and the bonds must  
4 be refunded, the city's legislative body is not required to adopt an  
5 ordinance for that purpose.

6           (d) A city's rights and powers under this chapter are not  
7 exhausted by being exercised one (1) or more times, but are  
8 continuing rights and powers. A subsequent exercise of power  
9 under this chapter by a city does not require the city's legislative  
10 body to adopt an ordinance. A city that wants to act a subsequent  
11 time to implement this chapter may proceed, acting through its  
12 board of public works, with the approval of its mayor, when money  
13 has been appropriated for the action by an ordinance passed by the  
14 city's legislative body and approved by the mayor, without  
15 complying with any other law relating to appropriations and  
16 budgets except for section 3 of this chapter.

17           (e) A taxpayer aggrieved by an action under this section may  
18 appeal the decision to the circuit court of the county within ten (10)  
19 days in the same manner as other appeals are taken from an action  
20 of the board. The cause of action shall be tried de novo.

21           **Chapter 5. Township Memorials**

22           **Sec. 1. A township trustee may receive as public property a**  
23 **monument or memorial built:**

24               (1) in the township;

25               (2) in honor of the township's soldiers or marines; and

26               (3) by the people with public donations;

27 if the people of the township want to give the monument or  
28 memorial to the township.

29           **Sec. 2. The township trustee shall care for and repair a**  
30 **monument or memorial described in section 1 of this chapter with**  
31 **township money.**

32           **Chapter 6. Veterans Associations**

33           **Sec. 1. A veterans association established under this chapter**  
34 **must meet the following requirements:**

35               (1) The association must be formed by at least three (3)  
36 individuals who:

37                   (A) served in the military or naval forces of the United  
38 States during any war or campaign; and

39                   (B) are residents of Indiana.

40               (2) The association must have written articles of association  
41 that comply with the requirements under this chapter.

42               (3) The association must be formed for any of the following

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1 purposes:

2 (A) To acquire, own, maintain, and administer homes,  
3 assembly halls, or schools.

4 (B) To provide care, protection, education, and general  
5 welfare for indigent and helpless soldiers, sailors, marines,  
6 or nurses who served in the military or naval forces of the  
7 United States and their widows, orphans, half-orphans,  
8 and other soldiers, sailors, or marines.

9 (4) The association must be formed for charitable and  
10 educational purposes and operated as a nonprofit association.

11 Sec. 2. The articles of association must specify the following:

12 (1) The corporate name of the veterans association.

13 (2) The object of the association, with the proposed plan of  
14 doing business.

15 (3) The city or town and county of the principal place of  
16 business of the association.

17 (4) The term of existence of the association.

18 (5) The names of the association's directors or trustees who  
19 are to serve for the first year and until the directors' or  
20 trustees' successors take office.

21 Sec. 3. (a) The articles of association must be filed with the  
22 secretary of state, and a copy must be filed with the county  
23 recorder of the county where the veterans association's principal  
24 place of business is located.

25 (b) After the articles of association are filed with the secretary  
26 of state and county recorder, the veterans association is a body  
27 politic and corporate, with the following powers:

28 (1) To sue and be sued in the veterans association's corporate  
29 name.

30 (2) To acquire property, real and personal, by gift, devise,  
31 bequest, and purchase.

32 (3) To use, lease, or dispose of personal or real property that  
33 furthers the purposes of the association.

34 (4) To borrow money and to issue notes, bonds, or other usual  
35 forms of securities.

36 (5) To secure the payment of the veterans association's  
37 obligations by mortgages or deeds of trust upon the veterans  
38 association's real or personal property.

39 Sec. 4. A veterans association established under this chapter  
40 must include the following provisions in the association's bylaws:

41 (1) The election or appointment of the veterans association's  
42 officers.

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1           (2) The admission of veterans association members or other  
2           persons to the association's homes, assembly halls, or schools.

3           (3) The expulsion of members and other individuals when it  
4           is in the best interest and welfare of the veterans association's  
5           homes, assembly halls, and schools.

6           Sec. 5. If allowed by the veterans association's bylaws, an  
7           association established under this chapter may employ teachers or  
8           attendants.

9           **Chapter 7. Memorial Corporations**

10          Sec. 1. At least six (6) residents of Indiana may voluntarily  
11          associate themselves into a memorial corporation for the following  
12          purposes:

13           (1) To perpetuate the memory of soldiers and sailors.

14           (2) To hold meetings and conduct ceremonies.

15           (3) To decorate, beautify, maintain, protect, improve, enlarge,  
16           and enhance the conveniences of graves, cemeteries, and  
17           places for keeping the bodies of deceased persons.

18          Sec. 2. A memorial corporation established under this chapter  
19          has the following powers:

20           (1) To hold meetings, conduct ceremonies, and decorate  
21           graves and burial places.

22           (2) To erect and pay the expenses for monuments and  
23           memorials.

24           (3) To receive and hold donations, gifts, devises and bequests,  
25           and funds produced by taxation and real and personal  
26           property.

27           (4) To purchase, hold, lease, mortgage, hypothecate, and sell  
28           real estate and personal property.

29           (5) To take real or personal property by will.

30           (6) To take or hold real or personal property in trust and  
31           manage the property as set forth in the instrument creating  
32           the trust, in a manner that is not inconsistent with the uses  
33           provided in this chapter.

34           (7) To invest the funds belonging to the corporation and loan  
35           and invest the money owned or held by the corporation.

36           (8) To sue and be sued in all matters necessary to carry out  
37           the provisions of this chapter.

38          Sec. 3. (a) The officers of a memorial corporation must include  
39          the following:

40           (1) President.

41           (2) Vice president.

42           (3) Secretary.

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- 1           **(4) Treasurer.**  
 2           **(5) Three (3) trustees.**  
 3           **(b) All officers serve without pay except the secretary, whose**  
 4 **compensation shall be fixed by a majority of the trustees.**  
 5           **(c) The offices of secretary and treasurer may be held by the**  
 6 **same person.**  
 7           **(d) The term of each officer is for one (1) year and until the**  
 8 **officer's successor is elected and qualified.**  
 9           **(e) The treasurer shall give bond in a sum double the amount of**  
 10 **all money and securities that may come into the possession of the**  
 11 **treasurer. The amount of the bond must be approved by the**  
 12 **trustees.**  
 13           **(f) Each officer must be elected by a majority vote cast by the**  
 14 **owners of the stock. A vote may not be cast by proxy or by an agent**  
 15 **of the owner. Elections shall be held at 2 p.m. on the first Tuesday**  
 16 **of April of each year at the office of the secretary. However, an**  
 17 **election may be held at another convenient place if the election is**  
 18 **designated in a notice signed by not less than two (2) trustees and**  
 19 **published at least one (1) week before the election in the weekly**  
 20 **newspaper printed and published nearest to the place of the**  
 21 **election.**  
 22           **(g) A special election may be held for all vacant offices if a**  
 23 **notice is signed by all the trustees and the notice is published at**  
 24 **least one (1) week before the election in a weekly newspaper**  
 25 **printed and published nearest to the place of the election. The**  
 26 **notice must specify the time and place of the election and all the**  
 27 **officer vacancies that can be filled.**  
 28           **(h) The books of the memorial corporation shall be kept at the**  
 29 **office of the secretary.**  
 30           **Sec. 4. All property owned or held by the memorial corporation**  
 31 **constitutes a permanent fund to be owned, held, used, and operated**  
 32 **solely for the purposes set forth in sections 1 and 2 of this chapter**  
 33 **and not for the gain or for the personal benefit of any person,**  
 34 **corporation, or association.**  
 35           **Sec. 5. (a) A memorial corporation organized under this chapter**  
 36 **may hold and manage funds, money, or property in trust for any**  
 37 **person or for any purpose expressed in the terms of the trust.**  
 38 **However, the trust must be for some of the purposes or objects set**  
 39 **forth in sections 1 and 2 of this chapter.**  
 40           **(b) A person competent to make a will may create a trust under**  
 41 **this section.**  
 42           **Sec. 6. The money, property, or income owned or held by a**

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1 memorial corporation organized under this chapter may not be  
 2 owned, held, or used to promote the interest or teachings of a  
 3 specific church, sect, school, or creed. However, the memorial  
 4 corporation may not discriminate against an individual or  
 5 organization because of religious beliefs.

6 Sec. 7. (a) The stock of a memorial corporation consists of one  
 7 (1) share for each five dollars (\$5) of the permanent fund belonging  
 8 to the corporation. The secretary of the memorial corporation shall  
 9 issue to any person paying money into, or in any manner  
 10 augmenting, the permanent fund of the corporation a certificate of  
 11 stock for each five dollars (\$5) in money or property in value. Each  
 12 stock certificate must be signed by the president and attested by  
 13 the secretary.

14 (b) Every share of stock that is issued is entitled to one (1) vote  
 15 in the election of officers. However, the vote must be cast by the  
 16 owner of the stock in person and not by an agent or a proxy.

17 (c) Stock in a memorial corporation may be assigned by the  
 18 owner or transferred by will. If the owner of any share of the stock  
 19 dies without having disposed of the stock by a will, the stock held  
 20 by the deceased owner is canceled. Canceled stock is referred to as  
 21 "dead stock", and all other stock is referred to as "active stock",  
 22 and only the owners of active stock may participate in election of  
 23 officers of the memorial corporation.

24 Sec. 8. The board of trustees of a memorial corporation shall do  
 25 the following:

26 (1) Conduct the prudential affairs of the memorial  
 27 corporation.

28 (2) Vote on the loans, investments, purchases, sales, and the  
 29 policy and manner of conducting the affairs of the  
 30 corporation.

31 (3) Keep all the money loaned, invested, or in some manner  
 32 active and bring into the treasury funds to carry out the spirit  
 33 and letter of this chapter.

34 Sec. 9. (a) The existence of a memorial corporation organized  
 35 under this chapter is perpetual.

36 (b) The permanent fund of a memorial corporation is perpetual  
 37 and may not be reduced for any purpose. The income from the  
 38 investment of a memorial corporation's permanent fund may be  
 39 used only for purposes allowed in this chapter.

40 (c) The stock and property of a memorial corporation is  
 41 nontaxable.

42 Sec. 10. The officers and trustees of a memorial corporation

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1 may adopt bylaws for the guidance and conduct of the memorial  
2 corporation's affairs as the officers and trustees consider proper.  
3 However, the bylaws may not conflict with this chapter.

4 **Sec. 11. If at least six (6) persons desire to create a memorial**  
5 **corporation under this chapter, each person shall pay to the**  
6 **permanent fund of the corporation at least five dollars (\$5) and**  
7 **sign articles of incorporation that contain the name of the**  
8 **corporation, the place where the corporation's business will be**  
9 **conducted, and the names of the individuals who will be the initial**  
10 **officers until the first regular election after the organization of the**  
11 **memorial corporation. The articles of incorporation may be in**  
12 **substance as follows:**

13 "We, the undersigned, residents of the state of Indiana,  
14 hereby associate ourselves together for the purpose of  
15 forming a memorial corporation under the provisions of  
16 IC 10-18-7. We have each paid in the sum of five dollars (\$5)  
17 (or the sum agreed upon). The business of the corporation  
18 shall be conducted at the town (or city) of \_\_\_\_\_ in the  
19 county of \_\_\_\_\_ and state of Indiana, and the officers to  
20 hold and to conduct the affairs of the corporation until the  
21 next regular election, as provided by IC 10-18-7, shall be:  
22 \_\_\_\_\_, president; \_\_\_\_\_, vice president; \_\_\_\_\_,  
23 secretary; \_\_\_\_\_, treasurer; and \_\_\_\_\_,  
24 and \_\_\_\_\_, trustees, (filling all blanks to suit the  
25 application). The name of the corporation shall be The  
26 \_\_\_\_\_ Memorial Association of \_\_\_\_\_, Indiana.

27 In witness whereof, we hereunto subscribe our names this  
28 \_\_\_\_\_ day of \_\_\_\_\_ (month) in \_\_\_\_\_ (year).

29 Names \_\_\_\_\_ Names"

30 **Sec. 12. If:**

- 31 (1) section 11 of this chapter is fully complied with;  
32 (2) the articles provided for in section 11 of this chapter are  
33 signed; and  
34 (3) the money is paid to the treasurer;

35 the articles of incorporation shall be filed with the secretary of  
36 state, along with a fee of one dollar (\$1). The secretary of state shall  
37 record the articles in the secretary of state's office and return to  
38 the secretary of the corporation a certified copy of the articles. The  
39 certificate must contain the date of the filing. The memorial  
40 corporation is considered to be in full force and existence from the  
41 time the articles of incorporation are filed.

42 **Chapter 8. Local Appropriations to Veterans Organizations**



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1           **Sec. 1. (a) The respective authorities of counties, townships,**  
 2 **cities, and towns may appropriate annually to one (1) post,**  
 3 **garrison, or camp of each of the following organizations in the**  
 4 **respective counties, townships, cities, or towns a sum of not more**  
 5 **than five hundred dollars (\$500) to any post, garrison, or camp to**  
 6 **aid in defraying the expenses of Memorial Day:**

- 7           **(1) Veterans of Foreign Wars of the United States.**  
 8           **(2) United Spanish War Veterans.**  
 9           **(3) Disabled American Veterans of the World War.**  
 10           **(4) The American Legion.**  
 11           **(5) The Army and Navy Union of the United States of**  
 12 **America.**  
 13           **(6) Marine Corps League.**  
 14           **(7) Veterans of World War I, Inc.**  
 15           **(8) American Veterans of World War II.**  
 16           **(9) Catholic War Veterans.**  
 17           **(10) Jewish War Veterans.**  
 18           **(11) American Ex-Prisoners of War.**  
 19           **(12) American Veterans of World War II, Korea and Vietnam**  
 20 **(AMVETS).**  
 21           **(13) American War Mothers.**  
 22           **(14) Blinded Veterans Association.**  
 23           **(15) Congressional Medal of Honor Society of the United**  
 24 **States of America.**  
 25           **(16) Gold Star Wives of America, Inc.**  
 26           **(17) Legion of Valor of the U.S.A., Inc.**  
 27           **(18) Military Order of the Purple Heart of the U.S.A., Inc.**  
 28           **(19) Non Commissioned Officers Association (NCOA).**  
 29           **(20) Paralyzed Veterans of America.**  
 30           **(21) Pearl Harbor Survivors Association, Inc.**  
 31           **(22) Polish Legion of American Veterans, USA.**  
 32           **(23) Regular Veterans Association.**  
 33           **(24) The Retired Enlisted Association.**  
 34           **(25) U.S. Submarine Veterans of World War II.**  
 35           **(26) Vietnam Veterans of America, Inc.**  
 36           **(27) Women's Army Corps Veterans Association.**

37           **(b) However, in a county in which there is a county memorial**  
 38 **day society, county veterans' council, or any other county**  
 39 **memorial day association, the county council may annually**  
 40 **appropriate to one (1) society, council, or association, instead of the**  
 41 **appropriations to the various organizations listed in subsection (a),**  
 42 **a sum of not more than the total amounts to which the**



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1 **organizations listed in subsection (a) would be collectively entitled,**  
 2 **to aid in defraying the expenses of Memorial Day.**

3 **Sec. 2. The counties, townships, cities, and towns may**  
 4 **appropriate annually money to be allocated to an appropriate**  
 5 **nonprofit veterans organization for the development,**  
 6 **establishment, or maintenance of a veterans memorial located**  
 7 **within the county of the county, town, city, or township allocating**  
 8 **the funds.**

9 SECTION 10. IC 3-10-8-4.5, AS AMENDED BY P.L.204-2001,  
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2003]: Sec. 4.5. Whenever the election division receives a  
 12 notice under section 4 of this chapter, the election division shall notify  
 13 the following offices and agencies that a special election will be  
 14 conducted within all or part of Indiana:

15 (1) Each agency serving persons with disabilities and designated  
 16 as a voter registration site under IC 3-7-16.

17 (2) Armed forces recruitment offices in accordance with  
 18 procedures established under IC 3-7-17.

19 (3) Each agency designated as a voter registration site and subject  
 20 to IC 3-7-18.

21 (4) The alcohol and tobacco commission for purposes of  
 22 enforcing IC 7.1-5-10-1.

23 (5) The bureau of motor vehicles for voter registration purposes  
 24 under IC 9-24-2.5.

25 (6) The adjutant general for purposes of enforcing ~~IC 10-2-4-16.~~  
 26 **IC 10-16-7-17.**

27 (7) The division of family and children for voter registration  
 28 purposes under IC 12-14-1.5, IC 12-14-25, and IC 12-15-1.5.

29 (8) The state department of health for voter registration purposes  
 30 under IC 16-35-1.6.

31 (9) The Federal Voting Assistance Program of the United States  
 32 Department of Defense, for notification of absent uniformed  
 33 services voters and overseas voters.

34 SECTION 11. IC 4-6-9.1-1, AS ADDED BY P.L.124-2002,  
 35 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2003]: Sec. 1. (a) Sections 1 through 7 of this chapter apply  
 37 to the period during which an emergency is declared and the  
 38 twenty-four (24) hours before the declaration by the governor under  
 39 ~~IC 10-4-1-7 or IC 10-4-1-7.1.~~ **IC 10-14-3-12 or IC 10-14-3-13.**

40 (b) The definitions in ~~IC 10-4-1-3~~ **IC 10-14-3** apply to this chapter.

41 SECTION 12. IC 4-6-9.1-7, AS ADDED BY P.L.124-2002,  
 42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



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1 JULY 1, 2003]: Sec. 7. This chapter preempts the power of local  
 2 governments to regulate pricing of commodities under a declaration of  
 3 emergency:

- 4 (1) under ~~IC 10-4-1-7~~; **IC 10-14-3-12**;  
 5 (2) under ~~IC 10-4-1-7.1~~; **IC 10-14-3-13**; or  
 6 (3) by a local government.

7 SECTION 13. IC 4-13-1-15 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. ~~The provisions of~~  
 9 This chapter ~~shall in no way~~ **may not be construed to** restrict the  
 10 powers of the state board of accounts as prescribed by IC 5-11-1 ~~and~~  
 11 ~~shall in no way or~~ restrict the powers and functions of the ~~Indiana~~ state  
 12 police ~~department~~ as prescribed by ~~IC 10-1-1~~; ~~nor shall the provisions~~  
 13 ~~of IC 10-11-2~~. This chapter, except IC 4-13-1-4(1) and ~~(3)~~;  
 14 **IC 4-13-1-4(3)**, **does not** apply to the state universities and Ivy Tech  
 15 State College.

16 SECTION 14. IC 4-13-1.4-2 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this  
 18 chapter, "state agency" means any of the following:

- 19 (1) A state agency (as defined in IC 4-13-1-1).  
 20 (2) Any other authority, board, branch, commission, committee,  
 21 department, division, or other instrumentality of the executive  
 22 branch of state government, including the following:  
 23 (A) A state educational institution (as defined in  
 24 IC 20-12-0.5-1).  
 25 (B) A license branch operated or administered under IC 9-16.  
 26 (C) The state police department created by ~~IC 10-1-1-1~~;  
 27 **IC 10-11-2-4**.

28 SECTION 15. IC 4-15-2-3.8, AS AMENDED BY P.L.215-2001,  
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 JULY 1, 2003]: Sec. 3.8. "State service" means public service by:

- 31 (1) employees and officers, including the incumbent directors, of  
 32 the county offices of family and children; and  
 33 (2) employees and officers, except members of boards and  
 34 commissions or individuals hired for or appointed to, after June  
 35 30, 1982, positions as appointing authorities, deputies, assistants  
 36 reporting to appointing authorities, or supervisors of major units  
 37 within state agencies, irrespective of the title carried by those  
 38 positions, of the division of disability, aging, and rehabilitative  
 39 services, Fort Wayne State Developmental Center, Muscatatuck  
 40 State Developmental Center, division of mental health and  
 41 addiction, Larue D. Carter Memorial Hospital, Evansville State  
 42 Psychiatric Treatment Center for Children, Central State Hospital,



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1 Evansville State Hospital, Logansport State Hospital, Madison  
 2 State Hospital, Richmond State Hospital, state department of  
 3 health, Indiana School for the Blind, Indiana School for the Deaf,  
 4 Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's  
 5 Home, Silvercrest Children's Development Center, department of  
 6 correction, Westville Correctional Facility, Plainfield Juvenile  
 7 Correctional Facility, Putnamville Correctional Facility,  
 8 Indianapolis Juvenile Correctional Facility, Indiana State Prison,  
 9 Indiana Women's Prison, Pendleton Correctional Facility,  
 10 Reception and Diagnostic Center, Rockville Correctional Facility,  
 11 Youth Rehabilitation Facility, Plainfield Correctional Facility,  
 12 department of fire and building services, state emergency  
 13 management agency (excluding a county emergency management  
 14 organization and any other local emergency management  
 15 organization created under ~~IC 10-4-1~~; **IC 10-14-3**), civil rights  
 16 commission, criminal justice planning agency, department of  
 17 workforce development, Indiana historical bureau, Indiana state  
 18 library, division of family and children, Indiana state board of  
 19 animal health, Federal Surplus Property Warehouse, Indiana  
 20 education employment relations board, department of labor,  
 21 Indiana protection and advocacy services commission,  
 22 commission on public records, Indiana horse racing commission,  
 23 and state personnel department.

24 SECTION 16. IC 4-20.5-6-2, AS AMENDED BY P.L.123-2002,  
 25 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2003]: Sec. 2. (a) This section does not apply to enforcement  
 27 matters that are the responsibility of the state police department under  
 28 ~~IC 10-1-1-29~~; **IC 10-11-2-28**.

29 (b) The department shall maintain, equip, and operate the following:  
 30 (1) The state capitol building.  
 31 (2) The office buildings and other property owned or leased by the  
 32 state for the use of an agency.

33 SECTION 17. IC 4-20.5-6-5, AS AMENDED BY P.L.123-2002,  
 34 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2003]: Sec. 5. Except for enforcement matters that are the  
 36 responsibility of the state police department under ~~IC 10-1-1-29~~;  
 37 **IC 10-11-2-28**, the commissioner is the custodian of state buildings  
 38 and grounds.

39 SECTION 18. IC 4-20.5-6-7, AS AMENDED BY P.L.123-2002,  
 40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2003]: Sec. 7. The department may adopt rules under  
 42 IC 4-22-2 to govern the protection and custody of state property, except

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1 for enforcement matters that are the responsibility of the state police  
2 department under ~~IC 10-1-1-29~~ **IC 10-11-2-28.**

3 SECTION 19. IC 4-20.5-6-8, AS AMENDED BY P.L.123-2002,  
4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2003]: Sec. 8. (a) This section does not apply to enforcement  
6 matters that are the responsibility of the state police department under  
7 ~~IC 10-1-1-29~~ **IC 10-11-2-28.**

8 (b) The commissioner may regulate:

9 (1) the traffic and parking of motor vehicles, bicycles, or other  
10 vehicles; and

11 (2) the traffic of pedestrians;

12 on the streets, roads, paths, and grounds of real property controlled by  
13 the state through the department in and around the state capitol, office  
14 buildings, parking garages, and adjoining state controlled property.

15 (c) Rules adopted under subsection (b) may include the following:

16 (1) Provisions governing the registration, speed, weight,  
17 operation, parking, times, places, and use of motor vehicles,  
18 bicycles, and other vehicles.

19 (2) Provisions governing the traffic of pedestrians.

20 (3) Provisions prescribing the assessment and collection of civil  
21 penalties for the violation of rules adopted by the commissioner.

22 Penalties may include the following:

23 (A) The imposition of reasonable charges.

24 (B) The removal and impounding (at the expense of the  
25 violator) of vehicles that are operated or parked in violation of  
26 rules adopted by the commissioner.

27 (C) The denial of permission to operate a vehicle on the  
28 property in and around the state capitol building, office  
29 buildings, parking garages, and adjoining state controlled  
30 property.

31 (d) Rules adopted under this section must include provisions for an  
32 administrative appeal when a civil penalty is imposed under the rules.  
33 A person aggrieved by a final disposition of an appeal by the  
34 department may appeal the disposition to a court of jurisdiction. The  
35 attorney general may enforce a civil penalty imposed under this section  
36 by filing an appropriate action in a court of jurisdiction.

37 (e) This section does not limit or restrict the powers of any other  
38 governmental authority having jurisdiction over public streets, roads,  
39 alleys, or ways.

40 SECTION 20. IC 5-2-12-7, AS AMENDED BY P.L.116-2002,  
41 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2003]: Sec. 7. (a) Not more than fourteen (14) days before an

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1 Indiana offender who is required to register under this chapter is  
 2 scheduled to be released from a correctional facility, transferred to a  
 3 community transition or community corrections program, transferred  
 4 to the jurisdiction of a sentencing court or probation office for a term  
 5 of probation after being confined in a facility, released from any other  
 6 penal facility (as defined in IC 35-41-1-21), released from a secure  
 7 private facility (as defined in IC 31-9-2-115), or released from a  
 8 juvenile detention facility, an official of the facility shall do the  
 9 following:

10 (1) Orally inform the offender of the offender's duty to register  
 11 under this chapter and require the offender to sign a written  
 12 statement that the offender was orally informed or, if the offender  
 13 refuses to sign the statement, certify that the offender was orally  
 14 informed of the duty to register.

15 (2) Deliver a registration form advising the offender of the  
 16 offender's duty to register under this chapter and require the  
 17 offender to sign a written statement that the offender received the  
 18 written notice or, if the offender refuses to sign the statement,  
 19 certify that the offender was given the written notice of the duty  
 20 to register.

21 (3) Obtain the address where the offender expects to reside after  
 22 the offender's release.

23 (4) Inform in writing on a form or in the form prescribed or  
 24 approved by the institute the sheriff having jurisdiction in the  
 25 county or the police chief having jurisdiction in the consolidated  
 26 city where the offender expects to reside of the offender's name,  
 27 date of release or transfer, new address, and the offense or  
 28 delinquent act committed by the offender.

29 (b) Not more than three (3) days after an offender who is required  
 30 to register under this chapter is released or transferred as described in  
 31 subsection (a), an official of the facility shall transmit to the state police  
 32 the following:

33 (1) The offender's fingerprints, photograph, and identification  
 34 factors.

35 (2) The address where the offender expects to reside after the  
 36 offender's release.

37 (3) The complete criminal history data (as defined in ~~IC 5-2-5-1~~)  
 38 **IC 10-13-3-5**) or, if the offender committed a delinquent act,  
 39 juvenile history data (as defined in ~~IC 5-2-5-1-5~~) **IC 10-13-4-4**)  
 40 of the offender.

41 (4) Information regarding the offender's past treatment for mental  
 42 disorders.

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1 (5) Information as to whether the offender has been determined  
2 to be a sexually violent predator.

3 (c) This subsection applies if an offender is placed on probation or  
4 in a community corrections program without confining the offender in  
5 a penal facility. The probation office serving the court in which the sex  
6 and violent offender is sentenced shall perform the duties required  
7 under subsections (a) and (b).

8 SECTION 21. IC 5-10-0.5-1 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The prohibitions  
10 of Article 11, Section 12 of the Constitution of the State of Indiana do  
11 not apply to:

- 12 (1) the public employees' retirement fund (IC 5-10.3);  
13 (2) the Indiana state teachers' retirement fund (IC 21-6.1);  
14 (3) the Indiana state police pre-1987 benefit system (~~IC 10-1-2.2~~);  
15 **(IC 10-12-3)**;  
16 (4) the Indiana state police 1987 benefit system (~~IC 10-1-2.3~~);  
17 **(IC 10-12-4)**; or  
18 (5) any other public employee retirement fund administered by  
19 the board of trustees of the Indiana public employees' retirement  
20 fund.

21 (b) Investments of the funds listed in subsection (a) are subject to  
22 the following limitations and regulations:

- 23 (1) Investments of the public employees' retirement fund and any  
24 other public employee retirement fund administered by the board  
25 of trustees of the Indiana public employees' retirement fund are  
26 subject to IC 5-10.3-5-3, including P.L.37-1996.  
27 (2) Investments of the Indiana state teachers' retirement fund are  
28 subject to IC 21-6.1-3-9, including P.L.37-1996.  
29 (3) Investments of the Indiana state police benefit system are  
30 subject to ~~IC 10-1-2-2~~ **IC 10-12-2-2**.

31 SECTION 22. IC 5-10-1.5-1 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Each retirement plan  
33 for employees of the state or of a political subdivision shall report  
34 annually on September 1 to the public employees' retirement fund the  
35 information from the preceding fiscal year necessary for the actuary of  
36 the fund to perform an actuarial valuation of each plan. Where the  
37 director and actuary of the fund consider it appropriate, the actuary may  
38 combine one (1) retirement plan with another or with the public  
39 employees' retirement fund for the purposes of the actuarial valuation.  
40 The retirement plans covered by this chapter are the following:

- 41 (1) The state excise police and conservation enforcement officers'  
42 retirement plan established under IC 5-10-5.5.

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- 1 (2) The "trust fund" and "pension trust" of the state police  
 2 department established under ~~IC 10-1-2~~. **IC 10-12-2.**  
 3 (3) Each of the police pension funds established or covered under  
 4 IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.  
 5 (4) Each of the firemen's pension funds established or covered  
 6 under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.  
 7 (5) Each of the retirement funds for utility employees authorized  
 8 under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.  
 9 (6) Each county police force pension trust and trust fund  
 10 authorized under IC 17-3-14 or IC 36-8.  
 11 (7) The Indiana judges' retirement fund established under  
 12 IC 33-13-8.  
 13 (8) Each retirement program adopted by a board of a local health  
 14 department as authorized under IC 16-1-4-25 (before its repeal)  
 15 or IC 16-20-1-3.  
 16 (9) Each retirement benefit program of a joint city-county health  
 17 department under IC 16-1-7-16 (before its repeal).  
 18 (10) Each pension and retirement plan adopted by the board of  
 19 trustees or governing body of a county hospital as authorized  
 20 under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.  
 21 (11) Each pension or retirement plan and program for hospital  
 22 personnel in certain city hospitals as authorized under  
 23 IC 16-12.2-5 (before its repeal) or IC 16-23-1.  
 24 (12) Each retirement program of the health and hospital  
 25 corporation of a county as authorized under IC 16-12-21-27  
 26 (before its repeal) or IC 16-22-8-34.  
 27 (13) Each pension plan provided by a city, town, or county  
 28 housing authority as authorized under IC 36-7.  
 29 (14) Each pension and retirement program adopted by a public  
 30 transportation corporation as authorized under IC 36-9.  
 31 (15) Each system of pensions and retirement benefits of a regional  
 32 transportation authority as authorized or required by IC 36-9.  
 33 (16) Each employee pension plan adopted by the board of an  
 34 airport authority under IC 8-22-3.  
 35 (17) The pension benefit paid for the national guard by the state  
 36 as established under ~~IC 10-2-4~~. **IC 10-16-7.**  
 37 (18) The pension fund allowed employees of the Wabash Valley  
 38 interstate commission as authorized under IC 13-5-1-3.  
 39 (19) Each system of pensions and retirement provided by a unit  
 40 under IC 36-1-3.

41 SECTION 23. IC 5-10-1.7-1 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The retirement

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- 1 plans covered by this chapter are:
- 2 (1) The state excise police and conservation officers' retirement
- 3 plan, established under IC 5-10-5.5.
- 4 (2) The public employees' retirement fund, established under
- 5 IC 5-10.3-2.
- 6 (3) The trust fund and pension trust of the department of state
- 7 police, established under ~~IC 10-1-2~~ **IC 10-12-2**.
- 8 (4) The Indiana state teachers' retirement fund, established under
- 9 IC 21-6.1-2.
- 10 (5) The Indiana judges' retirement fund, established under
- 11 IC 33-13-8.
- 12 (6) The police officers' and firefighters' pension and disability
- 13 fund established under IC 36-8-8-4.
- 14 (b) As used in this chapter:
- 15 "Board" means the board of trustees of a retirement plan covered by
- 16 this chapter.
- 17 SECTION 24. IC 5-14-3-5 IS AMENDED TO READ AS
- 18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If a person is
- 19 arrested or summoned for an offense, the following information shall
- 20 be made available for inspection and copying:
- 21 (1) Information that identifies the person including ~~his~~ **the**
- 22 **person's** name, age, and address.
- 23 (2) Information concerning any charges on which the arrest or
- 24 summons is based.
- 25 (3) Information relating to the circumstances of the arrest or the
- 26 issuance of the summons, such as the:
- 27 (A) time and location of the arrest or the issuance of the
- 28 summons;
- 29 (B) investigating or arresting officer (other than an undercover
- 30 officer or agent); and
- 31 (C) investigating or arresting law enforcement agency.
- 32 (b) If a person is received in a jail or lock-up, the following
- 33 information shall be made available for inspection and copying:
- 34 (1) Information that identifies the person including ~~his~~ **the**
- 35 **person's** name, age, and address.
- 36 (2) Information concerning the reason for the person being placed
- 37 in the jail or lock-up, including the name of the person on whose
- 38 order the person is being held.
- 39 (3) The time and date that the person was received and the time
- 40 and date of ~~his~~ **the person's** discharge or transfer.
- 41 (4) The amount of the person's bail or bond, if it has been fixed.
- 42 (c) An agency shall maintain a daily log or record that lists

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1 suspected crimes, accidents, or complaints, and the following  
2 information shall be made available for inspection and copying:

- 3 (1) The time, substance, and location of all complaints or requests  
4 for assistance received by the agency.  
5 (2) The time and nature of the agency's response to all complaints  
6 or requests for assistance.  
7 (3) If the incident involves an alleged crime or infraction:  
8 (A) the time, date, and location of occurrence;  
9 (B) the name and age of any victim, unless the victim is a  
10 victim of a crime under IC 35-42-4;  
11 (C) the factual circumstances surrounding the incident; and  
12 (D) a general description of any injuries, property, or weapons  
13 involved.

14 The information required in this subsection shall be made available for  
15 inspection and copying in compliance with this chapter. The record  
16 containing the information must be created not later than twenty-four  
17 (24) hours after the suspected crime, accident, or complaint has been  
18 reported to the agency.

19 (d) This chapter does not affect IC 5-2-4, ~~IC 5-2-5~~, **IC 10-13-3**, or  
20 IC 5-11-1-9.

21 SECTION 25. IC 5-26-1-1.2 IS ADDED TO THE INDIANA CODE  
22 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
23 1, 2003]: **Sec. 1.2. As used in IC 5-26-6, "committee" refers to the**  
24 **state agency public safety committee established by IC 5-26-6-1.**

25 SECTION 26. IC 5-26-1-1.4 IS ADDED TO THE INDIANA CODE  
26 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
27 1, 2003]: **Sec. 1.4. As used in this IC 5-26-6, "communications**  
28 **division" refers to the communications division of the state police**  
29 **department.**

30 SECTION 27. IC 5-26-1-1.6 IS ADDED TO THE INDIANA CODE  
31 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
32 1, 2003]: **Sec. 1.6. As used in IC 5-26-6, "department" refers to the**  
33 **state police department established by IC 10-11-2-4.**

34 SECTION 28. IC 5-26-1-1.8 IS ADDED TO THE INDIANA CODE  
35 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
36 1, 2003]: **Sec. 1.8. As used in IC 5-26-6, "FCC" refers to the**  
37 **Federal Communications Commission.**

38 SECTION 29. IC 5-26-1-3, AS ADDED BY P.L.117-1999,  
39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2003]: **Sec. 3. As used in this article, IC 5-26-2, "member"**  
41 **refers to a member of the integrated public safety commission.**

42 SECTION 30. IC 5-26-1-4.3 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
2 1, 2003]: **Sec. 4.3. As used in IC 5-26-6, "state public safety agency"**  
3 **means a state entity eligible to hold an authorization in a public**  
4 **safety radio service as set forth in 47 CFR 90 et seq.**

5 SECTION 31. IC 5-26-1-4.6 IS ADDED TO THE INDIANA CODE  
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2003]: **Sec. 4.6. As used in IC 5-26-6, "superintendent" refers to**  
8 **the superintendent of the state police department appointed under**  
9 **IC 10-11-2-6.**

10 SECTION 32. IC 5-26-1-6, AS ADDED BY P.L.117-1999,  
11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2003]: **Sec. 6. (a) Except as provided in subsection (b), as**  
13 **used in this article, "user agency" means a public safety agency or other**  
14 **entity that enters into an agreement with the commission to use the**  
15 **system.**

16 **(b) Sec. 6: As used in this chapter, IC 5-26-6, "user agency" means**  
17 **a state public safety agency that uses the system.**

18 SECTION 33. IC 5-26-3-5, AS ADDED BY P.L.117-1999,  
19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2003]: **Sec. 5. (a) Except as provided in subsection (b), a**  
21 **public safety agency or other entity may join the system with the**  
22 **approval of the commission.**

23 **(b) A state public safety agency may join the system if the agency**  
24 **is approved by the state agency public safety committee under**  
25 **~~IC 10-1-10~~ IC 5-26-6 and the commission.**

26 SECTION 34. IC 5-26-6 IS ADDED TO THE INDIANA CODE AS  
27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
28 1, 2003]:

29 **Chapter 6. State Agency Public Safety Committee**

30 **Sec. 1. The state agency public safety committee is established.**

31 **Sec. 2. A state public safety agency that has or wants to have a**  
32 **voice or data wireless communications network must join the**  
33 **system when technically and economically feasible.**

34 **Sec. 3. The communications division is responsible for the**  
35 **following with regard to state public safety agencies and state**  
36 **owned assets unless otherwise directed by the superintendent:**

- 37 **(1) Maintenance of the main wide area transmitter sites and**  
38 **interconnecting links.**  
39 **(2) Management of FCC licensing.**  
40 **(3) Frequency planning.**  
41 **(4) Appropriate radio program software.**  
42 **(5) Code plugs.**

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1           **(6) System keys.**

2           **(7) Assignment and control of individual identification**  
3           **numbers and talkgroup numbers.**

4           **Sec. 4. The committee shall publish its policies within a**  
5           **standardized operations procedures manual approved by the**  
6           **superintendent.**

7           **Sec. 5. The committee shall develop criteria for determining**  
8           **whether a state public safety agency may use the system.**

9           **Sec. 6. (a) The committee consists of ten (10) members**  
10           **appointed by the superintendent. Each of the following user**  
11           **agencies shall be represented by one (1) committee member:**

12           **(1) State police department.**

13           **(2) Indiana department of transportation.**

14           **(3) State emergency management agency.**

15           **(4) Department of natural resources.**

16           **(5) Alcohol and tobacco commission.**

17           **(6) Department of state revenue.**

18           **(7) Department of environmental management.**

19           **(8) Military department of the state of Indiana.**

20           **(9) Department of correction.**

21           **(10) Indiana department of administration.**

22           **(b) A director of an agency described in subsection (a)(2)**  
23           **through (a)(10) shall recommend a person to the superintendent to**  
24           **serve as a committee member.**

25           **(c) The superintendent shall fill any vacancies on the committee.**

26           **(d) A committee member serves until the earlier of the**  
27           **following:**

28           **(1) The member is removed by the superintendent.**

29           **(2) The date the member ceases to be employed by the agency**  
30           **the member represents on the committee.**

31           **Sec. 7. (a) Six (6) members of the committee constitute a**  
32           **quorum.**

33           **(b) An affirmative vote of at least six (6) members of the**  
34           **committee is required for the committee to take action.**

35           **Sec. 8. The department may enter into and administer contracts**  
36           **for the committee.**

37           **Sec. 9. The committee's powers include the following:**

38           **(1) Ensuring that federal and state communications**  
39           **requirements are followed.**

40           **(2) Providing system planning, including mutual aid planning**  
41           **and compatibility planning in coordination with the**  
42           **integrated public safety commission established under**

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1           **IC 5-26-2-1.**  
2           **(3) Subject to IC 5-26-3-5, determining whether a state public**  
3           **safety agency may become a system user.**  
4           **(4) Providing assistance to local public safety agencies in**  
5           **making equipment purchases.**  
6           **(5) Exercising any power necessary to carry out this chapter.**  
7           **Sec. 10. A chairperson and vice chairperson of the committee**  
8           **shall be selected by the superintendent.**  
9           **Sec. 11. A member of the committee who is not a state employee**  
10          **is not entitled to:**  
11           **(1) the minimum salary per diem provided by**  
12           **IC 4-10-11-2.1(b); and**  
13           **(2) reimbursement for:**  
14           **(A) traveling expenses as provided under IC 4-13-1-4; and**  
15           **(B) other expenses actually incurred in connection with the**  
16           **member's duties as provided in the state policies and**  
17           **procedures established by the Indiana department of**  
18           **administration and approved by the budget agency.**  
19          **Sec. 12. A member of the committee who is a state employee is**  
20          **entitled to:**  
21           **(1) reimbursement for traveling expenses as provided under**  
22           **IC 4-13-1-4; and**  
23           **(2) other expenses actually incurred in connection with the**  
24           **member's duties as provided in the state policies and**  
25           **procedures established by the Indiana department of**  
26           **administration and approved by the budget agency.**  
27          SECTION 35. IC 6-1.1-10-17 IS AMENDED TO READ AS  
28          FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. Tangible property  
29          is exempt from property taxation if it is owned by a corporation which  
30          is organized and operated under ~~IC 10-7-12~~ **IC 10-18-7** for the purpose  
31          of perpetuating the memory of soldiers and sailors.  
32          SECTION 36. IC 6-1.1-10-38 IS AMENDED TO READ AS  
33          FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. This chapter does  
34          not contain all of the property tax exemption provisions. The property  
35          taxation exemption provisions include but are not limited to the  
36          following sections:  
37                  IC 4-20.5-14-3                      IC 20-14-7-3  
38                  IC 4-20.5-19                        IC 20-14-9-15  
39                  IC 5-1-4-26                         IC 20-14-10-14  
40                  IC 6-1.1-10-5                      IC 21-5-11-14  
41                  IC 8-10-1-27                        IC 21-5-12-10  
42                  IC 8-23-7-31                        IC 23-7-7-3

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1	IC 8-15-2-12	IC 23-14-70-23
2	IC 8-21-9-31	IC 36-1-10-18
3	<del>IC 10-7-1-20</del>	
4	<b>IC 10-18-2-22</b>	IC 36-7-14-37
5	<del>IC 10-7-2-32</del>	
6	<b>IC 10-18-1-36</b>	IC 36-7-15.1-25
7	<del>IC 10-7-5-12</del>	
8	<b>IC 10-18-3-12</b>	IC 36-7-18-25
9	<del>IC 10-7-6-21</del>	
10	<b>IC 10-18-4-21</b>	IC 36-9-4-52
11	<del>IC 10-7-12-9</del>	
12	<b>IC 10-18-7-9</b>	IC 36-9-11-10
13	IC 14-33-20-27	IC 36-9-11.1-11
14	IC 15-1.5-6-4	IC 36-9-13-36
15	IC 16-22-6-34	IC 36-9-13-37
16	IC 20-12-6-11	IC 36-9-30-31
17	IC 20-12-7-5	IC 36-10-8-18
18	IC 20-12-8-5	IC 36-10-9-18

19 SECTION 37. IC 6-6-2.5-70 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 70. (a) The department  
 21 may conduct inspections for and enforce the laws concerning  
 22 coloration of diesel fuel violations, sulfur content violations, marker  
 23 violations, and shipping paper violations at any place where taxable  
 24 fuel is or may be loaded in transport vehicles, produced, or stored.  
 25 These places may include, but are not limited to:

- 26 (1) a terminal;
- 27 (2) a fuel storage facility that is not a terminal;
- 28 (3) a retail fuel facility; or
- 29 (4) a designated inspection site (defined as any state highway  
 30 inspection station, weigh station, agricultural inspection station,  
 31 mobile station, or other location designated by the commissioner).

32 (b) Inspections to determine violations under this chapter and  
 33 enforcement of this chapter may be conducted by the state police  
 34 department, agents of the department, Indiana state police motor carrier  
 35 inspectors (in addition to their duties defined under ~~IC 10-1-1-25~~;  
 36 **IC 10-11-2-26**), and any other law enforcement officer through  
 37 procedures established by the department. Agents of the department  
 38 have the same power and authority provided to authorized personnel  
 39 under IC 16-44-2-11 and IC 16-44-2-12.

40 (c) The department may determine and approve all equipment used  
 41 to test dyes, markers, and the chemical composition of fuel inspected  
 42 under this chapter.

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1 SECTION 38. IC 9-18-45-3, AS ADDED BY P.L.178-1999,  
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2003]: Sec. 3. (a) The fees for a safety first license plate are  
 4 as follows:

5 (1) The appropriate fee under IC 9-29-5-38(a).

6 (2) An annual fee of twenty-five dollars (\$25).

7 (b) The annual fee referred to in subsection (a)(2) shall be collected  
 8 by the bureau.

9 (c) The annual fee described in subsection (a)(2) shall be deposited  
 10 in the funds established under ~~IC 10-9-3-1~~. **IC 10-15-3-1.**

11 SECTION 39. IC 9-20-6-4 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The Indiana  
 13 department of transportation or an agency or a political subdivision  
 14 authorized by this article to grant permits to operate tractor-mobile  
 15 home rigs or permits for transporting heavy or oversize vehicles, loads,  
 16 or other objects not conforming to this article may issue emergency  
 17 permits to operate in or through Indiana without regard to IC 9-20-14-2  
 18 to a person during the period that the following conditions exist:

19 (1) A state of disaster emergency has been declared by the  
 20 governor under ~~IC 10-4-1-7~~. **IC 10-14-3-12.**

21 (2) A state of emergency has been declared by the federal  
 22 government for an area outside Indiana.

23 (3) The granting of emergency permits reasonably can be  
 24 expected to provide relief of the conditions causing the  
 25 declaration of the state of emergency.

26 (b) The Indiana department of transportation, an agency, or a  
 27 political subdivision shall regulate movements by emergency permits  
 28 to avoid undue hazards.

29 SECTION 40. IC 12-10-17-12, AS AMENDED BY P.L.134-2002,  
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2003]: Sec. 12. (a) The division shall register an individual  
 32 who provides the following:

33 (1) A personal resume containing information concerning the  
 34 individual's qualifications, work experience, and any credentials  
 35 the individual may hold. The individual must certify that the  
 36 information contained in the resume is true and accurate.

37 (2) The individual's limited criminal history check from the  
 38 Indiana central repository for criminal history information under  
 39 ~~IC 5-2-5~~ **IC 10-13-3** or another source allowed by law.

40 (3) If applicable, the individual's state nurse aide registry report  
 41 from the state department of health. This subdivision does not  
 42 require an individual to be a nurse aide.

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- 1 (4) Three (3) letters of reference.
- 2 (5) A registration fee. The division shall establish the amount of
- 3 the registration fee.
- 4 (6) Proof that the individual is at least eighteen (18) years of age.
- 5 (7) Any other information required by the division.
- 6 (b) A registration is valid for two (2) years. A personal services
- 7 attendant may renew the personal services attendant's registration by
- 8 updating any information in the file that has changed and by paying the
- 9 fee required under subsection (a)(5). The limited criminal history check
- 10 and report required under subsection (a)(2) and (a)(3) must be updated
- 11 every two (2) years.
- 12 (c) The division and any organization designated under section 11
- 13 of this chapter shall maintain a file for each personal services attendant
- 14 that contains:
  - 15 (1) comments related to the provision of attendant care services
  - 16 submitted by an individual in need of self-directed in-home care
  - 17 who has employed the personal services attendant; and
  - 18 (2) the items described in subsection (a)(1) through (a)(4).
- 19 (d) Upon request, the division shall provide to an individual in need
- 20 of self-directed in-home care the following:
  - 21 (1) Without charge, a list of personal services attendants who are
  - 22 registered with the division and available within the requested
  - 23 geographic area.
  - 24 (2) A copy of the information of a specified personal services
  - 25 attendant who is on file with the division under subsection (c).
  - 26 The division may charge a fee for shipping, handling, and copying
  - 27 expenses.
- 28 SECTION 41. IC 12-17.2-2-1.5, AS AMENDED BY P.L.278-2001,
- 29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2003]: Sec. 1.5. (a) The division shall require all child care
- 31 centers or child care homes to submit a report containing the names
- 32 and birth dates of all children who are enrolled in the child care center
- 33 or child care home within three (3) months from the date the child care
- 34 center or child care home accepts its first child, upon receiving the
- 35 consent of the child's parent, guardian, or custodian as required under
- 36 subsection (b). The division shall require all child care centers and
- 37 child care homes that receive written consent as described under
- 38 subsection (b) to submit a monthly report of the name and birth date of
- 39 each additional child who has been enrolled in or withdrawn from the
- 40 child care center or child care home during the preceding thirty (30)
- 41 days.
- 42 (b) The division shall require all child care centers or child care

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1 homes to request whether the child's parent, guardian, or custodian  
 2 desires the center or home to include the child's name and birth date in  
 3 the reports described under subsection (a) before enrolling the child in  
 4 the center or home. No child's name or birth date may be included on  
 5 the report required under subsection (a) without the signed consent of  
 6 the child's parent, guardian, or custodian. The consent form must be in  
 7 the following form:

8 "I give my permission for \_\_\_\_\_ (name of day  
 9 care center or home) to report the name and birth date of my child  
 10 or children to the division of family and children pursuant to  
 11 IC 12-17.2-2-1.5.

12 Name of child \_\_\_\_\_

13 Birth date \_\_\_\_\_

14 Signature of parent, guardian, or custodian  
 \_\_\_\_\_

15 \_\_\_\_\_  
 16 Date \_\_\_\_\_"

17 (c) The division shall submit a monthly report of the information  
 18 provided under subsection (a) to the Indiana clearinghouse on missing  
 19 children established under ~~IC 10-1-7~~. **IC 10-13-5.**

20 (d) The division shall require that a person who transports children  
 21 who are in the care of the child care center on a public highway (as  
 22 defined in IC 9-25-2-4) within or outside Indiana in a vehicle designed  
 23 and constructed for the accommodation of more than ten (10)  
 24 passengers must comply with the same requirements set forth in  
 25 IC 20-9.1-5-6.6 for a public elementary or secondary school or a  
 26 preschool operated by a school corporation.

27 SECTION 42. IC 14-9-8-28, AS AMENDED BY P.L.206-1999,  
 28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2003]: Sec. 28. (a) The natural resources commission shall  
 30 categorize salaries of enforcement officers within each rank based upon  
 31 the rank held and the number of years of service in the department  
 32 through the tenth year. The salary ranges that the commission assigns  
 33 to each rank shall be divided into a base salary and ten (10) increments  
 34 above the base salary with:

35 (1) the base salary in the rank paid to a person with less than one

36 (1) year of service in the department; and

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

38 (10) years of service in the department.

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



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

3 (d) The salaries for law enforcement officers of the law enforcement  
4 division of the department must be equal to the salaries of police  
5 employees of the state police department under ~~IC 10-1-4.5~~,  
6 **IC 10-11-2-13**, based upon years of service in the department and rank  
7 held.

8 (e) The money needed to fund the salaries resulting from the matrix  
9 prescribed by this section shall come from the appropriation from the  
10 professional and technical equity fund.

11 (f) The requirement of subsection (d) does not affect:

12 (1) any rights or liabilities accrued; or

13 (2) any proceedings begun;

14 on or before June 30, 1999. Those rights, liabilities, and proceedings  
15 continue and shall be imposed and enforced under prior civil law and  
16 procedure as if the requirement of subsection (d) had not been enacted.

17 SECTION 43. IC 16-18-2-7, AS AMENDED BY P.L.17-2002,  
18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2003]: Sec. 7. (a) "Advanced life support", for purposes of  
20 IC 16-31, means care that is given:

21 (1) at the scene of:

22 (A) an accident;

23 (B) an act of terrorism (as defined in IC 35-41-1-26.5), if the  
24 governor has declared a disaster emergency under ~~IC 10-4-1-7~~

25 **IC 10-14-3-12** in response to the act of terrorism; or

26 (C) an illness;

27 (2) during transport; or

28 (3) at a hospital;

29 by a paramedic or an advanced emergency medical technician and that  
30 is more advanced than the care usually provided by an emergency  
31 medical technician.

32 (b) The term may include any of the following:

33 (1) Defibrillation.

34 (2) Endotracheal intubation.

35 (3) Parenteral injections of appropriate medications, including  
36 administration of epinephrine through an auto-injector.

37 (4) Electrocardiogram interpretation.

38 (5) Emergency management of trauma and illness.

39 SECTION 44. IC 16-18-2-96, AS AMENDED BY P.L.52-1999,  
40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
41 JULY 1, 2003]: Sec. 96. (a) "Director", for purposes of IC 16-19-13,  
42 refers to the director of the office of women's health established by

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1 IC 16-19-13.

2 (b) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30,  
3 means the individual acting under the authority of and assigned the  
4 responsibility by the state health commissioner to implement IC 16-28,  
5 IC 16-29, and IC 16-30.

6 (c) "Director", for purposes of IC 16-31, refers to the director of the  
7 state emergency management agency established under ~~IC 10-8-2-1~~.  
8 **IC 10-14-2-1.**

9 (d) "Director", for purposes of IC 16-35-2, refers to the director of  
10 the program for children with special health care needs.

11 SECTION 45. IC 16-25-6-2, AS ADDED BY P.L.256-1999,  
12 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2003]: Sec. 2. (a) A person who owns or operates a hospice  
14 program shall apply, not more than three (3) business days after the  
15 date that an employee or a volunteer begins to provide hospice  
16 services, for a copy of the employee's or volunteer's limited criminal  
17 history from the Indiana central repository for criminal history  
18 information under ~~IC 5-2-5~~. **IC 10-13-3.**

19 (b) A hospice program may not employ an individual or allow a  
20 volunteer to provide hospice services for more than three (3) business  
21 days without applying for that individual's or volunteer's limited  
22 criminal history as required by subsection (a).

23 SECTION 46. IC 16-25-6-3, AS ADDED BY P.L.256-1999,  
24 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b), a  
26 person who owns or operates a hospice program may not employ an  
27 individual or allow a volunteer to provide hospice services if that  
28 individual's or volunteer's limited criminal history indicates that the  
29 individual or volunteer has:

- 30 (1) been convicted of rape (IC 35-42-4-1);  
31 (2) been convicted of criminal deviate conduct (IC 35-42-4-2);  
32 (3) been convicted of exploitation of an endangered adult  
33 (IC 35-46-1-12);  
34 (4) had a judgment entered against the individual for failure to  
35 report battery, neglect, or exploitation of an endangered adult  
36 (IC 35-46-1-13); or  
37 (5) been convicted of theft (IC 35-43-4), if the conviction for theft  
38 occurred less than ten (10) years before the individual's  
39 employment application date.

40 (b) A hospice program may not employ an individual or allow a  
41 volunteer to provide hospice services for more than twenty-one (21)  
42 calendar days without receipt of that individual's or volunteer's limited

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1 criminal history required by section 2 of this chapter, unless the Indiana  
 2 central repository for criminal history information under ~~IC 5-2-5~~  
 3 **IC 10-13-3** is solely responsible for failing to provide the individual's  
 4 or volunteer's limited criminal history to the hospice program within  
 5 the time required under this subsection.

6 SECTION 47. IC 16-25-6-4, AS ADDED BY P.L.256-1999,  
 7 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2003]: Sec. 4. (a) A person who owns or operates a hospice  
 9 program is responsible for the payment of fees under ~~IC 5-2-5-7~~  
 10 **IC 10-13-3-30** and other fees required under section 2 of this chapter.

11 (b) This subsection does not apply to a hospice program volunteer.  
 12 A hospice program may require an individual who applies to the  
 13 hospice program for employment to provide hospice services:

- 14 (1) to pay the fees described in subsection (a) to the hospice  
 15 program at the time the individual submits an application for  
 16 employment; or
- 17 (2) to reimburse the hospice program for the payment of the fees  
 18 described in subsection (a).

19 SECTION 48. IC 16-27-2-4 IS AMENDED TO READ AS  
 20 FOLLOWS: Sec. 4. (a) A person who operates a home health agency  
 21 shall apply, not more than three (3) business days after the date that an  
 22 employee begins to provide services in a patient's temporary or  
 23 permanent residence, for a copy of the employee's limited criminal  
 24 history from the Indiana central repository for criminal history  
 25 information under ~~IC 5-2-5~~ **IC 10-13-3**.

26 (b) A home health agency may not employ a person to provide  
 27 services in a patient's or client's temporary or permanent residence for  
 28 more than three (3) business days without applying for that person's  
 29 limited criminal history as required by subsection (a).

30 SECTION 49. IC 16-27-2-5 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as  
 32 provided in subsection (b), a person who operates a home health  
 33 agency may not employ a person to provide services in a patient's or  
 34 client's temporary or permanent residence if that person's limited  
 35 criminal history indicates that the person has been convicted of any of  
 36 the following:

- 37 (1) Rape (IC 35-42-4-1).
- 38 (2) Criminal deviate conduct (IC 35-42-4-2).
- 39 (3) Exploitation of an endangered adult (IC 35-46-1-12).
- 40 (4) Failure to report battery, neglect, or exploitation of an  
 41 endangered adult (IC 35-46-1-13).
- 42 (5) Theft (IC 35-43-4), if the conviction for theft occurred less



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1 than ten (10) years before the person's employment application  
2 date.

3 (b) A home health agency may not employ a person to provide  
4 services in a patient's or client's temporary or permanent residence for  
5 more than twenty-one (21) calendar days without receipt of that  
6 person's limited criminal history required by section 4 of this chapter,  
7 unless the Indiana central repository for criminal history information  
8 under ~~IC 5-2-5~~ **IC 10-13-3** is solely responsible for failing to provide  
9 the person's limited criminal history to the home health agency within  
10 the time required under this subsection.

11 SECTION 50. IC 16-27-2-6 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A person who  
13 operates a home health agency is responsible for the payment of fees  
14 under ~~IC 5-2-5-7~~ **IC 10-13-3-30** and other fees required under section  
15 4 of this chapter.

16 (b) A home health agency may require a person who applies to the  
17 home health agency for employment to provide services in a patient's  
18 or client's temporary or permanent residence:

- 19 (1) to pay the cost of fees described in subsection (a) to the home  
20 health agency at the time the person submits an application for  
21 employment; or  
22 (2) to reimburse the home health agency for the cost of fees  
23 described in subsection (a).

24 SECTION 51. IC 16-28-13-4, AS AMENDED BY P.L.108-1999,  
25 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2003]: Sec. 4. (a) Except as provided in subsection (b), a  
27 person who:

- 28 (1) operates or administers a health care facility; or  
29 (2) operates an entity in the business of contracting to provide  
30 nurse aides or other unlicensed employees for a health care  
31 facility;

32 shall apply within three (3) business days from the date a person is  
33 employed as a nurse aide or other unlicensed employee for a copy of  
34 the person's state nurse aide registry report from the state department  
35 and a limited criminal history from the Indiana central repository for  
36 criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** or another  
37 source allowed by law.

38 (b) A health care facility is not required to apply for the state nurse  
39 aide registry report and limited criminal history required by subsection  
40 (a) if the health care facility contracts to use the services of a nurse aide  
41 or other unlicensed employee who is employed by an entity in the  
42 business of contracting to provide nurse aides or other unlicensed

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1 employees to health care facilities.

2 SECTION 52. IC 16-28-13-6, AS AMENDED BY P.L.108-1999,  
3 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2003]: Sec. 6. (a) A person who:

5 (1) operates or administers a health care facility; or

6 (2) operates an entity in the business of contracting to provide  
7 nurse aides or other unlicensed employees for a health care  
8 facility;

9 is responsible for the payment of fees under ~~IC 5-2-5-7~~ **IC 10-13-3-30**  
10 and other fees required to process a state nurse aide registry report and  
11 a limited criminal history under section 4 of this chapter.

12 (b) A health care facility or an entity in the business of contracting  
13 to provide nurse aides or other unlicensed employees for a health care  
14 facility may require a person who applies to the health care facility or  
15 entity for employment as a nurse aide or other unlicensed employee:

16 (1) to pay the cost of fees described in subsection (a) to the health  
17 care facility or entity at the time the person submits an application  
18 for employment; or

19 (2) to reimburse the health care facility or entity for the cost of  
20 fees described in subsection (a).

21 SECTION 53. IC 16-31-6-4, AS ADDED BY P.L.156-2001,  
22 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2003]: Sec. 4. (a) This section does not apply to an act or  
24 omission that was a result of gross negligence or willful or intentional  
25 misconduct.

26 (b) An act or omission of a paramedic, an advanced emergency  
27 medical technician, an emergency medical technician, or a person with  
28 equivalent certification from another state that is performed or made  
29 while providing advanced life support or basic life support to a patient  
30 or trauma victim does not impose liability upon the paramedic, the  
31 advanced emergency medical technician, the emergency medical  
32 technician, the person with equivalent certification from another state,  
33 a hospital, a provider organization, a governmental entity, or an  
34 employee or other staff of a hospital, provider organization, or  
35 governmental entity if the advanced life support or basic life support  
36 is provided in good faith:

37 (1) in connection with a disaster emergency declared by the  
38 governor under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to an act  
39 that the governor in good faith believes to be an act of terrorism  
40 (as defined in IC 35-41-1-26.5); and

41 (2) in accordance with the rules adopted by the Indiana  
42 emergency medical services commission or the disaster

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1 emergency declaration of the governor.

2 SECTION 54. IC 16-37-1-2 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The employee in  
4 charge of the division of the state department administering the system  
5 of vital statistics shall be known as the state registrar and shall do the  
6 following:

- 7 (1) Keep the files and records pertaining to vital statistics.  
8 (2) Perform the duties prescribed by the state department.  
9 (3) Perform the duties required under ~~IC 10-1-7-8~~ **IC 10-13-5-11**.  
10 (4) Administer the putative father registry established by  
11 IC 31-19-5-2.  
12 (5) Maintain records of paternity determinations as provided by  
13 IC 31-14-9.

14 SECTION 55. IC 16-37-1-8 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as  
16 provided in subsection (c), a local health officer shall provide a  
17 certification of birth, death, or stillbirth registration upon request by  
18 any person only if:

- 19 (1) the health officer is satisfied that the applicant has a direct  
20 interest in the matter;  
21 (2) the health officer determines that the certificate is necessary  
22 for the determination of personal or property rights or for  
23 compliance with state or federal law; and  
24 (3) the applicant for a birth certificate presents at least one (1)  
25 form of identification.

26 However, the local health officer must issue a certificate of an  
27 applicant's own birth registration.

28 (b) A local health officer's decision whether or not to issue a  
29 certified copy of a birth certificate is subject to review by a court.

30 (c) A local health officer may not issue a copy of a birth certificate  
31 of a missing child to which a notice has been attached under  
32 ~~IC 10-1-7-8~~ **IC 10-13-5-11** without the authorization of the Indiana  
33 clearinghouse for information on missing children.

34 SECTION 56. IC 20-5-2-7, AS AMENDED BY P.L.272-2001,  
35 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2003]: Sec. 7. (a) A school corporation, including a school  
37 township, shall adopt a policy concerning criminal history information  
38 for individuals who:

- 39 (1) apply for:  
40 (A) employment with the school corporation; or  
41 (B) employment with an entity with which the school  
42 corporation contracts for services;



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- 1 (2) seek to enter into a contract to provide services to the school  
 2 corporation; or  
 3 (3) are employed by an entity that seeks to enter into a contract to  
 4 provide services to the school corporation;  
 5 if the individuals are likely to have direct, ongoing contact with  
 6 children within the scope of the individuals' employment.  
 7 (b) A school corporation, including a school township, shall  
 8 administer a policy adopted under this section uniformly for all  
 9 individuals to whom the policy applies. A policy adopted under this  
 10 section may require any of the following:
- 11 (1) The school corporation, including a school township, may  
 12 request limited criminal history information concerning each  
 13 applicant for noncertificated employment or certificated  
 14 employment from a local or state law enforcement agency before  
 15 or not later than three (3) months after the applicant's employment  
 16 by the school corporation.  
 17 (2) Each individual hired for noncertificated employment or  
 18 certificated employment may be required to provide a written  
 19 consent for the school corporation to request under ~~IC 5-2-5~~  
 20 **IC 10-13-3** limited criminal history information or a national  
 21 criminal history background check concerning the individual  
 22 before or not later than three (3) months after the individual's  
 23 employment by the school corporation. The school corporation  
 24 may require the individual to provide a set of fingerprints and pay  
 25 any fees required for a national criminal history background  
 26 check.  
 27 (3) Each individual hired for noncertificated employment may be  
 28 required at the time the individual is hired to submit a certified  
 29 copy of the individual's limited criminal history (as defined in  
 30 ~~IC 5-2-5-1(1)~~ **IC 10-13-3-11**) to the school corporation.  
 31 (4) Each individual hired for noncertificated employment may be  
 32 required at the time the individual is hired to:  
 33 (A) submit a request to the Indiana central repository for  
 34 limited criminal history information under ~~IC 5-2-5;~~  
 35 **IC 10-13-3;**  
 36 (B) obtain a copy of the individual's limited criminal history;  
 37 and  
 38 (C) submit to the school corporation the individual's limited  
 39 criminal history and a document verifying a disposition (as  
 40 defined in ~~IC 5-2-5-1(6)~~ **IC 10-13-3-7**) that does not appear  
 41 on the limited criminal history.  
 42 (5) Each applicant for noncertificated employment or certificated

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1 employment may be required at the time the individual applies to  
 2 answer questions concerning the individual's limited criminal  
 3 history. The failure to answer honestly questions asked under this  
 4 subdivision is grounds for termination of the employee's  
 5 employment.

6 (6) Each individual that:

7 (A) seeks to enter into a contract to provide services to a  
 8 school corporation; or

9 (B) is employed by an entity that seeks to enter into a contract  
 10 with a school corporation;

11 may be required at the time the contract is formed to comply with  
 12 the procedures described in subdivision (4)(A) and (4)(B). The  
 13 school corporation either may require that the individual or the  
 14 contractor comply with the procedures described in subdivision  
 15 (4)(C) or (5). Failure to comply with subdivisions (4) and (5), as  
 16 required by the school corporation, is grounds for termination of  
 17 the contract.

18 (c) If an individual is required to obtain a limited criminal history  
 19 under this section, the individual is responsible for all costs associated  
 20 with obtaining the limited criminal history.

21 (d) Information obtained under this section must be used in  
 22 accordance with ~~IC 5-2-5-6~~. **IC 10-13-3-29.**

23 SECTION 57. IC 20-6.1-3-7.1 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7.1. (a) As used in this  
 25 section, "applicant" refers to an applicant for:

26 (1) a new license;

27 (2) a renewal license; or

28 (3) a substitute teacher certificate;

29 issued by the board.

30 (b) As used in this section, "limited criminal history" has the  
 31 meaning set forth in ~~IC 5-2-5-1(1)~~. **IC 10-13-3-11.**

32 (c) As used in this section, "disposition" has the meaning set forth  
 33 in ~~IC 5-2-5-1(6)~~. **IC 10-13-3-7.**

34 (d) An applicant must do the following:

35 (1) Submit a request to the Indiana central repository for limited  
 36 criminal history information under ~~IC 5-2-5~~. **IC 10-13-3.**

37 (2) Obtain a copy of the limited criminal history for the applicant  
 38 from the repository's records.

39 (3) Submit to the board the limited criminal history for the  
 40 applicant.

41 (4) Submit to the board a document verifying a disposition that  
 42 does not appear on the limited criminal history for the applicant.

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1 (e) The board may deny the issuance of a license or certificate to an  
 2 applicant who is convicted of an offense for which the individual's  
 3 license may be revoked or suspended under this chapter.

4 (f) The board must use the information obtained under this section  
 5 in accordance with ~~IC 5-2-5-6~~ **IC 10-13-3-29**.

6 (g) An applicant is responsible for all costs associated with meeting  
 7 the requirements of this section.

8 SECTION 58. IC 20-8.1-3-17.1 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.1. (a) Each public  
 10 school shall and each private school may require a student who initially  
 11 enrolls in the school after July 1, 1988, to provide:

12 (1) the name and address of the school the student last attended,  
 13 if any; and

14 (2) a certified copy of the student's birth certificate or other  
 15 reliable proof of the student's date of birth.

16 (b) If the document described in subsection (a)(2):

17 (1) is not provided to the school within thirty (30) days of the  
 18 student's enrollment; or

19 (2) appears to be inaccurate or fraudulent;

20 the school shall notify the Indiana clearinghouse for information on  
 21 missing children under ~~IC 10-1-7~~ **IC 10-13-5** and determine if the child  
 22 has been reported missing.

23 (c) If a student initially enrolls in a school after July 1, 1988, the  
 24 school shall, within fourteen (14) days of enrollment, request the  
 25 student's records from the last school the student attended, if any.

26 (d) A school in Indiana receiving a request for records shall  
 27 promptly send the records to the requesting school. However, if a  
 28 request is received for records to which a notice has been attached  
 29 under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal), the school:

30 (1) shall immediately notify the Indiana clearinghouse for  
 31 information on missing children;

32 (2) may not send the school records without the authorization of  
 33 the clearinghouse; and

34 (3) may not inform the requesting school that a notice under  
 35 IC 31-36-1-5 (or IC 31-6-13-6 before its repeal) has been attached  
 36 to the records.

37 SECTION 59. IC 20-10.1-22.4-3, AS ADDED BY P.L.254-2001,  
 38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JULY 1, 2003]: Sec. 3. (a) As used in this section, "juvenile justice  
 40 agency" has the meaning set forth in ~~IC 5-2-5.1-6~~ **IC 10-13-4-5**.

41 (b) A school corporation or other entity to which the education  
 42 records privacy provisions of the federal Family Educational Rights

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1 and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the  
 2 education records of a child, including personally identifiable  
 3 information contained in the education records, without the consent of  
 4 the child's parent, guardian, or custodian, under the following  
 5 conditions:

6 (1) The disclosure or reporting of education records is to a state  
 7 or local juvenile justice agency.

8 (2) The disclosure or reporting relates to the ability of the juvenile  
 9 justice system to serve, before adjudication, the student whose  
 10 records are being released.

11 (3) The juvenile justice agency receiving the information certifies,  
 12 in writing, to the entity providing the information that the agency  
 13 or individual receiving the information has agreed not to disclose  
 14 it to a third party, other than another juvenile justice agency,  
 15 without the consent of the child's parent, guardian, or custodian.

16 (c) For purposes of subsection (b)(2), a disclosure or reporting of  
 17 education records concerning a child who has been adjudicated as a  
 18 delinquent child shall be treated as related to the ability of the juvenile  
 19 justice system to serve the child before adjudication if the juvenile  
 20 justice agency seeking the information provides sufficient information  
 21 to enable the keeper of the education records to determine that the  
 22 juvenile justice agency seeks the information in order to identify and  
 23 intervene with the child as a juvenile at risk of delinquency rather than  
 24 to obtain information solely related to supervision of the child as an  
 25 adjudicated delinquent child.

26 SECTION 60. IC 20-10.1-30-1, AS ADDED BY P.L.127-2002,  
 27 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2003]: Sec. 1. As used in this chapter, "department of  
 29 veterans' affairs" refers to the Indiana department of veterans' affairs  
 30 established by ~~IC 10-5-1-3~~. **IC 10-17-1-2.**

31 SECTION 61. IC 22-15-5-13, AS ADDED BY P.L.119-2002,  
 32 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2003]: Sec. 13. (a) A temporary elevator mechanic license  
 34 may be issued by the department upon receipt of the following:

35 (1) A certification by a licensed elevator contractor that the  
 36 contractor is unable to secure, despite the contractor's best efforts,  
 37 licensed elevator mechanics to perform construction,  
 38 maintenance, or service and repair of elevators.

39 (2) An application on the form that the department provides.

40 (3) A certification by the licensed elevator contractor that the  
 41 individual to receive the temporary license possesses sufficient  
 42 documented experience and education to perform elevator

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1 construction, maintenance, or service and repair.

2 (4) A temporary mechanic license fee established under  
3 IC 22-12-6-6. The license fee is nonrefundable and must be paid  
4 each time an applicant submits an application.

5 (5) An affirmation under penalty of perjury made by both the  
6 individual who would receive the temporary license and the  
7 licensed elevator contractor that all information provided to the  
8 department is true to the best of their knowledge and belief.

9 (b) A temporary elevator mechanic license is valid for sixty (60)  
10 days after the date of issuance and is valid only for work performed for  
11 the licensed elevator contractor that has made the certifications under  
12 subsection (a).

13 (c) A temporary elevator mechanic license issued under this section  
14 may be renewed for two (2) subsequent sixty (60) day periods. To  
15 renew the license, the license holder must submit **the following:**

16 (1) A certification by a licensed elevator contractor that the  
17 contractor is unable to secure, despite the contractor's best efforts,  
18 licensed elevator mechanics to perform construction,  
19 maintenance, or service and repair of elevators.

20 (2) An application on the form that the department provides.

21 (3) A temporary mechanic license renewal fee established under  
22 IC 22-12-6-6. The license fee is nonrefundable and must be paid  
23 each time an applicant submits an application.

24 (4) An affirmation by both the individual that would receive the  
25 temporary license and the licensed elevator contractor under  
26 penalty for perjury that all information provided to the department  
27 is true to the best of their knowledge and belief.

28 (d) An emergency elevator mechanic license may be issued by the  
29 department upon receipt of the following:

30 (1) A certification by a licensed elevator contractor that the  
31 contractor is unable to secure, despite the contractor's best efforts,  
32 licensed elevator mechanics to perform construction,  
33 maintenance, or service and repair of elevators due to a disaster  
34 (as defined in ~~IC 10-4-1-3~~: **IC 10-14-3-1**).

35 (2) An application on the form that the department provides.

36 (3) A certification by the licensed elevator contractor that the  
37 individual to receive the temporary license possesses sufficient  
38 documented experience and education to perform elevator  
39 construction, maintenance, or service and repair.

40 (4) An emergency mechanic license fee established under  
41 IC 22-12-6-6. The license fee is nonrefundable and must be paid  
42 each time an applicant submits an application.

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1 (5) An affirmation by both the individual that would receive the  
 2 temporary license and the licensed elevator contractor under  
 3 penalty for perjury that all information provided to the department  
 4 is true to the best of their knowledge and belief.

5 (e) An emergency elevator mechanic license is valid for sixty (60)  
 6 days after the date of issuance and is valid only for work performed for  
 7 the licensed elevator contractor that has made the certifications under  
 8 subsection (d).

9 (f) An emergency elevator mechanic license issued under this  
 10 section may be renewed for two (2) subsequent sixty (60) day periods.  
 11 To renew the license, the license holder must submit the following:

12 (1) A certification by a licensed elevator contractor that the  
 13 contractor is unable to secure, despite the contractor's best efforts,  
 14 licensed elevator mechanics to perform construction,  
 15 maintenance, or service and repair of elevators.

16 (2) An application on the form that the department provides.

17 (3) An emergency mechanic license renewal fee established under  
 18 IC 22-12-6-6. The license fee is nonrefundable and must be paid  
 19 each time an applicant submits an application.

20 (4) An affirmation by both the individual who would receive the  
 21 emergency license and the licensed elevator contractor under  
 22 penalty for perjury that all information provided to the department  
 23 is true to the best of their knowledge and belief.

24 SECTION 62. IC 23-2-1-15 IS AMENDED TO READ AS  
 25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) This chapter  
 26 shall be administered by a division of the office of the secretary of  
 27 state. The secretary of state shall appoint a securities commissioner  
 28 who shall be responsible for the direction and supervision of the  
 29 division and the administration of this chapter under the direction and  
 30 control of the secretary of state. The salary of the securities  
 31 commissioner shall be paid out of the funds appropriated for the  
 32 administration of this chapter. The commissioner shall serve at the will  
 33 of the secretary of state.

34 (b) The secretary of state:

35 (1) shall employ a chief deputy, a senior investigator, a senior  
 36 accountant, and other deputies, investigators, accountants, clerks,  
 37 stenographers, and other employees necessary for the  
 38 administration of this chapter; and

39 (2) shall fix their compensation with the approval of the budget  
 40 agency.

41 The chief deputy, other deputies, the senior investigator, and the senior  
 42 accountant, once employed under this chapter, may be dismissed only

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1 for cause by the secretary of state upon ten (10) days notice in writing  
2 stating the reasons for dismissal. Within fifteen (15) days after  
3 dismissal, the chief deputy, other deputies, the senior investigator, and  
4 the senior accountant may appeal to the state personnel board. The  
5 state personnel board shall hold a hearing, and if it finds that the  
6 appealing party was dismissed for a political, social, religious, or racial  
7 reason, the appealing party shall be reinstated to the appealing party's  
8 position without loss of pay. In all other cases, if the decision is  
9 favorable to the appealing party, the secretary of state shall follow the  
10 findings and recommendations of the board, which may include  
11 reinstatement and payment of salary or wages lost. The hearing and any  
12 subsequent proceedings or appeals shall be governed by the provisions  
13 of IC 4-15-2 and IC 4-21.5.

14 (c) Fees and funds of whatever character accruing from the  
15 administration of this chapter shall be accounted for by the secretary of  
16 state and shall be deposited with the treasurer of state to be deposited  
17 by the treasurer of state in the general fund of the state. Expenses  
18 incurred in the administration of this chapter shall be paid from the  
19 general fund upon appropriation being made for the expenses in the  
20 manner provided by law for the making of those appropriations.  
21 However, costs of investigations recovered under sections 16(d) and  
22 17.1(c) of this chapter shall be deposited with the treasurer of state to  
23 be deposited by the treasurer of state in a separate account to be known  
24 as the securities division enforcement account. The funds in the  
25 account shall be available, with the approval of the budget agency, to  
26 augment and supplement the funds appropriated for the administration  
27 of this chapter. The funds in the account do not revert to the general  
28 fund at the end of any fiscal year.

29 (d) In connection with the administration and enforcement of the  
30 provisions of this chapter, the attorney general shall render all  
31 necessary assistance to the securities commissioner upon the  
32 commissioner's request, and to that end, the attorney general shall  
33 employ legal and other professional services as are necessary to  
34 adequately and fully perform the service under the direction of the  
35 securities commissioner as the demands of the securities division shall  
36 require. Expenses incurred by the attorney general for the purposes  
37 stated in this subsection shall be chargeable against and paid out of  
38 funds appropriated to the attorney general for the administration of the  
39 attorney general's office.

40 (e) Neither the secretary of state, the securities commissioner, nor  
41 an employee of the securities division shall be liable in their individual  
42 capacity, except to the state, for an act done or omitted in connection

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1 with the performance of their respective duties under this chapter.

2 (f) The commissioner, subject to the approval of the secretary of  
3 state, may adopt rules, orders, and forms necessary to carry out this  
4 chapter, including rules and forms concerning registration statements,  
5 applications, reports, and the definitions of any terms if the definitions  
6 are consistent with this chapter. The commissioner may by rule or order  
7 allow for exemptions from registration requirements under sections 3  
8 and 8 of this chapter if the exemptions are consistent with the public  
9 interest and this chapter.

10 (g) The provisions of this chapter delegating and granting power to  
11 the secretary of state, the securities division, and the securities  
12 commissioner shall be liberally construed to the end that:

13 (1) the practice or commission of fraud may be prohibited and  
14 prevented;

15 (2) disclosure of sufficient and reliable information in order to  
16 afford reasonable opportunity for the exercise of independent  
17 judgment of the persons involved may be assured; and

18 (3) the qualifications may be prescribed to assure availability of  
19 reliable broker-dealers, investment advisers, and agents engaged  
20 in and in connection with the issuance, barter, sale, purchase,  
21 transfer, or disposition of securities in this state.

22 It is the intent and purpose of this chapter to delegate and grant to and  
23 vest in the secretary of state, the securities division, and the securities  
24 commissioner full and complete power to carry into effect and  
25 accomplish the purpose of this chapter and to charge them with full and  
26 complete responsibility for its effective administration.

27 (h) It is the duty of a prosecuting attorney, as well as of the attorney  
28 general, to assist the securities commissioner upon the commissioner's  
29 request in the prosecution to final judgment of a violation of the penal  
30 provisions of this chapter and in a civil proceeding or action arising  
31 under this chapter. If evidence concerning violations of this chapter or  
32 a rule or order under this chapter is referred to a prosecuting attorney,  
33 the prosecuting attorney shall within ninety (90) days file with the  
34 securities commissioner a written statement concerning an action taken  
35 or, if no action has been taken, the reasons no action has been taken.

36 (i) The securities commissioner shall take, prescribe, and file the  
37 oath of office prescribed by law. The securities commissioner, senior  
38 investigator, and each deputy are police officers of the state and shall  
39 have all the powers and duties of police officers in making arrests for  
40 violations of this chapter, or in serving any process, notice, or order  
41 connected with the enforcement of this chapter by whatever officer or  
42 authority or court issued. The securities commissioner, the deputy

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1 commissioners for enforcement, and the investigators comprise the  
 2 enforcement department of the division and are considered a criminal  
 3 justice agency for purposes of IC 5-2-4 and ~~IC 5-2-5~~. **IC 10-13-3.**

4 (j) The securities commissioner and each employee of the securities  
 5 division shall be reimbursed for necessary hotel and travel expenses  
 6 when required to travel on official duty. Hotel and travel  
 7 reimbursements shall be paid in accordance with the travel regulations  
 8 prescribed by the budget agency.

9 (k) It is unlawful for the secretary of state, the securities  
 10 commissioner, or the securities division's employees to use for personal  
 11 benefit information that is filed with or obtained by the securities  
 12 division and that is not made public. No provision of this chapter  
 13 authorizes the secretary of state, the securities commissioner, or the  
 14 employees of the securities division to disclose information except  
 15 among themselves, or when necessary or appropriate, in a proceeding  
 16 or investigation under this chapter. No provision of this chapter either  
 17 creates or derogates from a privilege that exists at common law or  
 18 otherwise when documentary or other evidence is sought under a  
 19 subpoena directed to the secretary of state, the securities commissioner,  
 20 or the securities division or its employees.

21 (l) The commissioner may honor requests from interested persons  
 22 for interpretative opinions and from interested persons for  
 23 determinations that the commissioner will not institute enforcement  
 24 proceedings against specified persons for specified activities. A  
 25 determination not to institute enforcement proceedings must be  
 26 consistent with this chapter. The commissioner shall charge a fee of  
 27 one hundred dollars (\$100) for an interpretative opinion or  
 28 determination.

29 SECTION 63. IC 24-5-14-12 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. A caller may not  
 31 use an automatic dialing-announcing device to make a telephone call  
 32 to the following:

- 33 (1) A hospital (as defined in IC 16-18-2-179(b)).
- 34 (2) An ambulatory outpatient surgical center (as defined in  
 35 IC 16-18-2-14).
- 36 (3) A health facility (as defined in IC 16-18-2-167).
- 37 (4) An emergency medical services facility (as defined in  
 38 IC 16-18-2-111).
- 39 (5) A business providing emergency ambulance services (as  
 40 defined in IC 16-18-2-107).
- 41 (6) A state institution (as defined in IC 12-7-2-184).
- 42 (7) A private mental health institution licensed under IC 12-25.



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1 (8) A residential facility (as defined in IC 12-7-2-165).

2 (9) A law enforcement agency (as defined in ~~IC 5-2-5-1~~;  
3 **IC 10-13-3-10**).

4 (10) A fire department (as defined in IC 36-8-17-2).

5 SECTION 64. IC 25-1-8-1, AS AMENDED BY P.L.162-2002,  
6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of  
8 the following:

9 (1) Indiana board of accountancy (IC 25-2.1-2-1).

10 (2) Board of registration for architects and landscape architects  
11 (IC 25-4-1-2).

12 (3) Indiana auctioneer commission (IC 25-6.1-2-1).

13 (4) State board of barber examiners (IC 25-7-5-1).

14 (5) State boxing commission (IC 25-9-1).

15 (6) Board of chiropractic examiners (IC 25-10-1).

16 (7) State board of cosmetology examiners (IC 25-8-3-1).

17 (8) State board of dentistry (IC 25-14-1).

18 (9) State board of funeral and cemetery service (IC 25-15).

19 (10) State board of registration for professional engineers  
20 (IC 25-31-1-3).

21 (11) Indiana state board of health facility administrators  
22 (IC 25-19-1).

23 (12) Medical licensing board of Indiana (IC 25-22.5-2).

24 (13) Mining board (IC 22-10-1.5-2).

25 (14) Indiana state board of nursing (IC 25-23-1).

26 (15) Indiana optometry board (IC 25-24).

27 (16) Indiana board of pharmacy (IC 25-26).

28 (17) Indiana plumbing commission (IC 25-28.5-1-3).

29 (18) Board of environmental health specialists (IC 25-32-1).

30 (19) State psychology board (IC 25-33).

31 (20) Speech-language pathology and audiology board  
32 (IC 25-35.6-2).

33 (21) Indiana real estate commission (IC 25-34.1-2-1).

34 (22) Indiana board of veterinary medical examiners  
35 (IC 15-5-1.1-3).

36 (23) Department of insurance (IC 27-1).

37 (24) State police department (~~IC 10-1-1-1~~); **(IC 10-11-2-4)** for  
38 purposes of certifying polygraph examiners under IC 25-30-2.

39 (25) Department of natural resources for purposes of licensing  
40 water well drillers under IC 25-39-3.

41 (26) Private detectives licensing board (IC 25-30-1-5.1).

42 (27) Occupational therapy committee (IC 25-23.5-2-1).

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- 1 (28) Social worker, marriage and family therapist, and mental  
 2 health counselor board (IC 25-23.6-2-1).  
 3 (29) Real estate appraiser licensure and certification board  
 4 (IC 25-34.1-8).  
 5 (30) State board of registration for land surveyors  
 6 (IC 25-21.5-2-1).  
 7 (31) Physician assistant committee (IC 25-27.5).  
 8 (32) Indiana athletic trainers board (IC 25-5.1-2-1).  
 9 (33) Board of podiatric medicine (IC 25-29-2-1).  
 10 (34) Indiana dietitians certification board (IC 25-14.5-2-1).  
 11 (35) Indiana physical therapy committee (IC 25-27).  
 12 (36) Manufactured home installer licensing board (IC 25-23.7).  
 13 (37) Any other occupational or professional agency created after  
 14 June 30, 1981.

15 SECTION 65. IC 25-22.5-1-2, AS AMENDED BY P.L.255-2001,  
 16 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2003]: Sec. 2. (a) This article, as it relates to the unlawful or  
 18 unauthorized practice of medicine or osteopathic medicine, does not  
 19 apply to any of the following:

- 20 (1) A student in training in a medical school approved by the  
 21 board, or while performing duties as an intern or a resident in a  
 22 hospital under the supervision of the hospital's staff or in a  
 23 program approved by the medical school.  
 24 (2) A person who renders service in case of emergency where no  
 25 fee or other consideration is contemplated, charged, or received.  
 26 (3) A paramedic (as defined in IC 16-18-2-266), an advanced  
 27 emergency medical technician (as defined in IC 16-18-2-6), an  
 28 emergency medical technician (as defined in IC 16-18-2-112), or  
 29 a person with equivalent certification from another state who  
 30 renders advanced life support (as defined in IC 16-18-2-7) or  
 31 basic life support (as defined in IC 16-18-2-33.5):  
 32 (A) during a disaster emergency declared by the governor  
 33 under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to an act that the  
 34 governor in good faith believes to be an act of terrorism (as  
 35 defined in IC 35-41-1-26.5); and  
 36 (B) in accordance with the rules adopted by the Indiana  
 37 emergency medical services commission or the disaster  
 38 emergency declaration of the governor.  
 39 (4) Commissioned medical officers or medical service officers of  
 40 the armed forces of the United States, the United States Public  
 41 Health Service, and medical officers of the United States  
 42 Department of Veterans Affairs in the discharge of their official



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- 1 duties in Indiana.
- 2 (5) An individual who is not a licensee who resides in another
- 3 state or country and is authorized to practice medicine or
- 4 osteopathic medicine there, who is called in for consultation by an
- 5 individual licensed to practice medicine or osteopathic medicine
- 6 in Indiana.
- 7 (6) A person administering a domestic or family remedy to a
- 8 member of the person's family.
- 9 (7) A member of a church practicing the religious tenets of the
- 10 church if the member does not make a medical diagnosis,
- 11 prescribe or administer drugs or medicines, perform surgical or
- 12 physical operations, or assume the title of or profess to be a
- 13 physician.
- 14 (8) A school corporation and a school employee who acts under
- 15 IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).
- 16 (9) A chiropractor practicing the chiropractor's profession under
- 17 IC 25-10 or to an employee of a chiropractor acting under the
- 18 direction and supervision of the chiropractor under IC 25-10-1-13.
- 19 (10) A dental hygienist practicing the dental hygienist's profession
- 20 under IC 25-13.
- 21 (11) A dentist practicing the dentist's profession under IC 25-14.
- 22 (12) A hearing aid dealer practicing the hearing aid dealer's
- 23 profession under IC 25-20.
- 24 (13) A nurse practicing the nurse's profession under IC 25-23.
- 25 However, a registered nurse may administer anesthesia if the
- 26 registered nurse acts under the direction of and in the immediate
- 27 presence of a physician and holds a certificate of completion of a
- 28 course in anesthesia approved by the American Association of
- 29 Nurse Anesthetists or a course approved by the board.
- 30 (14) An optometrist practicing the optometrist's profession under
- 31 IC 25-24.
- 32 (15) A pharmacist practicing the pharmacist's profession under
- 33 IC 25-26.
- 34 (16) A physical therapist practicing the physical therapist's
- 35 profession under IC 25-27.
- 36 (17) A podiatrist practicing the podiatrist's profession under
- 37 IC 25-29.
- 38 (18) A psychologist practicing the psychologist's profession under
- 39 IC 25-33.
- 40 (19) A speech-language pathologist or audiologist practicing the
- 41 pathologist's or audiologist's profession under IC 25-35.6.
- 42 (20) An employee of a physician or group of physicians who

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1 performs an act, a duty, or a function that is customarily within  
 2 the specific area of practice of the employing physician or group  
 3 of physicians, if the act, duty, or function is performed under the  
 4 direction and supervision of the employing physician or a  
 5 physician of the employing group within whose area of practice  
 6 the act, duty, or function falls. An employee may not make a  
 7 diagnosis or prescribe a treatment and must report the results of  
 8 an examination of a patient conducted by the employee to the  
 9 employing physician or the physician of the employing group  
 10 under whose supervision the employee is working. An employee  
 11 may not administer medication without the specific order of the  
 12 employing physician or a physician of the employing group.  
 13 Unless an employee is licensed or registered to independently  
 14 practice in a profession described in subdivisions (9) through  
 15 (18), nothing in this subsection grants the employee independent  
 16 practitioner status or the authority to perform patient services in  
 17 an independent practice in a profession.

18 (21) A hospital licensed under IC 16-21 or IC 12-25.

19 (22) A health care organization whose members, shareholders, or  
 20 partners are individuals, partnerships, corporations, facilities, or  
 21 institutions licensed or legally authorized by this state to provide  
 22 health care or professional services as:

- 23 (A) a physician;
- 24 (B) a psychiatric hospital;
- 25 (C) a hospital;
- 26 (D) a health maintenance organization or limited service  
 27 health maintenance organization;
- 28 (E) a health facility;
- 29 (F) a dentist;
- 30 (G) a registered or licensed practical nurse;
- 31 (H) a midwife;
- 32 (I) an optometrist;
- 33 (J) a podiatrist;
- 34 (K) a chiropractor;
- 35 (L) a physical therapist; or
- 36 (M) a psychologist.

37 (23) A physician assistant practicing the physician assistant's  
 38 profession under IC 25-27.5.

39 (24) A physician providing medical treatment under  
 40 IC 25-22.5-1-2.1.

41 (25) An attendant who provides care services as defined in  
 42 IC 16-27-1-0.5.

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1 (26) A personal services attendant providing authorized attendant  
2 care services under IC 12-10-17.

3 (b) A person described in subsection (a)(9) through (a)(18) is not  
4 excluded from the application of this article if:

5 (1) the person performs an act that an Indiana statute does not  
6 authorize the person to perform; and

7 (2) the act qualifies in whole or in part as the practice of medicine  
8 or osteopathic medicine.

9 (c) An employment or other contractual relationship between an  
10 entity described in subsection (a)(21) through (a)(22) and a licensed  
11 physician does not constitute the unlawful practice of medicine under  
12 this article if the entity does not direct or control independent medical  
13 acts, decisions, or judgment of the licensed physician. However, if the  
14 direction or control is done by the entity under IC 34-30-15 (or  
15 IC 34-4-12.6 before its repeal), the entity is excluded from the  
16 application of this article as it relates to the unlawful practice of  
17 medicine or osteopathic medicine.

18 (d) This subsection does not apply to a prescription or drug order for  
19 a legend drug that is filled or refilled in a pharmacy owned or operated  
20 by a hospital licensed under IC 16-21. A physician licensed in Indiana  
21 who permits or authorizes a person to fill or refill a prescription or drug  
22 order for a legend drug except as authorized in IC 16-42-19-11 through  
23 IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A  
24 person who violates this subsection commits the unlawful practice of  
25 medicine under this chapter.

26 (e) A person described in subsection (a)(8) shall not be authorized  
27 to dispense contraceptives or birth control devices.

28 SECTION 66. IC 25-25-2-1 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section  
30 applies to:

31 (1) any veteran described in ~~IC 10-5-12-1~~ **IC 10-17-5-2** or  
32 ~~IC 10-5-13-1~~; **IC 10-17-5-1**; or

33 (2) any other veteran to whom this chapter applies because of the  
34 provisions of any other statute;

35 who holds an honorable discharge from such service issued by the  
36 proper authorities. Such a person shall be entitled to a license to vend,  
37 hawk, and peddle goods, wares, fruits, and merchandise in any county,  
38 city, or town ~~within this state~~ **in Indiana** without the payment of any  
39 fee ~~therefor~~ **for the license**. Upon the presentation of ~~his~~ **the person's**  
40 certificate and papers of discharge, properly executed, to the auditor of  
41 any county ~~in this state~~, and proving ~~his~~ **the person's** identity as the  
42 person named in ~~his~~ **the person's** certificate of honorable discharge,



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1 the auditor shall issue to ~~such ex-soldier~~ **the former soldier** or sailor  
 2 a **free** license to vend, hawk, and peddle goods, wares, fruits, and  
 3 merchandise ~~within in~~ the county and in all cities and towns ~~therein~~  
 4 ~~situate, which license shall be free, and no in the county.~~ A fee shall  
 5 **may not** be charged to the holder of ~~such the~~ license by ~~such the~~  
 6 auditor, ~~nor~~ by the authorities of any city or town in ~~such the~~ county,  
 7 ~~nor or~~ by any other officer. ~~but such~~ **The** license shall be full and  
 8 complete authority to vend, hawk, and peddle ~~as aforesaid~~, without the  
 9 payment of any sum of money.

10 (b) A person who acquires a license under this section is subject to  
 11 all county, city, or town regulations and ordinances concerning  
 12 vendors, hawkers, or peddlers, except for those provisions requiring  
 13 payment of money for obtaining a license.

14 SECTION 67. IC 25-30-2-1 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this  
 16 chapter:

17 "Department" means the state police department established under  
 18 ~~IC 10-1-1-1.~~ **IC 10-11-2-4.**

19 "Polygraph examiner" means a person who is solely or partly  
 20 engaged in the business of establishing the truth or falsity of any  
 21 statement or representation, by means of a polygraph instrument.

22 "Polygraph instrument" means a device that permanently and  
 23 simultaneously records, at a minimum, an individual's cardiovascular  
 24 and respiratory patterns and galvanic skin responses in order to  
 25 determine truthfulness.

26 SECTION 68. IC 25-36.5-1-18 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) The definitions  
 28 set forth in ~~IC 5-2-5-1~~ **IC 10-13-3** apply throughout this section.

29 (b) The department shall under ~~IC 5-2-5-5(b)~~ **IC 10-13-3-27(b)**  
 30 request and obtain the release of a limited criminal history from the  
 31 state police department on each person who applies to the department  
 32 under this chapter for the issuance of either of the following:

- 33 (1) A timber buyer registration certificate.
- 34 (2) A timber buyer agent's license.

35 SECTION 69. IC 27-8-3-6 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Any incorporation,  
 37 association or society organized to insure lives, which provides for the  
 38 payment of policy claims, or the accumulation of reserve or emergency  
 39 funds, and the expenses of the management and prosecution of the  
 40 business by payments to be made either at periods named in the  
 41 contract or upon assessments as required, by persons holding similar  
 42 contracts, and wherein the insured's liability to contribute to the

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1 payment of policy claims accrued or to accrue is not limited to a fixed  
 2 sum, shall be deemed to be engaged in the business of life insurance  
 3 upon the assessment plan, and shall be subject only to the provisions  
 4 of this chapter. However, nothing contained in this chapter shall be  
 5 construed as applicable to any association of religious or secret  
 6 societies, or to any class of mechanics, express, telegraph or railroad  
 7 employees, or veterans described in ~~IC 10-5-12-1 or IC 10-5-13-1~~,  
 8 **IC 10-17-5-2 or IC 10-17-5-1** formed for the mutual benefit of the  
 9 members thereof and their families exclusively, or to any secret or  
 10 fraternal societies, lodges or councils that may be organized, or that are  
 11 now organized and doing business in this state, which conduct their  
 12 business and secure members on the lodge system exclusively, having  
 13 ritualistic work and ceremonies in their societies, lodges or councils,  
 14 and which are under the supervision of the grand or supreme body, nor  
 15 to any association organized solely for benevolent purposes and not for  
 16 profit.

17 SECTION 70. IC 27-8-3-26 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. Nothing contained  
 19 in sections one through twenty-five of this chapter shall be construed  
 20 to apply to secret or fraternal societies, lodges or councils that are now  
 21 organized, or that may hereafter be organized, which conduct their  
 22 business and secure members on the lodge system, exclusively, having  
 23 ritualistic work and ceremonies in their societies, lodges or councils,  
 24 and which are under the supervision of a grand or supreme body, nor  
 25 to any association organized solely for benevolent purposes and not for  
 26 profit; nor to any association of religious or secret societies, nor to any  
 27 class of mechanics, express, telegraph or railroad employees or  
 28 veterans described in ~~IC 10-5-12-1 or IC 10-5-13-1~~ **IC 10-17-5-2 or**  
 29 **IC 10-17-5-1** or any existing societies now doing business and formed  
 30 for the mutual benefit of the members thereof and their families  
 31 exclusively.

32 SECTION 71. IC 31-14-14-4 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A noncustodial  
 34 parent who misses visitation as the result of participation in an activity  
 35 of:

- 36 (1) the Indiana National Guard; or  
 37 (2) a reserve component of the armed forces of the United States;  
 38 may make up the lost visitation as provided in ~~IC 10-2-4-23~~.  
 39 **IC 10-16-7-22.**

40 SECTION 72. IC 31-17-4-10 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. A noncustodial  
 42 parent who misses visitation as the result of participation in an activity

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1 of:

2 (1) the Indiana National Guard; or

3 (2) a reserve component of the armed forces of the United States;  
4 may make up the lost visitation as provided in ~~IC 10-2-4-23~~;  
5 **IC 10-16-7-22.**

6 SECTION 73. IC 31-34-1-8 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. A child is a child in  
8 need of services if before the child becomes eighteen (18) years of age:

9 (1) the child is a missing child (as defined in ~~IC 10-1-7-2~~);  
10 **IC 10-13-5-4**); and

11 (2) the child needs care, treatment, or rehabilitation that:

12 (A) the child is not receiving; and

13 (B) is unlikely to be provided or accepted without the coercive  
14 intervention of the court.

15 SECTION 74. IC 31-34-2-4 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A child may be taken  
17 into custody by:

18 (1) a law enforcement officer;

19 (2) a probation officer; or

20 (3) a caseworker;

21 acting with probable cause to believe the child is a child in need of  
22 services because the child is a missing child (as defined in  
23 ~~IC 10-1-7-2~~); **IC 10-13-5-4**).

24 SECTION 75. IC 31-34-2-5 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If a child in need of  
26 services is a missing child and is taken into custody under a court  
27 order, the person taking the child into custody shall do the following:

28 (1) Take the child to a place designated in the order.

29 (2) Give notice to the following that the child has been taken into  
30 custody:

31 (A) The child's legal custodian.

32 (B) The clearinghouse for information on missing children  
33 established by ~~IC 10-1-7~~; **IC 10-13-5**.

34 SECTION 76. IC 31-34-2.5-2, AS AMENDED BY P.L.217-2001,  
35 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2003]: Sec. 2. (a) Immediately after an emergency medical  
37 services provider takes custody of a child under section 1 of this  
38 chapter, the provider shall notify the local child protection service that  
39 the provider has taken custody of the child.

40 (b) The local child protection service shall:

41 (1) assume the care, control, and custody of the child immediately  
42 after receiving notice under subsection (a); and

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1 (2) not later than forty-eight (48) hours after the local child  
 2 protection service has taken custody of the child, contact the  
 3 Indiana clearinghouse for information on missing children  
 4 established by ~~IC 10-1-7-3~~ **IC 10-13-5-5** to determine if the child  
 5 has been reported missing.

6 SECTION 77. IC 31-36-1-3 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Upon completion of  
 8 the report required by section 1 of this chapter, the law enforcement  
 9 agency shall immediately forward the contents of the report to:

10 (1) all law enforcement agencies that have jurisdiction of the  
 11 location in which the missing child lives and all law enforcement  
 12 agencies that have jurisdiction of the location in which the  
 13 missing child was last seen;

14 (2) all law enforcement agencies to which the person who  
 15 provided notification requests the report be sent, if the law  
 16 enforcement agency determines that the request is reasonable in  
 17 light of the information contained in the report;

18 (3) all law enforcement agencies that request a copy of the report;

19 (4) the Indiana clearinghouse for information on missing children  
 20 established by ~~IC 10-1-7~~; **IC 10-13-5**;

21 (5) the Indiana data and communication system (IDACS); and

22 (6) the National Crime Information Center's Missing Person File.

23 SECTION 78. IC 31-36-2-4 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A state or local  
 25 governmental agency or a public or private organization maintaining  
 26 a record of the fingerprints of a child shall release a copy of that record  
 27 to a law enforcement agency if:

28 (1) the child is a missing child (as defined in ~~IC 10-1-7-2~~);  
 29 **IC 10-13-5-4**);

30 (2) a parent or guardian of the child provides written consent for  
 31 the release of the record; and

32 (3) the law enforcement agency requests a copy of the record.

33 (b) Except as provided in IC 31-39-5, a record of the fingerprints of  
 34 a child taken and retained by a state or local governmental agency shall  
 35 be destroyed when the child becomes eighteen (18) years of age.

36 SECTION 79. IC 33-4-5-7 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person shall be  
 38 excused from acting as a juror if the person:

39 (1) is over sixty-five (65) years of age;

40 (2) is a member in active service of the armed forces of the United  
 41 States;

42 (3) is an elected or appointed official of the executive, legislative,

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1 or judicial branches of government of:

2 (A) the United States;

3 (B) Indiana; or

4 (C) a unit of local government;

5 who is actively engaged in the performance of the person's official  
6 duties;

7 (4) is a member of the general assembly who makes the request  
8 to be excused before being sworn as a juror;

9 (5) is an honorary military staff officer appointed by the governor  
10 under ~~IC 10-2-1-5~~; **IC 10-16-2-5**;

11 (6) is an officer or enlisted person of the guard reserve forces  
12 authorized by the governor under ~~IC 10-2-8~~; **IC 10-16-8**;

13 (7) is a veterinarian licensed under IC 15-5-1.1;

14 (8) is serving as a member of the board of school commissioners  
15 of the city of Indianapolis under IC 20-3-11-2;

16 (9) is a dentist licensed under IC 25-14-1;

17 (10) is a member of a police or fire department or company under  
18 IC 36-8-3 or IC 36-8-12; or

19 (11) would serve as a juror during a criminal trial and the person  
20 is:

21 (A) an employee of the department of correction whose duties  
22 require contact with inmates confined in a department of  
23 correction facility; or

24 (B) the spouse or child of a person described in clause (A);

25 and desires to be excused for that reason.

26 (b) A prospective juror is disqualified to serve on a jury if any of the  
27 following conditions exist:

28 (1) The person is not a citizen of the United States, at least  
29 eighteen (18) years of age, and a resident of the county.

30 (2) The person is unable to read, speak, and understand the  
31 English language with a degree of proficiency sufficient to fill out  
32 satisfactorily a juror qualification form.

33 (3) The person is incapable of rendering satisfactory jury service  
34 due to physical or mental disability. However, a person claiming  
35 this disqualification may be required to submit a physician's or  
36 authorized Christian Science practitioner's certificate confirming  
37 the disability, and the certifying physician or practitioner is then  
38 subject to inquiry by the court at the court's discretion.

39 (4) The person is under a sentence imposed for an offense.

40 (5) A guardian has been appointed for the person under IC 29-3  
41 because the person has a mental incapacity.

42 (6) The person has had rights revoked by reason of a felony

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- 1 conviction and the rights have not been restored.
- 2 (c) A person may not serve as a petit juror in any county if the  
3 person served as a petit juror in the same county within the previous  
4 three hundred sixty-five (365) days. The fact that a person's selection  
5 as a juror would violate this subsection is sufficient cause for  
6 challenge.
- 7 (d) A grand jury, a petit jury, or an individual juror drawn for  
8 service in one (1) court may serve in another court of the county, in  
9 accordance with orders entered on the record in each of the courts.
- 10 (e) The same petit jurors may be used in civil cases and in criminal  
11 cases.
- 12 (f) A person may not be excluded from jury service on account of  
13 race, color, religion, sex, national origin, or economic status.
- 14 SECTION 80. IC 33-19-9-4, AS AMENDED BY P.L.183-2001,  
15 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
16 JULY 1, 2003]: Sec. 4. (a) The treasurer of state shall semiannually  
17 distribute one million two hundred eighty-eight thousand dollars  
18 (\$1,288,000) of the amounts transferred to the state fund under section  
19 3 of this chapter as follows:
- 20 (1) Fourteen and ninety-eight hundredths percent (14.98%) shall  
21 be deposited into the alcohol and drug countermeasures fund  
22 established under IC 9-27-2-11.
- 23 (2) Eight and forty-two hundredths percent (8.42%) shall be  
24 deposited into the drug interdiction fund established under  
25 ~~IC 10-1-8-2~~ **IC 10-11-7**.
- 26 (3) Four and sixty-eight hundredths percent (4.68%) shall be  
27 deposited into the drug prosecution fund established under  
28 IC 33-14-8-5.
- 29 (4) Five and sixty-two hundredths percent (5.62%) shall be  
30 deposited into the corrections drug abuse fund established under  
31 IC 11-8-2-11.
- 32 (5) Twenty-two and forty-seven hundredths percent (22.47%)  
33 shall be deposited into the state drug free communities fund  
34 established by IC 5-2-10-2.
- 35 (6) Seven and ninety-eight hundredths percent (7.98%) shall be  
36 distributed to the Indiana department of transportation for use  
37 under IC 8-23-2-15.
- 38 (7) Twenty and thirty-two hundredths percent (20.32%) shall be  
39 deposited in the family violence and victim assistance fund  
40 established by IC 12-18-5-2.
- 41 (8) Fifteen and fifty-three hundredths percent (15.53%) shall be  
42 deposited in the Indiana safe schools fund established by

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1 IC 5-2-10.1.

2 (b) The treasurer of state shall semiannually distribute the amount  
3 remaining after the distributions in subsection (a) to the judicial  
4 technology and automation project fund established by IC 33-2.1-7-10.

5 SECTION 81. IC 34-6-2-11 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. "Armory", for  
7 purposes of IC 34-30-8, means an armory constructed and operated  
8 under ~~IC 10-2-2~~: **IC 10-16-3 or IC 10-16-4**.

9 SECTION 82. IC 34-29-1-2 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Statutes outside  
11 IC 34 providing immunity from civil arrest include the following:

12 (1) ~~IC 10-2-4-5~~ **IC 10-16-7-8** (Members of the national guard not  
13 subject to arrest on civil process while on duty).

14 (2) IC 35-37-5 (Uniform Act to Secure the Attendance of  
15 Witnesses from Without a State in Criminal Proceedings).

16 SECTION 83. IC 34-30-2-35 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. ~~IC 10-1-2-5-4~~  
18 **IC 10-13-2-6** (Concerning officials who furnish reports, information,  
19 or statistics to the criminal justice data division).

20 SECTION 84. IC 34-30-2-36 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. ~~IC 10-2-4-4~~  
22 **IC 10-16-7-7** (Concerning members of the national guard).

23 SECTION 85. IC 34-30-2-37 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37. ~~IC 10-4-1-8~~  
25 **IC 10-14-3-15** (Concerning the state, political subdivisions, and  
26 emergency management workers for injury, death, or property damage).

27 SECTION 86. IC 34-30-2-37.2 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.2. ~~IC 10-4-1-11~~  
29 **IC 10-14-3-18** (Concerning employees of a political subdivision  
30 rendering aid in another political subdivision or out of state).

31 SECTION 87. IC 34-30-2-38 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. ~~IC 10-4-1-18(c)~~  
33 **IC 10-14-3-25(e)** (Concerning persons owning or controlling real  
34 estate or other premises used to shelter persons during an attack,  
35 emergency, disaster, or drill).

36 SECTION 88. IC 34-30-2-38.3 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38.3. ~~IC 10-4-3-1~~  
38 **IC 10-14-7-1** (Concerning officers and employees of a state that is a  
39 party to the interstate earthquake emergency compact, and persons  
40 rendering aid under the compact).

41 SECTION 89. IC 34-30-2-39 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. ~~IC 10-7-2-1~~

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1 **IC 10-18-1-1** (Concerning members of the Indiana war memorials  
2 commission).

3 SECTION 90. IC 34-30-8-1 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If a person or entity,  
5 other than a person or entity listed in subdivisions (1) through (10),  
6 enters into a written agreement to use space in an armory for a function,  
7 the following persons and entities are not liable for civil damages for  
8 any property damage or bodily injury resulting from the serving of food  
9 or beverages at the function held at the armory:

- 10 (1) The state.  
11 (2) The Indiana army national guard.  
12 (3) The Indiana air national guard.  
13 (4) The army national guard of the United States.  
14 (5) The air national guard of the United States.  
15 (6) The adjutant general appointed under ~~IC 10-2-2-4.~~  
16 **IC 10-16-2-6.**  
17 (7) The assistant adjutants general appointed under ~~IC 10-2-2-5.~~  
18 **IC 10-16-2-7.**  
19 (8) The officers and enlisted members of the Indiana army  
20 national guard and the Indiana air national guard.  
21 (9) The state armory board appointed under ~~IC 10-2-2-9~~  
22 **IC 10-10-16-3-1** and the members of that board.  
23 (10) The local armory board appointed under ~~IC 10-2-2-24~~  
24 **IC 10-16-4-1** for the armory and the members of that board.

25 SECTION 91. IC 35-38-2-2.3, AS AMENDED BY P.L.76-2002,  
26 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2003]: Sec. 2.3. (a) As a condition of probation, the court may  
28 require a person to do a combination of the following:

- 29 (1) Work faithfully at suitable employment or faithfully pursue a  
30 course of study or vocational training that will equip the person  
31 for suitable employment.  
32 (2) Undergo available medical or psychiatric treatment and  
33 remain in a specified institution if required for that purpose.  
34 (3) Attend or reside in a facility established for the instruction,  
35 recreation, or residence of persons on probation.  
36 (4) Support the person's dependents and meet other family  
37 responsibilities.  
38 (5) Make restitution or reparation to the victim of the crime for  
39 damage or injury that was sustained by the victim. When  
40 restitution or reparation is a condition of probation, the court shall  
41 fix the amount, which may not exceed an amount the person can  
42 or will be able to pay, and shall fix the manner of performance.



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- 1 (6) Execute a repayment agreement with the appropriate  
 2 governmental entity to repay the full amount of public relief or  
 3 assistance wrongfully received, and make repayments according  
 4 to a repayment schedule set out in the agreement.  
 5 (7) Pay a fine authorized by IC 35-50.  
 6 (8) Refrain from possessing a firearm or other deadly weapon  
 7 unless granted written permission by the court or the person's  
 8 probation officer.  
 9 (9) Report to a probation officer at reasonable times as directed  
 10 by the court or the probation officer.  
 11 (10) Permit the person's probation officer to visit the person at  
 12 reasonable times at the person's home or elsewhere.  
 13 (11) Remain within the jurisdiction of the court, unless granted  
 14 permission to leave by the court or by the person's probation  
 15 officer.  
 16 (12) Answer all reasonable inquiries by the court or the person's  
 17 probation officer and promptly notify the court or probation  
 18 officer of any change in address or employment.  
 19 (13) Perform uncompensated work that benefits the community.  
 20 (14) Satisfy other conditions reasonably related to the person's  
 21 rehabilitation.  
 22 (15) Undergo home detention under IC 35-38-2.5.  
 23 (16) Undergo a laboratory test or series of tests approved by the  
 24 state department of health to detect and confirm the presence of  
 25 the human immunodeficiency virus (HIV) antigen or antibodies  
 26 to the human immunodeficiency virus (HIV), if:  
 27 (A) the person had been convicted of a sex crime listed in  
 28 IC 35-38-1-7.1(e) and the crime created an epidemiologically  
 29 demonstrated risk of transmission of the human  
 30 immunodeficiency virus (HIV) as described in  
 31 IC 35-38-1-7.1(b)(8); or  
 32 (B) the person had been convicted of an offense related to a  
 33 controlled substance listed in IC 35-38-1-7.1(f) and the offense  
 34 involved the conditions described in IC 35-38-1-7.1(b)(9)(A).  
 35 (17) Refrain from any direct or indirect contact with an  
 36 individual.  
 37 (18) Execute a repayment agreement with the appropriate  
 38 governmental entity or with a person for reasonable costs incurred  
 39 because of the taking, detention, or return of a missing child (as  
 40 defined in ~~IC 10-1-7-2~~; **IC 10-13-5-4**).  
 41 (19) Periodically undergo a laboratory chemical test (as defined  
 42 in IC 14-15-8-1) or series of chemical tests as specified by the

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1 court to detect and confirm the presence of a controlled substance  
 2 (as defined in IC 35-48-1-9). The person on probation is  
 3 responsible for any charges resulting from a test and shall have  
 4 the results of any test under this subdivision reported to the  
 5 person's probation officer by the laboratory.

6 (20) If the person was confined in a penal facility, execute a  
 7 reimbursement plan as directed by the court and make repayments  
 8 under the plan to the authority that operates the penal facility for  
 9 all or part of the costs of the person's confinement in the penal  
 10 facility. The court shall fix an amount that:

11 (A) may not exceed an amount the person can or will be able  
 12 to pay;

13 (B) does not harm the person's ability to reasonably be self  
 14 supporting or to reasonably support any dependent of the  
 15 person; and

16 (C) takes into consideration and gives priority to any other  
 17 restitution, reparation, repayment, or fine the person is  
 18 required to pay under this section.

19 (21) Refrain from owning, harboring, or training an animal.

20 (b) When a person is placed on probation, the person shall be given  
 21 a written statement specifying:

22 (1) the conditions of probation; and

23 (2) that if the person violates a condition of probation during the  
 24 probationary period, a petition to revoke probation may be filed  
 25 before the earlier of the following:

26 (A) One (1) year after the termination of probation.

27 (B) Forty-five (45) days after the state receives notice of the  
 28 violation.

29 (c) As a condition of probation, the court may require that the  
 30 person serve a term of imprisonment in an appropriate facility at the  
 31 time or intervals (consecutive or intermittent) within the period of  
 32 probation the court determines.

33 (d) Intermittent service may be required only for a term of not more  
 34 than sixty (60) days and must be served in the county or local penal  
 35 facility. The intermittent term is computed on the basis of the actual  
 36 days spent in confinement and shall be completed within one (1) year.  
 37 A person does not earn credit time while serving an intermittent term  
 38 of imprisonment under this subsection. When the court orders  
 39 intermittent service, the court shall state:

40 (1) the term of imprisonment;

41 (2) the days or parts of days during which a person is to be  
 42 confined; and

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1 (3) the conditions.

2 (e) Supervision of a person may be transferred from the court that  
3 placed the person on probation to a court of another jurisdiction, with  
4 the concurrence of both courts. Retransfers of supervision may occur  
5 in the same manner. This subsection does not apply to transfers made  
6 under IC 11-13-4 or IC 11-13-5.

7 (f) When a court imposes a condition of probation described in  
8 subsection (a)(17):

- 9 (1) the clerk of the court shall comply with IC 5-2-9; and  
10 (2) the prosecuting attorney shall file a confidential form  
11 prescribed or approved by the division of state court  
12 administration with the clerk.

13 SECTION 92. IC 35-38-5-5, AS AMENDED BY P.L.10-1999,  
14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2003]: Sec. 5. (a) This section does not apply to a request to  
16 a law enforcement agency for the release or inspection of a limited  
17 criminal history to a noncriminal justice organization or individual  
18 whenever the subject of the request is described in ~~IC 5-2-5-5(a)(8) or~~  
19 ~~IC 5-2-5-5(a)(12)~~; **IC 10-13-3-27(a)(8) or IC 10-13-3-27(a)(12)**.

20 (b) A person may petition the state police department to limit access  
21 to ~~his~~ **the person's** limited criminal history to criminal justice agencies  
22 if more than fifteen (15) years have elapsed since the date the person  
23 was discharged from probation, imprisonment, or parole (whichever is  
24 later) for the last conviction for a crime.

25 (c) When a petition is filed under subsection (b), the state police  
26 department shall not release limited criminal history to noncriminal  
27 justice agencies under ~~IC 5-2-5-5~~; **IC 10-13-5-27**.

28 SECTION 93. IC 35-38-7-5, AS ADDED BY P.L.49-2001,  
29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2003]: Sec. 5. A person who was convicted of and sentenced  
31 for an offense may file a written petition with the court that sentenced  
32 the petitioner for the offense to require the forensic DNA testing and  
33 analysis of any evidence that:

- 34 (1) is:  
35 (A) in the possession or control of a court or the state; or  
36 (B) otherwise contained in the Indiana DNA data base  
37 established under ~~IC 10-1-9~~; **IC 10-13-6**;  
38 (2) is related to the investigation or prosecution that resulted in  
39 the person's conviction; and  
40 (3) may contain biological evidence.

41 SECTION 94. IC 35-38-7-12, AS ADDED BY P.L.49-2001,  
42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



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1 JULY 1, 2003]: Sec. 12. If the court orders DNA testing and analysis  
 2 under this chapter, the court shall select a laboratory that meets the  
 3 quality assurance and proficiency testing standards applicable to  
 4 laboratories conducting forensic DNA analysis under ~~IC 10-1-9~~.  
 5 **IC 10-13-6.**

6 SECTION 95. IC 35-38-7-18, AS ADDED BY P.L.49-2001,  
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2003]: Sec. 18. If the results of the postconviction DNA  
 9 testing and analysis are not favorable to the person who was convicted  
 10 of the offense, the court:

- 11 (1) shall dismiss the person's petition; and  
 12 (2) may make any further orders that the court determines to be  
 13 appropriate, including any of the following:  
 14 (A) An order providing for notification of the parole board or  
 15 a probation department.  
 16 (B) An order requesting that the petitioner's sample be added  
 17 to the Indiana data base established under ~~IC 10-1-9~~.

18 **IC 10-13-6.**

19 SECTION 96. IC 35-44-2-2, AS AMENDED BY P.L.123-2002,  
 20 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2003]: Sec. 2. (a) As used in this section, "consumer product"  
 22 has the meaning set forth in IC 35-45-8-1.

23 (b) A person who reports, by telephone, telegraph, mail, or other  
 24 written or oral communication, that:

- 25 (1) the person or another person has placed or intends to place an  
 26 explosive, a destructive device, or other destructive substance in  
 27 a building or transportation facility;  
 28 (2) there has been or there will be tampering with a consumer  
 29 product introduced into commerce; or  
 30 (3) there has been or will be placed or introduced a weapon of  
 31 mass destruction in a building or a place of assembly;

32 knowing the report to be false commits false reporting, a Class D  
 33 felony.

34 (c) A person who:

- 35 (1) gives a false report of the commission of a crime or gives false  
 36 information in the official investigation of the commission of a  
 37 crime, knowing the report or information to be false;  
 38 (2) gives a false alarm of fire to the fire department of a  
 39 governmental entity, knowing the alarm to be false;  
 40 (3) makes a false request for ambulance service to an ambulance  
 41 service provider, knowing the request to be false; or  
 42 (4) gives a false report concerning a missing child (as defined in

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1           ~~IC 10-1-7-2~~ **IC 10-13-5-4** or gives false information in the  
2           official investigation of a missing child knowing the report or  
3           information to be false;  
4           commits false informing, a Class B misdemeanor. However, the offense  
5           is a Class A misdemeanor if it substantially hinders any law  
6           enforcement process or if it results in harm to an innocent person.  
7           SECTION 97. IC 35-47-2.5-9 IS AMENDED TO READ AS  
8           FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. If a buyer or  
9           transferee is denied the right to purchase a handgun under this chapter  
10          because of erroneous criminal history information, the buyer or  
11          transferee may exercise the right of access to and review and correction  
12          of criminal history information under ~~IC 5-2-5-8~~ **IC 10-13-3-31**.  
13          SECTION 98. IC 35-47-11-3 IS AMENDED TO READ AS  
14          FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body  
15          of a unit may adopt an emergency ordinance under this chapter if:  
16               (1) a disaster (as defined in ~~IC 10-4-1-3~~ **IC 10-14-3-1**) has  
17               occurred or is likely to occur in the unit; and  
18               (2) a local disaster emergency has been declared in the unit under  
19               ~~IC 10-4-1-23~~ **IC 10-14-3-29**.  
20          SECTION 99. IC 36-1-7-3 IS AMENDED TO READ AS  
21          FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An agreement  
22          under this section must provide for the following:  
23               (1) Its duration.  
24               (2) Its purpose.  
25               (3) The manner of financing, staffing, and supplying the joint  
26               undertaking and of establishing and maintaining a budget  
27               therefor.  
28               (4) The methods that may be employed in accomplishing the  
29               partial or complete termination of the agreement and for disposing  
30               of property upon partial or complete termination.  
31               (5) Administration through:  
32                    (A) a separate legal entity, the nature, organization,  
33                    composition, and powers of which must be provided; or  
34                    (B) a joint board composed of representatives of the entities  
35                    that are parties to the agreement, and on which all parties to  
36                    the agreement must be represented.  
37               (6) The manner of acquiring, holding, and disposing of real and  
38               personal property used in the joint undertaking, whenever a joint  
39               board is created under subdivision (5)(B).  
40          In addition, such an agreement may provide for any other appropriate  
41          matters.  
42               (b) A separate legal entity or joint board established by an

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1 agreement under this section has only the powers delegated to it by the  
 2 agreement. The agreement may not provide for members, directors, or  
 3 trustees of the separate legal entity or joint board to make appointments  
 4 (either individually or jointly) to fill vacancies on the separate legal  
 5 entity or joint board.

6 (c) Subsection (a)(6) does not apply to an emergency management  
 7 assistance compact under ~~IC 10-4-2.5~~. **IC 10-14-5.**

8 SECTION 100. IC 36-1-7-7, AS AMENDED BY P.L.1-1999,  
 9 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2003]: Sec. 7. (a) Except as provided in subsection (c), if an  
 11 agreement under section 3 of this chapter concerns the provision of law  
 12 enforcement or firefighting services, the following provisions apply:

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

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

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

29 (c) This subsection applies to a law enforcement officer that visits  
 30 another state after a request for assistance from another state under the  
 31 emergency management compact is made under ~~IC 10-4-2.5~~.  
 32 **IC 10-14-5.** A law enforcement officer that visits another state does not  
 33 have the power of arrest unless the law enforcement officer is  
 34 specifically authorized to exercise the power by the receiving state.

35 SECTION 101. IC 36-2-7-10, AS AMENDED BY P.L.2-2002,  
 36 SECTION 107, IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2003] : Sec. 10. (a) The county recorder shall  
 38 tax and collect the fees prescribed by this section for recording, filing,  
 39 copying, and other services the recorder renders, and shall pay them  
 40 into the county treasury at the end of each calendar month. The fees  
 41 prescribed and collected under this section supersede all other  
 42 recording fees required by law to be charged for services rendered by

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- 1 the county recorder.
- 2 (b) The county recorder shall charge the following:
- 3 (1) Six dollars (\$6) for the first page and two dollars (\$2) for each  
4 additional page of any document the recorder records if the pages  
5 are not larger than eight and one-half (8 ½) inches by fourteen  
6 (14) inches.
- 7 (2) Fifteen dollars (\$15) for the first page and five dollars (\$5) for  
8 each additional page of any document the recorder records, if the  
9 pages are larger than eight and one-half (8 ½) inches by fourteen  
10 (14) inches.
- 11 (3) For attesting to the release, partial release, or assignment of  
12 any mortgage, judgment, lien, or oil and gas lease contained on a  
13 multiple transaction document, the fee for each transaction after  
14 the first is the amount provided in subdivision (1) plus the amount  
15 provided in subdivision (4) and one dollar (\$1) for marginal  
16 mortgage assignments or marginal mortgage releases.
- 17 (4) One dollar (\$1) for each cross-reference of a recorded  
18 document.
- 19 (5) One dollar (\$1) per page not larger than eight and one-half (8  
20 ½) inches by fourteen (14) inches for furnishing copies of records  
21 produced by a photographic process, and two dollars (\$2) per  
22 page that is larger than eight and one-half (8 ½) inches by  
23 fourteen (14) inches.
- 24 (6) Five dollars (\$5) for acknowledging or certifying to a  
25 document.
- 26 (7) Five dollars (\$5) for each deed the recorder records, in  
27 addition to other fees for deeds, for the county surveyor's corner  
28 perpetuation fund for use as provided in IC 32-19-4-3 or  
29 IC 36-2-12-11(e).
- 30 (8) A fee in an amount authorized under IC 5-14-3-8 for  
31 transmitting a copy of a document by facsimile machine.
- 32 (9) A fee in an amount authorized by an ordinance adopted by the  
33 county legislative body for duplicating a computer tape, a  
34 computer disk, an optical disk, microfilm, or similar media. This  
35 fee may not cover making a handwritten copy or a photocopy or  
36 using xerography or a duplicating machine.
- 37 (10) A supplemental fee of three dollars (\$3) for recording a  
38 document that is paid at the time of recording. The fee under this  
39 subdivision is in addition to other fees provided by law for  
40 recording a document.
- 41 (c) The county treasurer shall establish a recorder's records  
42 perpetuation fund. All revenue received under subsection (b)(5), (b)(8),

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1 (b)(9), and (b)(10) shall be deposited in this fund. The county recorder  
 2 may use any money in this fund without appropriation for the  
 3 preservation of records and the improvement of record keeping systems  
 4 and equipment.

5 (d) As used in this section, "record" or "recording" includes the  
 6 functions of recording, filing, and filing for record.

7 (e) The county recorder shall post the fees set forth in subsection (b)  
 8 in a prominent place within the county recorder's office where the fee  
 9 schedule will be readily accessible to the public.

10 (f) The county recorder may not tax or collect any fee for:

11 (1) recording an official bond of a public officer, a deputy, an  
 12 appointee, or an employee; or

13 (2) performing any service under any of the following:

14 (A) IC 6-1.1-22-2(c).

15 (B) IC 8-23-7.

16 (C) IC 8-23-23.

17 (D) ~~IC 10-5-4-3~~; **IC 10-17-2-3.**

18 (E) ~~IC 10-5-7-1(a)~~; **IC 10-17-3-2.**

19 (F) IC 12-14-13.

20 (G) IC 12-14-16.

21 (g) The state and its agencies and instrumentalities are required to  
 22 pay the recording fees and charges that this section prescribes.

23 SECTION 102. THE FOLLOWING ARE REPEALED  
 24 [EFFECTIVE JULY 1, 2003]: IC 5-2-5; IC 5-2-5.1; IC 10-1; IC 10-2;  
 25 IC 10-3; IC 10-4; IC 10-5; IC 10-6; IC 10-7; IC 10-8; IC 10-9.

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