January 24, 2003

# SENATE BILL No. 257

DIGEST OF SB 257 (Updated January 22, 2003 10:41 AM - DI 106)

**Citations Affected:** Numerous 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.

**Kenley, Bowser,** Landske

January 9, 2003, read first time and referred to Committee on Judiciary.
January 23, 2003, reported favorably — Do Pass.

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January 24, 2003

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:*

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

**ARTICLE 10. EFFECT OF RECODIFICATION OF TITLE 10**

**Chapter 1. Effect of Recodification by the Act of the 2003 Regular Session of the General Assembly**

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state police, civil defense, emergency management, military affairs, veterans affairs, and war memorials that are repealed or amended in the recodification act of the 2003 regular session of the general assembly as the statutes existed before the effective date of the applicable or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

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

**extent that:**

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

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

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

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

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

**(1) any rights or liabilities accrued;**

**(2) any penalties incurred;**

**(3) any violations committed;**

**(4) any proceedings begun;**

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

**(6) any tax levies made or authorized;**

**(7) any funds established;**

**(8) any patents issued;**

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

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

**(A) permits;**

**(B) licenses;**

**(C) certificates of registration;**

**(D) grants of authority; or**

**(E) limitations of authority; or**

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

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

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

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

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

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

**issued under the prior law.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(1) any rights or liabilities accrued;**

**(2) any penalties incurred;**

**(3) any violations committed;**

**(4) any proceedings begun;**

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

**(6) any tax levies made;**

**(7) any funds established;**

**(8) any patents issued;**

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

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

**(A) permits;**

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

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

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

**ARTICLE 11. STATE POLICE**

**Chapter 1. Definitions**

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

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

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

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

**Chapter 2. State Police Department**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(b) The superintendent:**

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

**(2) must:**

**(A) have:**

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

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

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

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

**(c) The superintendent:**

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

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

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

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

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

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

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

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

**(c) The superintendent shall:**

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

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

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

**(e) An employee may:**

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

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

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

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

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

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

**(2) the highest salary in the rank paid to a person with at least ten (10) years of service in the department.**

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

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

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

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

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

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

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

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

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

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

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

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

**(g) The board shall:**

**(1) designate a reporter for the hearing; and**

**(2) after all evidence has been introduced, make an informal finding of facts and a determination based upon the facts.**

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

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

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

**(1) because of political affiliation; or**

**(2) after the employee's probationary period, except as provided in this chapter.**

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

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

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

**(1) IC 9; or**

**(2) a local ordinance that corresponds to a provision under IC 9.**

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

**(1) a summons;**

**(2) a ticket; or**

**(3) any other official document;**

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

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

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

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

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

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

**(b) A person who wears or uses in public the hat or insignia or any imitation, reproduction, or facsimile of the hat or insignia, except an appointed member of the department authorized by the superintendent to wear the hat or insignia, commits a Class C 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) to enforce the laws of the state for the regulation and use of vehicles;**

**(2) for the protection of the surface or other physical part of the highways in Indiana; and**

**(3) without writ or warrant, to make an arrest for violation of the laws of the state for the regulation and use of vehicles when the violation is committed in their presence.**

**(b) The police employees of the department shall:**

**(1) prevent and detect offenses;**

**(2) apprehend offenders;**

**(3) enforce the laws; and**

**(4) perform other duties imposed upon them by law.**

**(c) Police employees of the department have:**

**(1) in any part of Indiana, the same powers concerning criminal matters and the enforcement of related laws as sheriffs, constables, and police officers have in their respective jurisdictions; and**

**(2) power to act as agents for the state on return of parolees, fugitives from justice, and persons extradited to Indiana for offenses.**

**(d) A warrant of arrest or search warrant may be executed by any police employee of the department in any part of the state, according to the terms of the warrant without endorsement.**

**(e) Police employees are subject to the call of the governor. The governor may assign to the department other police duties that the executive department considers advisable, including the duties performed by deputy fire marshals.**

**(f) Police employees have power to arrest, without warrant, a person who is committing or attempting to commit in their presence or view a violation of the laws of the state.**

**(g) Under order of the superintendent, police employees may cooperate with any other department of the state or with local authorities.**

**(h) Police employees may not:**

**(1) exercise their powers within the limits of a city in labor disputes; or**

**(2) suppress rioting and disorder;**

**except by direction of the governor or upon the request of the mayor of the city with the approval of the governor or, if the governor is not available, with the approval of the lieutenant governor. Outside the limits of a city, police employees may not exercise their power in labor disputes except by direction of the**

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

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

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

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

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

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

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

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

**(2) federal police forces;**

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

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

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

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

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

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

**(1) unconscious;**

**(2) suffering from a serious illness;**

**(3) suffering from a serious injury; or**

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

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**substance, or a combination of alcohol, a controlled substance, or drugs.**

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

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

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

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

**(1) IC 6-1.1-7-10.**
**(2) IC 6-6-1.1-1202.**
**(3) IC 6-6-2.5.**
**(4) IC 6-6-4.1-12.**
**(5) IC 8-2.1.**
**(6) IC 9-18.**
**(7) IC 9-19.**
**(8) IC 9-20.**
**(9) IC 9-21-7-2 through IC 9-21-7-11.**
**(10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.**
**(11) IC 9-21-8-45 through IC 9-21-8-48.**
**(12) IC 9-21-9.**
**(13) IC 9-21-15.**
**(14) IC 9-24-1-1 through IC 9-24-1-3.**
**(15) IC 9-24-1-7.**
**(16) Except as provided in subsection (c), IC 9-24-1-6, IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.**
**(17) IC 9-24-4.**

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

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

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

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

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

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

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

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

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

**(1) The state capitol building.**
**(2) A state office building.**

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**(3) A state parking facility.**
**(4) A state motor pool garage.**
**(5) A state warehouse.**
**(6) The Indiana state library.**
**(7) The governor's residence.**
**(8) Any other building or property used by the state for any of the following purposes:**
**(A) Housing of personnel or activities of an agency or a branch of state government.**
**(B) Providing transportation or parking for state employees or persons having business with state government.**

**(b) A special police employee of the department assigned to the security activities under this section, other than an officer or police employee of the department who possesses police powers under section 21 of this chapter, possesses all of the common law and statutory powers of law enforcement officers except for the service of civil process.**

**(c) For purposes of IC 5-2-1, a special police employee assigned to the security activities under this section, other than a regular police employee of the department, is a special officer.**

**(d) Special police employees shall enforce IC 4-20.5 and rules of the Indiana department of administration.**

**(e) The superintendent may adopt rules under IC 4-22-2 to do the following:**
**(1) Enforce IC 4-20.5 and rules of the Indiana department of administration concerning the security of state property.**
**(2) Carry out the responsibilities for security of state property under this section.**

**Sec. 29. The superintendent may assign a special police employee described in section 28(b) of this chapter to serve as a gaming agent under an agreement with the Indiana gaming commission under IC 4-33-4-3.6.**

**Sec. 30. The department may establish a wellness program for department employees as set forth in IC 4-15-13.**

**Chapter 3. Enforcement of Motor Carrier Laws**

**Sec. 1. There is established within the department an enforcement section of twenty (20) state police officers who, on behalf of the department of state revenue, shall enforce strict compliance with IC 8-2.1.**

**Sec. 2. (a) The enforcement section established by section 1 of this chapter consists of the following individuals:**

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

**(b) The superintendent shall appoint all personnel with the approval of the board. The members of the enforcement section:**
**(1) must be state police officers; and**
**(2) shall be selected, trained, and subject to all the provisions of and vested with all of the authority granted by IC 22-1-1, except that they shall be permanently assigned to and primarily responsible for carrying out the duties imposed by this chapter.**

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

**Sec. 3. (a) The enforcement officers employed by the enforcement section:**
**(1) are vested with all necessary police powers to enforce IC 8-2.1 and rules adopted under IC 8-2.1; and**
**(2) may investigate and make arrests for the violation of IC 8-2.1 or rules adopted under IC 8-2.1.**

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

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

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

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

**Sec. 1. As used in this chapter, "member" means the following:**
**(1) An employee or appointee of the department.**



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**(2) An employee or appointee of the board.**
**(3) The superintendent.**
**(4) A member of the board.**

**Sec. 2. If a member is sued for civil damages and the board administratively determines that:**

**(1) the civil action arose out of an act performed within the scope of the duties of the member; and**
**(2) a lack of defense of the civil action by the state would prejudice the enforcement of the laws of the state;**

**the board shall present its written findings to the attorney general.**

**Sec. 3. (a) Except as provided in subsection (b), if the attorney general finds the board's determination to be supported by substantial evidence, the attorney general shall defend the member in the civil action.**

**(b) The attorney general may authorize the department to hire private counsel to defend the member in the civil action.**

**Sec. 4. The administrative determination by the board or the determination by the attorney general under this chapter may not be admitted as evidence in the trial of the civil action for damages.**

**Sec. 5. (a) This chapter may not be construed to deprive a member of the right to select defense counsel of the member's choice at the member's expense.**

**(b) This chapter may not be construed to relieve any person from any responsibility for civil damages.**

**Chapter 5. Disposition of Unclaimed Property**

**Sec. 1. This chapter does not apply to property:**

**(1) seized upon a search warrant; or**
**(2) the custody and disposition of which are otherwise provided by law.**

**Sec. 2. If money, goods, or other property that has been stolen, lost, or abandoned comes into the possession of an employee of the department by virtue of the employee's office, the employee:**

**(1) shall deliver the money, goods, or other property to another employee of the department as designated by the superintendent; and**
**(2) is relieved from further responsibility for the money, goods, or other property.**

**Sec. 3. (a) Except as provided in subsection (c), if:**

**(1) the money, goods, or other property remains unclaimed in the possession or control of the employee to whom it was delivered for six (6) months; and**
**(2) the location of the owner is unknown;**

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**the goods or other property shall be sold at public auction.**

**(b) Notice of the sale must be published one (1) time each week for two (2) consecutive weeks in a newspaper of general circulation printed in the community in which the sale is to be held. The notice must include the following information:**

**(1) The time and place of the sale.**

**(2) A description of the property to be sold.**

**(c) Any property that:**

**(1) is perishable;**

**(2) will deteriorate greatly in value by keeping; or**

**(3) the expense of keeping will be likely to exceed the value of the property;**

**may be sold at public auction in accordance with the rules or orders of the superintendent. If the nature of the property requires an immediate sale, the superintendent may waive the six (6) month period of custody and the notice of sale provided in this section.**

**(d) The proceeds of a sale, after deducting all reasonable charges and expenses incurred in relation to the property, and all money shall be presumed abandoned and shall be delivered to the attorney general for deposit into the abandoned property fund for disposition as provided by IC 32-34-1-33 and IC 32-34-1-34.**

**Chapter 6. Law Enforcement Training Conferences**

**Sec. 1. (a) The department may conduct training programs at semiannual conferences for law enforcement:**

**(1) officers;**

**(2) trainees; and**

**(3) applicants;**

**of cities, towns, and counties.**

**(b) A semiannual conference:**

**(1) may not last more than three (3) days; and**

**(2) shall be conducted at a state police post.**

**Sec. 2. (a) The training program courses shall be conducted under the supervision and direction of the superintendent.**

**(b) The training programs must include courses of instruction in the following subjects:**

**(1) Detection, pursuit, apprehension, and conviction of criminals.**

**(2) Safety and first aid assistance.**

**(3) Any other subject the superintendent considers appropriate.**

**Sec. 3. (a) A city council shall appropriate, as necessary, sufficient funds to pay for each mile traveled to and from the**

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

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

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

**Chapter 7. Drug Interdiction Program**

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

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

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

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

**(1) Provide additional persons to conduct investigations into violations of drug and controlled substances statutes.**

**(2) Purchase laboratory equipment and other equipment necessary to assist in the effort to control illegal drug activity.**

**(3) Provide technical and investigative assistance to local law enforcement agencies to combat illegal drug activity.**

**(4) Fund other programs designed to reduce illegal drug activity.**

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

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

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

**ARTICLE 12. STATE POLICE PENSIONS AND BENEFITS**



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**Chapter 1. Definitions**

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

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

**Sec. 3. "Eligible employee" means a regular police employee of the department.**

**Sec. 4. "Employee beneficiary" means an eligible employee who:**

**(1) completes an application to become an employee beneficiary; and**

**(2) makes or causes to be made the proper deductions from wages as required by the pension trust.**

**Sec. 5. "Internal Revenue Code":**

**(1) means the Internal Revenue Code of 1954, as in effect on September 1, 1974, if permitted with respect to governmental plans; or**

**(2) to the extent not inconsistent with subdivision (1), has the meaning set forth in IC 6-3-1-11.**

**Sec. 6. "Net amount paid into the trust fund from the wages of an employee beneficiary" means:**

**(1) the amount of money paid into the trust fund from the wages of an employee beneficiary, plus interest at the rate of three percent (3%) or more compounded annually; less**

**(2) any sums, plus interest at the same rate, paid from the trust fund to:**

**(A) the employee beneficiary;**

**(B) any person claiming by, through, or under the employee beneficiary; or**

**(C) any government fund for the credit or benefit of the employee beneficiary.**

**Sec. 7. "Pension consultants" means an individual, a firm, or a corporation of technical consultants competent and qualified to supervise and assist in the establishment, maintenance, and operation of a pension plan on an actuarially sound basis.**

**Sec. 8. "Pension trust" means the agreement between the department and the trustee under the terms of which an actuarially sound retirement pension plan is established and operated for the exclusive benefit of the employee beneficiaries subject to the limitations specified in IC 10-12-2, IC 10-12-3, and IC 10-12-4.**

**Sec. 9. "Supplementary trust agreement" means an agreement that has the force and effect of law between the department and the trustee concerning the police benefit fund (as described in**

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**IC 10-12-2-7).**

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

**(1) one (1) or more corporate trustees; or**

**(2) the treasurer of state serving under bond.**

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

**(1) Contributions from the department.**

**(2) Contributions from employee beneficiaries.**

**(3) Any other payments or contributions made to the pension trust.**

**(4) The income and proceeds derived from the investment of the assets of the pension trust.**

**Chapter 2. Pension, Death, Disability, Survivor, and Other Benefits**

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

**(1) retain the employee's issued service weapon; and**

**(2) receive a "Retired" badge in recognition of the employee's service to the department and the public.**

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

**(1) gives the employee's name and rank;**

**(2) signifies that the employee is retired; and**

**(3) notes the employee's authority to retain the employee's service weapon.**

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

**(1) establish and operate an actuarially sound pension plan governed by a pension trust; and**

**(2) make the necessary annual contribution in order to prevent any deterioration in the actuarial status of the trust fund.**

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

**(c) The trust fund:**

**(1) may not be commingled with any other funds; and**

**(2) shall be invested only in accordance with state laws for the investment of trust funds, together with other investments as are specifically designated in the pension trust.**

**Subject to the terms of the pension trust, the trustee, with the 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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**plan during that year. If the department fails to make the minimum contribution for five (5) successive years, the pension trust terminates and the trust fund shall be liquidated.**

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

**(1) All expenses of the pension trust must be paid.**

**(2) Adequate provision must be made for continuing pension payments to retired persons.**

**(3) Each employee beneficiary must receive the net amount paid into the trust fund from the employee beneficiary's wages.**

**(4) Any amount remaining in the pension trust after the department makes the payments described in subdivisions (1) through (3) must be equitably divided among the employee beneficiaries in proportion to the net amount paid from each employee beneficiary's wages into the trust fund.**

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

**(1) The pension advisory board shall distribute the corpus and income of the pension trust to participants and their beneficiaries in accordance with this chapter, IC 10-12-3, and IC 10-12-4.**

**(2) A part of the corpus or income of the pension trust may not be used or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.**

**(3) Forfeitures arising from severance of employment, death, or any other reason may not be applied to increase the benefits any participant would otherwise receive under this chapter, IC 10-12-3, or IC 10-12-4.**

**(4) If the pension trust is terminated or if all contributions to the pension trust are completely discontinued, the rights of each affected participant to the benefits accrued at the date of the termination or discontinuance, to the extent then funded, are nonforfeitable.**

**(5) All benefits paid from the pension trust shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. To meet those requirements, the pension**

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**trust is subject to the following provisions:**

**(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary shall not be recalculated after the initial determination for purposes of determining benefits.**

**(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the participant died.**

**(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.**

**(6) The pension advisory board may not:**

**(A) determine eligibility for benefits;**

**(B) compute rates of contribution; or**

**(C) compute benefits of participants or beneficiaries;**

**in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as provided under Section 401(a)(4) of the Internal Revenue Code.**

**(7) Benefits paid under this chapter, IC 10-12-3, or IC 10-12-4 may not exceed the maximum benefit specified by Section 415 of the Internal Revenue Code.**

**(8) The salary taken into account under this chapter, IC 10-12-3, or IC 10-12-4 may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.**

**(9) The trustee may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.**

**(b) Notwithstanding any other provision of this chapter or IC 10-12-3, and solely for the purposes of the benefits provided under IC 10-12-3, the benefit limitations of Section 415 of the Internal Revenue Code shall be determined by applying the provisions of Section 415(b)(10) of the Internal Revenue Code, as amended by the Technical and Miscellaneous Revenue Act of 1988. This section constitutes an election under Section 415(b)(10)(C) of the Internal Revenue Code to have Section 415(b) of the Internal Revenue Code, other than Section 415(b)(2)(G) of the Internal Revenue Code, applied without regard to Section 415(b)(2)(F) of the Internal Revenue Code to anyone who did not first become a**

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**participant before January 1, 1990.**

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

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

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

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

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

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

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

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

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

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



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**(2) permanently prevents the employee from performing any gainful work;**

**shall receive a disability pension equal to the employee's regular salary at the commencement of the disability. The disability pension provided under this subsection is provided instead of the regular monthly disability pension. The disability pension provided under this subsection must be increased at a rate equal to any salary increases the employee would have received if the employee remained in active service.**

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

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

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

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

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

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

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

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

**(g) All dependent mothers, dependent fathers, surviving spouses, and dependent children who received a dependent pension on June 30, 1969, shall receive a pension calculated as provided by this section beginning on July 1, 1969. Any surviving spouse electing to, or who has previously elected to, receive joint survivorship benefits 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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**(b) Any fee or reward to which a member of the department would be entitled except for the provisions of subsection (a) shall be paid to the police benefit fund.**

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

**(b) A person's interest, share, pension, or benefit, before the actual payment of the interest, share, pension, or benefit, may not be:**

**(1) used to satisfy the debts or liabilities of the person entitled to the interest, share, pension, or benefit;**

**(2) subject to attachment, garnishment, execution, or levy or sale on judicial proceedings; or**

**(3) transferred by any means, voluntarily or involuntarily.**

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

**Sec. 11. The child or spouse of an employee beneficiary who is permanently and totally disabled by a catastrophic personal injury that was sustained in the line of duty and permanently prevents the employee beneficiary from performing any gainful work may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school if:**

**(1) the child is less than twenty-three (23) years of age and is a full-time student pursuing a prescribed course of study; or**

**(2) the spouse is pursuing a prescribed course of study toward an undergraduate degree.**

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

**Sec. 1. This chapter applies only to an employee beneficiary who:**

**(1) is hired for the first time before July 1, 1987; and**

**(2) does not choose coverage by IC 10-12-4 under IC 10-12-4-1.**

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

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

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

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

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

**(1) the employee beneficiary;**

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

**(3) the employee beneficiary's estate;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(2) the employee beneficiary retires;**

**whichever is later.**

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

**(1) the employee beneficiary;**

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

**(3) the employee beneficiary's estate;**

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

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

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

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

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

**(1) the pension under subsection (b); or**

**(2) one-half (1/2) the maximum salary of a first sergeant.**

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

**(1) the pension under subsection (b); or**

**(2) one-half (1/2) the maximum salary of a captain.**

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

**(1) Five percent (5%) of the basic amount for each of the next three (3) full years over twenty-five (25) years.**

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

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

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

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

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

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

**Chapter 5. Supplemental Pension Benefits**

**Sec. 1. This chapter is intended to be a supplement to IC 10-12-3 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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**separate account that the treasurer of state may designate as the state police department supplemental pension benefit fund.**

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

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

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

**(1) a motor carrier inspector; or**

**(2) a special police employee of the department who is not a regular police employee of the department;**

**is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of the inspector's or special police employee's regular duties.**

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

**(1) The surviving spouse.**

**(2) If there is no surviving spouse, the surviving children (to be shared equally).**

**(3) If there is no surviving spouse and there are no surviving children, the parent or parents in equal shares.**

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

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

**Chapter 1. Definitions**

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

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

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

**Chapter 2. Criminal Justice Data Division**

**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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**academy.**

**(10) A criminologist or forensic scientist.**

**(c) A member of the committee:**

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

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

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

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

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

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

**(b) If a public official:**

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

**(2) fails to comply with:**

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

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

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

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

**Chapter 3. Criminal History Information**

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

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

**(2) damaged or otherwise affected property;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(b) The term includes the following:**

**(1) The office of the attorney general.**

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

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

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

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**or rehabilitation of criminal offenders;**

**(B) location of parents with child support obligations under 42 U.S.C. 653;**

**(C) licensing and regulating of riverboat gambling operations; or**

**(D) licensing and regulating of pari-mutuel horse racing operations;**

**under a contract with an agency or department of any level of government.**

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

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

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

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

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

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

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

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

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

**(1) IC 31-32-13.**

**(2) IC 31-34-17.**

**(3) IC 31-34-20.**

**(4) IC 31-37-16.**

**(5) IC 31-37-19-1.**

**(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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**required by section 24 of this chapter is:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(1) Federally chartered or insured banking institutions.**

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

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**(A) Employment with a state or local governmental entity.**
**(B) Licensing.**
**(3) Segments of the securities industry identified under 15 U.S.C. 78q(f)(2).**
**(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor.**
**Sec. 28. On request of an individual who has applied for employment with a noncriminal justice organization or individual, the Indiana central repository for criminal history information shall process a request for a limited criminal history check of the individual making the request from the Federal Bureau of Investigation's National Crime Information Center upon:**
**(1) the submission of fingerprints of the individual making the request; and**
**(2) the payment of a fifteen dollar ($15) fee.**
**Sec. 29. A noncriminal justice organization or individual that receives a limited criminal history may not use it for purposes:**
**(1) other than those stated in the request; or**
**(2) that deny the subject any civil right to which the subject is entitled.**
**Sec. 30. (a) Except as provided in subsection (c), on request for release or inspection of a limited criminal history, law enforcement agencies may and the department shall do the following:**
**(1) Require a form, provided by law enforcement agencies and the department, to be completed. The form shall be maintained for two (2) years and shall be available to the record subject upon request.**
**(2) Collect a three dollar ($3) fee to defray the cost of processing a request for inspection.**
**(3) Collect a seven dollar ($7) fee to defray the cost of processing a request for release. However, law enforcement agencies and the department may not charge the fee for requests received from the parent locator service of the child support bureau of the division of family and children.**
**(b) Law enforcement agencies and the department shall edit information so that the only information released or inspected is information that:**
**(1) has been requested; and**
**(2) is limited criminal history information.**
**(c) The fee required under subsection (a) shall be waived if the request relates to the sex and violent offender directory under**

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

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

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

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

**(1) Wanted person posters or announcements.**

**(2) An original record of entry, including a police blotter, maintained by a criminal justice agency.**

**(3) Published court or administrative opinions or records of public judicial, administrative, or legislative proceedings.**

**(4) Records of traffic offenses maintained by the bureau of motor vehicles.**

**(5) Announcements of pardon or executive clemency.**

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

**(1) assure the completeness and accuracy of criminal history data;**

**(2) protect information from loss, alteration, destruction, or improper direct access to the information files;**

**(3) prevent unreasonable interference with the regular discharge of the duties of employees of law enforcement agencies; and**

**(4) carry out this chapter.**

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

**(1) make the changes requested, if it determines the data is in error; or**

**(2) conduct a hearing under IC 4-21.5-3, if requested by the person making the challenge.**

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

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

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

**(1) A prosecuting attorney.**

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**(2) The police chief of a city.**
**(3) The sheriff of a county.**
**(4) A criminal court judge.**
**(5) Two (2) citizens who are not law enforcement officers.**

**(c) The following persons, or their designees, also are members of the council:**

**(1) The superintendent.**
**(2) The attorney general.**
**(3) The commissioner of the department of correction.**

**(d) Members of the council are not entitled to receive compensation but are entitled to receive a per diem and mileage on those days in which they are engaged in the business of the council. Per diem and mileage paid shall be that amount paid to state employees.**

**Sec. 35. (a) On a daily basis, all law enforcement agencies shall enter into the Indiana data and communication system (IDACS) computer the following:**

**(1) All information concerning stolen or recovered property, including the following:**
**(A) Motor vehicles.**
**(B) Firearms.**
**(C) Securities.**
**(D) Boats.**
**(E) License plates.**
**(F) Other stolen or recovered property.**

**(2) All information concerning fugitives charged with a crime, including information concerning extradition.**

**(3) All information concerning runaways, missing and unidentified persons, and missing children (as defined in IC 10-13-5-4), including information concerning the release of those persons to the custody of a parent or guardian.**

**(4) Information contained in a protective order, including any modifications or extensions issued by a court and filed with a law enforcement agency as required in IC 5-2-9-6(f).**

**(b) On a daily basis, all law enforcement agencies shall do the following:**

**(1) Enter all information concerning missing children (as defined in IC 10-13-5-4) into the National Crime Information Center's Missing Person File.**

**(2) Enter all information concerning warrants issued for a person who allegedly abducted or unlawfully retained a 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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**school.**

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

**(1) A taxicab driver's license application.**

**(2) An application for a license for a massage therapist.**

**(3) Reinstatement or renewal of a license described in subdivisions (1) and (2).**

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

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

**(d) The local law enforcement agency may:**

**(1) forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant; and**

**(2) receive the results of all fingerprint investigations.**

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

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

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

**(1) committed or allegedly committed a bias crime; or**

**(2) was the victim or the alleged victim of a bias crime.**

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

**(1) the Attorney General of the United States; or**

**(2) the Federal Bureau of Investigation;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**and seeks a national criminal history background check for a volunteer.**

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

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

**(1) is a school corporation or a special education cooperative; and**

**(2) seeks a national criminal history background check to determine whether to employ or continue the employment of a certificated employee or a noncertificated employee of a school corporation or an equivalent position with a special education cooperative.**

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

**Chapter 4. Juvenile History Information**

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

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

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

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

**(1) Descriptions and notations of events leading to the taking of the child into custody by a juvenile justice agency for a reportable act allegedly committed by the child.**

**(2) A petition alleging that the child is a delinquent child.**

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

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

**(1) provide juvenile history data to; or**

**(2) receive juvenile history data from;**

**another criminal or juvenile justice agency.**

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

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

**(1) that person; or**

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

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

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

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

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

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

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

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

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**the following:**

**(1) Assure the completeness and accuracy of juvenile history data.**

**(2) Protect information from loss, alteration, destruction, or improper direct access to the information files.**

**(3) Prevent unreasonable interference with the regular discharge of the duties of employees of law enforcement agencies.**

**(4) Carry out this chapter.**

**(b) If a person makes a challenge under section 12(b) of this chapter, the department shall:**

**(1) make the changes requested, if the department determines the data is in error; or**

**(2) conduct a hearing under IC 4-21.5, if requested by the person making the challenge.**

**(c) The rules adopted under this chapter must provide for inspection and release of juvenile history data in a reasonable and timely manner.**

**Chapter 5. Indiana Clearinghouse for Information on Missing Children**

**Sec. 1. As used in this chapter, "Amber alert program" means a program under which the clearinghouse transmits information about a recently abducted child to broadcasters who:**

**(1) have agreed to participate in the program; and**

**(2) immediately and repeatedly broadcast the information to the general public.**

**Sec. 2. As used in this chapter, "broadcaster" means the operator of a radio or television station.**

**Sec. 3. As used in this chapter, "clearinghouse" refers to the Indiana clearinghouse for information on missing children established by section 5 of this chapter.**

**Sec. 4. As used in this chapter, "missing child" means a person less than eighteen (18) years of age who:**

**(1) is, or is believed to be:**

**(A) a temporary or permanent resident of Indiana;**

**(B) at a location that cannot be determined by the person's parent or legal custodian; and**

**(C) reported missing to a law enforcement agency; or**

**(2) is, or is believed to be:**

**(A) a temporary or permanent resident of Indiana; and**

**(B) a victim of the offense of criminal confinement (IC 35-42-3-3) or interference with custody (IC 35-42-3-4).**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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**children for use by law enforcement agencies within Indiana.**

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

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

**(A) the abduction of children; and**

**(B) the sexual exploitation of children.**

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

**(7) Distribute the quarterly directory described in subdivision (6) to child care centers and child care homes that make an annual contribution of four dollars ($4) to the clearinghouse. The contributions must be used to help defray the cost of publishing the quarterly directory.**

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

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

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

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

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

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

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

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

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

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

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

**(1) a description of the abducted child; and**

**(2) other information that will assist in locating the abducted child;**

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

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

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

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

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

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

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

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

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

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

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

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

**(1) the date of the request;**

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

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

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

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

**Chapter 6. Indiana DNA Data Base**

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

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

**(1) is located in the nucleated cells;**

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

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

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

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

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

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**test results that:**

**(1) is the result obtained from DNA typing tests; and**

**(2) is comprised of the characteristics of a DNA sample that are of value in establishing the identity of individuals.**

**Sec. 6. As used in this chapter, "DNA sample" means a blood, tissue, or other body fluid sample:**

**(1) provided by a person with respect to offenses covered by this chapter; or**

**(2) submitted to the state police laboratory under this chapter for analysis or storage, or both.**

**Sec. 7. As used in this chapter, "superintendent" includes the superintendent or the superintendent's designee.**

**Sec. 8. (a) The superintendent may establish a data base of DNA identification records of:**

**(1) convicted criminals;**

**(2) crime scene specimens;**

**(3) unidentified missing persons; and**

**(4) close biological relatives of missing persons.**

**(b) The superintendent shall maintain the Indiana DNA data base.**

**(c) The superintendent may contract for services to perform DNA analysis of convicted offenders under section 10 of this chapter to assist federal, state, and local criminal justice and law enforcement agencies in the putative identification, detection, or exclusion of individuals who are subjects of an investigation or prosecution of a sex offense, a violent crime, or another crime in which biological evidence is recovered from the crime scene.**

**(d) The superintendent shall adopt rules under IC 4-22-2 necessary to administer and enforce the provisions and intent of this chapter.**

**Sec. 9. The superintendent shall ensure that the Indiana DNA data base:**

**(1) supports development of a population statistics data base, when personal identifying information is removed;**

**(2) supports identification research and protocol development of forensic DNA analysis;**

**(3) assists in achieving quality control; and**

**(4) assists 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.**

**Sec. 10. (a) This section applies to the following:**

**(1) A person convicted of a felony under IC 35-42 (offenses**

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

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

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

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

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

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

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

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

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

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

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

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

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

**(1) A date set by the superintendent.**

**(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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**laboratory.**

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

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

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

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

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

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

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

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

**(1) data necessary to:**

**(A) generate investigative leads; and**

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

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

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

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

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

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

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

**(c) Upon expungement of a person's DNA profile from the Indiana DNA data base, the superintendent shall request expungement of the person's DNA profile from the national DNA 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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**(4) Rescue.**
**(5) Engineering.**
**(6) Warning services.**
**(7) Communications.**
**(8) Radiological, chemical, and other special weapons defense.**
**(9) Evacuation of persons from stricken areas.**
**(10) Emergency welfare services.**
**(11) Emergency transportation.**
**(12) Plant protection.**
**(13) Temporary restoration of public utility services.**
**(14) Other functions related to civilian protection.**
**(15) All other activities necessary or incidental to the preparation for and coordination of the functions described in subdivisions (1) through (14).**

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

**(1) the state;**
**(2) other:**
**(A) states;**
**(B) territories; or**
**(C) possessions;**
**(3) the District of Columbia;**
**(4) the federal government;**
**(5) any neighboring country;**
**(6) any political subdivision of an entity described in subdivisions (1) through (5); or**
**(7) any agency or organization;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**(B) other states and localities; and**

**(C) private agencies of every type;**

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

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

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

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

**(A) governor;**

**(B) state agencies; and**

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**(C) local governments;**

**in the prevention of, preparation for, response to, and recovery from disasters;**

**(5) authorize and provide cooperation between departments of government in:**

**(A) disaster prevention;**

**(B) preparedness;**

**(C) response; and**

**(D) recovery;**

**(6) authorize and provide coordination of activities relating to:**

**(A) disaster prevention;**

**(B) preparedness;**

**(C) response; and**

**(D) recovery;**

**by agencies and officers of Indiana, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate; and**

**(7) provide a disaster management system embodying all aspects of pre-disaster preparedness, disaster operations, and post-disaster response.**

**Sec. 8. (a) This chapter may not be construed to do the following:**

**(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.**

**(2) Interfere with the dissemination of news or comment on public affairs. However, a communications facility or organization, including radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency.**

**(3) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, or units or personnel on active duty of the United States' armed forces. However, state, local, and interjurisdictional disaster emergency plans must rely on the forces available for performance of functions related to disaster emergencies.**

**(4) Limit, modify, or abridge the authority of the governor to proclaim martial law or exercise any other powers vested in**

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

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

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

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

**(2) Prompt and effective response to disaster.**

**(3) Emergency relief.**

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

**(5) Recommendations for:**

**(A) zoning;**

**(B) building;**

**(C) other land use controls;**

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

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

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

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

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

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

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

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

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

**(12) Other necessary matters.**

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

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

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

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

**(3) may suggest revisions.**

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

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

**(e) The agency shall do the following:**

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

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

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

**(4) Provide for mobile support units.**

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

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

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

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

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

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

**(2) is authority for:**

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

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

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

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

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

**(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.**

**(3) Transfer the direction, personnel, or functions of state departments and agencies or units of any for performing or 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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**(e) The conditions of an energy emergency cease when the governor declares the end of an energy emergency.**

**(f) In a declared state of energy emergency, the governor may do the following:**

**(1) Implement programs, controls, standards, priorities, and quotas for the conservation and consumption of energy, including plans and commission regulations for the curtailment of energy if the governor imposes controls, quotas, or curtailments according to the nature of the end use to be made of the energy consistent with existing transmission and distribution systems serving the geographic area affected by the energy emergency.**

**(2) Suspend and modify state pollution control standards and requirements affecting or affected by the use of energy, including standards or requirements relating to air or water quality control.**

**(3) Establish and implement intrastate regional programs and agreements for the purposes of coordinating the energy program and actions of the state with the federal government and other states, localities, and other persons.**

**(4) Designate the execution and enforcement of emergency orders to a state agency that regulates the energy form, resource, or suppliers that are the subject of the proclaimed emergency.**

**(5) Suspend the provisions of any state statute regulating transportation or the orders or rules of any state agency if strict compliance with any of the provisions would prevent, hinder, or delay necessary action in coping with the energy emergency.**

**(g) Restrictions, curtailments, or adjustments under subsection (f) must:**

**(1) be ordered and continue only as long as demonstrably necessary for the maintenance of essential services or transportation or for the continued operation of the economy but not longer than the proclamation's duration;**

**(2) be applied as uniformly as practicable within each class of suppliers and consumers and without discrimination within a class; and**

**(3) give due consideration to:**

**(A) the implementation of involuntary measures only after voluntary measures have been determined to be ineffective;**

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**(B) protection of public health and safety;**
**(C) maintenance of vital activities, including but not limited to food, shelter, fuel, and medical care;**
**(D) minimization of economic impact on commercial, retail, professional, agricultural, and service establishments;**
**(E) cooperation with other state, local, and federal governments to avoid duplicating efforts; and**
**(F) maintenance of public information channels.**

**(h) This section does not mean that any program, control, standard, priority quota, or other policy created under the authority of the emergency powers authorized by this section has any continuing legal effect after the cessation of a declared state of energy emergency.**

**(i) Except as provided in this section, this chapter does not exempt a person from compliance with the provisions of any other law, rule, or directive unless:**
**(1) specifically ordered by the governor; or**
**(2) impossibility of compliance is a direct result of the governor's order.**

**(j) A proclamation issued under this section shall be:**
**(1) disseminated promptly and in a manner calculated to inform the general public of its contents; and**
**(2) filed promptly with the secretary of state and the clerk of each circuit court of Indiana.**

**Sec. 14. (a) In determining whether to declare an energy emergency under section 13 of this chapter, the governor shall consider:**
**(1) the availability of regional and national energy resources;**
**(2) local, state, regional, and national energy needs and shortages;**
**(3) the availability of short term alternative supplies on a local, state, regional, and national basis;**
**(4) the economic effect of the declaration and the implementation of any curtailment or conservation plans; and**
**(5) any other relevant factors.**

**(b) To protect the public welfare during conditions of energy emergencies proclaimed under section 13 of this chapter, the governing body of each city, town, or political subdivision of the state and each state agency (including the utility regulatory commission) shall carry out in the body's or agency's jurisdiction energy supply emergency measures ordered by the governor.**

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**(c) To attain uniformity throughout the country in measures taken to aid in energy crisis management, all:**

**(1) action taken under this section and section 13 of this chapter; and**

**(2) orders and rules made under this section and section 13 of this chapter;**

**must be taken or made consistent with federal orders, rules, actions, recommendations, and requests.**

**(d) A person shall comply with a specific order issued or action taken by the governor under this section or section 13 of this chapter.**

**(e) During a state of energy emergency proclaimed under section 13 of this chapter, the governor may:**

**(1) subpoena:**

**(A) witnesses;**

**(B) material;**

**(C) relevant books;**

**(D) papers;**

**(E) accounts;**

**(F) records; and**

**(G) memoranda;**

**(2) administer oaths; and**

**(3) cause the depositions of persons residing within or outside Indiana to be taken in the manner prescribed for depositions in civil actions;**

**to obtain information relevant to energy resources that are the subject of the proclaimed emergency.**

**(f) In obtaining information under subsection (e), the governor shall:**

**(1) avoid eliciting information already furnished by a person or political subdivision in Indiana to a federal, state, or local regulatory authority that is available for the governor's study; and**

**(2) cause reporting procedures, including forms, to conform to existing requirements of federal, state, and local regulatory authorities wherever possible.**

**(g) Information obtained under this section from a person who designates that information as confidential shall be maintained as confidential by the governor and by any person who obtains information that the person knows to be confidential under this chapter. The governor may not make known in any manner any 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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**(B) the worker's compensation law (IC 22-3-2 through IC 22-3-6); or**

**(C) any pension law; or**

**(2) any benefits or compensation under any federal law.**

**(b) Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized emergency management worker who, in the course of performing duties as an emergency management worker, practices a professional, mechanical, or other skill during a disaster emergency.**

**(c) A volunteer working as an authorized emergency management worker may be covered by the medical treatment and burial expense provisions of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7). If compensability of the injury is an issue, the administrative procedures of IC 22-3-2 through IC 22-3-7 shall be used to determine the issue.**

**Sec. 16. (a) The director of a local organization for emergency management may develop or cause to be developed mutual aid arrangements with other public and private agencies within Indiana for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. An arrangement must be consistent with the state emergency management program and state emergency operations plan. During an emergency, a local organization for emergency management and the agency shall render assistance in accordance with the provisions of the mutual aid arrangement.**

**(b) The director of a local organization for emergency management and disaster:**

**(1) may assist in the negotiation of reciprocal mutual aid agreements between the governor and the adjoining state or the state's political subdivisions; and**

**(2) shall carry out arrangements or any agreement relating to the local and political subdivision.**

**(c) This subsection applies when the governor finds that two (2) or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services. The governor may, with the concurrence of the affected counties, delineate by executive order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to disaster in that area, and direct steps to be taken as necessary, including the creation of an interjurisdictional**

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**relationship, a joint emergency operations plan, mutual aid, or an area organization for emergency management planning and services. A finding of the governor under this subsection must be based on one (1) or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on a unijurisdictional basis, including the following factors:**

**(1) Small or sparse population.**

**(2) Limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome.**

**(3) Unusual vulnerability to disaster as evidenced by a history of disaster, topographical features, drainage characteristics, disaster potential, and presence of disaster prone facilities or operations.**

**(4) The interrelated character of the counties in a multicounty area.**

**(5) Other relevant conditions or circumstances.**

**(d) If the governor finds that:**

**(1) a vulnerable area lies partly in Indiana and includes territory in another state or states; and**

**(2) it would be desirable to establish an interstate relationship, mutual aid, or an area organization for disaster;**

**the governor shall take steps to establish an interstate relationship. If action under this subsection is taken with jurisdictions that have enacted the interstate emergency management and disaster compact, any resulting agreement or agreements may be considered supplemental agreements under article 6 of the compact.**

**(e) If the other jurisdiction or jurisdictions with which the governor proposes to cooperate under subsection (d) have not enacted the interstate emergency management and disaster compact, the governor may negotiate special agreements with the jurisdiction or jurisdictions. An agreement, if sufficient authority for making the agreement does not otherwise exist, becomes effective only:**

**(1) after the agreement's text has been communicated to the general assembly; and**

**(2) if a house of the general assembly does not disapprove of the agreement by the later of:**

**(A) the date of adjournment of the next ensuing session 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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**establish and maintain a disaster agency jointly with one (1) or more contiguous political subdivisions with the concurrence of the affected political divisions if the governor finds that the establishment and maintenance of an agency or participation in one is necessary by circumstances or conditions that make it unusually difficult to provide:**

**(1) disaster prevention;**

**(2) preparedness;**

**(3) response; or**

**(4) recovery services;**

**under this chapter.**

**(f) A political subdivision that does not have a disaster agency and has not made arrangements to secure or participate in the services of an agency shall have an emergency management director designated to facilitate the cooperation and protection of that political subdivision in the work of:**

**(1) disaster prevention;**

**(2) preparedness;**

**(3) response; and**

**(4) recovery.**

**(g) The county emergency management and disaster director and personnel of the department may be provided with appropriate:**

**(1) office space;**

**(2) furniture;**

**(3) vehicles;**

**(4) communications;**

**(5) equipment;**

**(6) supplies;**

**(7) stationery; and**

**(8) printing;**

**in the same manner as provided for personnel of other county agencies.**

**(h) Each local or interjurisdictional agency shall:**

**(1) prepare; and**

**(2) keep current;**

**a local or interjurisdictional disaster emergency plan for its area.**

**(i) The local or interjurisdictional disaster agency shall prepare and distribute to all appropriate officials a clear and complete written statement of:**

**(1) the emergency responsibilities of all local agencies and officials; and**

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**(2) the disaster chain of command.**

**(j) Each political subdivision may:**

**(1) appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management and disaster purposes, provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster resulting from enemy attack, provide for a comprehensive insurance program for its emergency management volunteers, and direct and coordinate the development of an emergency management program and emergency operations plan in accordance with the policies and plans set by the federal emergency management agency and the state emergency management agency;**

**(2) appoint, employ, remove, or provide, with or without compensation:**

**(A) rescue teams;**

**(B) auxiliary fire and police personnel; and**

**(C) other emergency management and disaster workers;**

**(3) establish:**

**(A) a primary; and**

**(B) one (1) or more secondary;**

**control centers to serve as command posts during an emergency;**

**(4) subject to the order of the governor or the chief executive of the political subdivision, assign and make available for duty the employees, property, or equipment of the political subdivision relating to:**

**(A) firefighting;**

**(B) engineering;**

**(C) rescue;**

**(D) health, medical, and related services;**

**(E) police;**

**(F) transportation;**

**(G) construction; and**

**(H) similar items or services;**

**for emergency management and disaster purposes within or outside the physical limits of the political subdivision; and**

**(5) in the event of a national security emergency or disaster emergency as provided in section 12 of this chapter, waive procedures and formalities otherwise required by law pertaining to:**

**(A) the performance of public work;**

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**(B) the entering into of contracts;**
**(C) the incurring of obligations;**
**(D) the employment of permanent and temporary workers;**
**(E) the use of volunteer workers;**
**(F) the rental of equipment;**
**(G) the purchase and distribution of supplies, materials, and facilities; and**
**(H) the appropriation and expenditure of public funds.**

**Sec. 18. (a) If the employees of a political subdivision render aid outside the political subdivision under section 17 of this chapter, the employees have the same:**

**(1) powers;**
**(2) duties;**
**(3) rights;**
**(4) privileges; and**
**(5) immunities;**

**as if they were performing their duties in the political subdivisions in which they are normally employed.**

**(b) The political subdivision in which any equipment is used under this section:**

**(1) is liable for loss or damage; and**
**(2) shall pay any expense incurred in the operation and maintenance of the equipment.**

**A claim for the loss, damage, or expense is not allowed unless an itemized notice of the claim made under oath is served not more than sixty (60) days after the date the claim is sustained or incurred upon the chief fiscal officer of the political subdivision where the equipment was used.**

**(c) The:**

**(1) rights;**
**(2) privileges; and**
**(3) obligations;**

**described in this section also apply if aid is rendered outside Indiana and if payment or reimbursement in this case shall or may be made by the state or political subdivision receiving the aid under a reciprocal mutual aid agreement or compact with the other state or by the federal government.**

**Sec. 19. (a) The governor or the director at the request of the governor may establish the number of mobile support units necessary to reinforce emergency management and disaster organizations in stricken areas with due consideration of the plans of the federal government and of other states. The director shall**

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**appoint a commander for each unit who has primary responsibility for the:**

**(1) organization;**

**(2) administration; and**

**(3) operation;**

**of the unit. Mobile support units shall be called to duty upon orders of the governor or the director and shall perform their functions in any part of Indiana or in other states, upon the conditions specified in this section. Members serving on the mobile support units are immune from discipline or termination by their employers for serving in the units.**

**(b) While on duty, personnel of mobile support units, whether within or outside Indiana:**

**(1) if they are employees of the state or a political subdivision of the state, whether serving within or outside the political subdivision, have the:**

**(A) powers;**

**(B) duties;**

**(C) rights;**

**(D) privileges; and**

**(E) immunities;**

**and receive the compensation incidental to their employment; and**

**(2) if they are not employees of the state or a political subdivision of the state:**

**(A) may be compensated by the state at a rate approved by the governor and the budget committee; and**

**(B) are entitled to the same rights and immunities as are provided by law for the employees of this state;**

**and may be reimbursed for all actual and necessary travel and subsistence expenses.**

**(c) Personnel of mobile support units, while on duty, are subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving.**

**(d) The state may reimburse a political subdivision for:**

**(1) the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of the political subdivision while serving as members of a mobile support unit;**

**(2) all payments for death, disability, or injury of the employees incurred in the course of duty; and**

**(3) all losses of or damage to supplies and equipment of the**

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**political subdivision resulting from the operation of the mobile support unit.**

**(e) If a mobile support unit of another state renders aid in Indiana under the orders of the governor of its home state and upon the request of the governor of Indiana, the state shall reimburse the other state for:**

**(1) the compensation paid and actual and necessary:**

**(A) travel;**

**(B) subsistence; and**

**(C) maintenance;**

**expenses of the personnel of the mobile support unit while rendering the aid;**

**(2) all payments for:**

**(A) death;**

**(B) disability; or**

**(C) injury;**

**of the personnel incurred in the course of rendering the aid; and**

**(3) all losses of or damage to supplies and equipment of the other state or a political subdivision of the other state resulting from the rendering of the aid;**

**if the laws of the other state contain provisions substantially similar to this section or if provisions substantially similar to this section are contained in a reciprocal mutual aid agreement or compact, or if the federal government has authorized or agreed to make reimbursement for the mutual aid.**

**(f) Personnel of mobile support units of Indiana may not be ordered by the governor to operate in any other state unless:**

**(1) the laws of the other state contain provisions substantially similar to this section;**

**(2) the reciprocal mutual aid agreements or compacts include provisions providing for such reimbursement; or**

**(3) the reimbursement will be made by the federal government by law or agreement.**

**(g) An officer or employee of the state by virtue of employment is subject to assignment:**

**(1) on a permanent basis to a mobile support unit in accordance with the state:**

**(A) emergency management program; and**

**(B) emergency operations plan; or**

**(2) on a temporary basis to an emergency management activity to meet a particular need in the event of an**

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**emergency.**

**Refusal to accept and perform the duties of an assignment constitutes grounds for dismissal from state employment.**

**Sec. 20. The governor may:**

**(1) formulate and execute plans and regulations for the control of traffic in order to provide for the rapid and safe movement of evacuation over public highways and streets of:**

**(A) people;**

**(B) troops; or**

**(C) vehicles and materials;**

**for national defense or for use in any defense industry; and**

**(2) coordinate the activities of the departments or agencies of the state and political subdivisions of the state concerned directly or indirectly with public highways and streets in a manner that will best effectuate the plans.**

**Sec. 21. (a) If the governor considers it to be in the public interest, on terms and conditions as the governor considers necessary to promote the public welfare and protect the interests of the state, the governor may:**

**(1) authorize a department or an agency of the state to lease or lend real or personal property of the state to the President of the United States, the heads of the armed forces, or the Federal Emergency Management Agency; and**

**(2) enter into a contract on behalf of the state for the:**

**(A) lease or loan to a political subdivision of the state of real or personal property of the state; or**

**(B) temporary transfer or employment of personnel of the state to or by a political subdivision of the state.**

**(b) The president of the county fiscal body and the president of the county executive, if the county does not contain a consolidated city, or the county executive, if the county contains a consolidated city, of each county of the state and the executive of each city and town in the state may, in accordance with the emergency management program and emergency operations plan of the county in which the city or town is located, do the following:**

**(1) Enter into a contract or lease with the state, accept any loan, or employ personnel. A political subdivision may equip, maintain, use, and operate any property and employ necessary personnel in accordance with the purposes for which the contract is executed.**

**(2) Do all things and perform acts that the governor considers necessary to effectuate the purpose of the contract.**

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**Sec. 22. (a) The political subdivisions and agencies designated or appointed by the governor may make, amend, and rescind orders, rules, and regulations as necessary for emergency management purposes and to supplement the carrying out of this chapter that are not inconsistent with:**

**(1) orders, rules, or regulations adopted by the governor or by a state agency exercising a power delegated to it by the governor; and**

**(2) the:**

**(A) emergency management program; and**

**(B) emergency operations plan;**

**of the county in which the political subdivision is located.**

**(b) Orders, rules, and regulations have the full force and effect of law when:**

**(1) adopted by the governor or any state agency and a copy is filed in the office of the secretary of state and mailed to all members of the county emergency management advisory council at their last known addresses; or**

**(2) filed in the office of the clerk of the adopting or promulgating political subdivision or agency of the state if adopted by a political subdivision or agency authorized by this chapter to make orders, rules, and regulations.**

**Sec. 23. This chapter may not be construed to compel a person, either on behalf of:**

**(1) the person;**

**(2) the person's child less than eighteen (18) years of age; or**

**(3) a protected person for whom the person acts as a guardian;**

**to submit to any physical examination, medical treatment, or immunization if the person, parent, or guardian relies in good faith on spiritual means or prayer to prevent or cure disease or suffering and objects to the treatment in writing.**

**Sec. 24. The law enforcement authorities of the state and of the political subdivisions shall enforce the:**

**(1) orders;**

**(2) rules; and**

**(3) regulations;**

**issued under this chapter.**

**Sec. 25. (a) If the federal government or an agency or officer of the federal government offers the state or through the state a political subdivision, services, equipment, supplies, materials, or funds under a gift, grant, or loan for purposes of emergency**

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**management:**

**(1) the state, acting through the governor; or**

**(2) the political subdivision, acting with the consent of the governor and through its executive;**

**may accept the offer.**

**(b) Upon the acceptance in subsection (a), the governor or the executive of the political subdivision may authorize an officer of the state or of the political subdivision to receive the services, equipment, supplies, materials, or funds:**

**(1) on behalf of the state or the political subdivision; and**

**(2) subject to the terms of the offer and the rules of the agency making the offer.**

**(c) If a person, firm, limited liability company, or corporation offers to the state or a political subdivision services, equipment, supplies, materials, or funds under gift, grant, or loan for purposes of emergency management:**

**(1) the state, acting through the governor; or**

**(2) the political subdivision, acting through its executive;**

**may accept the offer.**

**(d) Upon the acceptance in subsection (c), the governor or the executive of the political subdivision may authorize an officer of the state or of the political subdivision to receive the services, equipment, supplies, materials, or funds:**

**(1) on behalf of the state or the political subdivision; and**

**(2) subject to the terms of the offer.**

**(e) A person, firm, limited liability company, or corporation owning or controlling real estate or other premises that voluntarily and without compensation grants a license or privilege or otherwise permits the designation or use of the whole or any part of the real estate or premises to shelter persons during an actual or impending national security, natural, or manmade emergency or disaster or a drill for any of those situations, together with successors in interest, is not civilly liable by reason of:**

**(1) the condition of the real estate or premises; or**

**(2) the conduct of persons engaged in directing or seeking shelter;**

**for negligently causing the death of or injury to any person on or about the real estate or premises or for loss of or damage to the property of any person during the emergency or disaster or during a drill.**

**Sec. 26. (a) An organization for emergency management established under this chapter may not:**

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**(1) participate in any form of political activity; or**

**(2) be employed directly or indirectly for political purposes.**

**(b) Political qualifications may not be:**

**(1) a consideration for appointment to the agency; or**

**(2) a cause for dismissal;**

**except as provided in section 27 of this chapter. Full-time employees of the agency may not participate in political activities.**

**Sec. 27. (a) A person who:**

**(1) advocates a change by force or violence in the constitutional form of the government of the United States or the overthrow of any government in the United States by force or violence; or**

**(2) has been convicted of or is under indictment or information charging a subversive act against the United States;**

**may not be employed or associated in any capacity in any emergency management organization established under this chapter**

**(b) An individual who is appointed to serve in an organization for emergency management shall, before entering upon the individual's duties, take a written oath before a person authorized to administer oaths in Indiana. The oath must be substantially as follows:**

**"I, _____, solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. I further swear (or affirm) that I do not advocate, nor am I a member of a political party or organization that advocates, the overthrow of the government of the United States or of Indiana by force or violence; and that during the time I am a member of the (name of emergency management organization), I will neither advocate nor become a member of a political party or organization that advocates the overthrow of the government of the United States or of Indiana by force or violence.".**

**(c) For purposes of this section, the director and the county emergency management directors:**

**(1) may administer the oath provided in subsection (b) to**

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**emergency management and disaster personnel; and**

**(2) may delegate that authority to designated deputies and assistants approved by the director.**

**Sec. 28. (a) The general assembly may appropriate the sums necessary to administer this chapter.**

**(b) The emergency management contingency fund is established. The fund consists of money appropriated by the general assembly. Money in the fund must be held in reserve and allocated for emergency management purposes upon:**

**(1) recommendation of the director; and**

**(2) approval of the governor and the budget committee.**

**Sec. 29. (a) A local disaster emergency:**

**(1) may be declared only by the principal executive officer of a political subdivision; and**

**(2) may not be continued or renewed for more than seven (7) days except by or with the consent of the governing board of the political subdivision.**

**Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly in the office of the clerk of the political subdivision.**

**(b) The effect of a declaration of a local disaster emergency is to:**

**(1) activate the response and recovery aspects of all applicable local or interjurisdictional disaster emergency plans; and**

**(2) authorize the furnishing of aid and assistance under the plans.**

**(c) An interjurisdictional agency or official may not declare a local disaster emergency unless expressly authorized by the agreement under which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services according to the agreement.**

**(d) If a local disaster emergency is declared under this section, the political subdivision may not prohibit individuals engaged in employment necessary to:**

**(1) maintain a safe rail system;**

**(2) restore utility service; or**

**(3) provide any other emergency public service;**

**from traveling on the highways within the political subdivision during the local disaster emergency.**

**Sec. 30. (a) In addition to disaster prevention measures as included in the state, local, and interjurisdictional disaster plans,**

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**the governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At the governor's direction, and under any other authority state agencies have, state agencies, including those charged with responsibilities in connection with:**

**(1) flood plain management;**

**(2) stream encroachment and flow regulation;**

**(3) fire prevention and control;**

**(4) air quality;**

**(5) public works; and**

**(6) use and land use planning and construction standards;**

**shall make studies of disaster prevention related matters. The governor shall make recommendations to the general assembly, local governments, and other appropriate public and private entities to facilitate measures for prevention or reduction of the harmful consequences of disasters.**

**(b) In conjunction with the agency, an appropriate state agency shall keep land uses and construction of structures and other facilities under continuing study and identify areas that are particularly susceptible to:**

**(1) severe land shifting;**

**(2) subsidence;**

**(3) flood; or**

**(4) other catastrophic occurrence.**

**The studies under this subsection must concentrate on means of reducing or avoiding the dangers caused by this occurrence or its consequences.**

**(c) If the agency believes on the basis of the studies or other competent evidence:**

**(1) that an area is susceptible to a disaster of catastrophic proportions without adequate warning;**

**(2) that existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster; and**

**(3) that changes in zoning regulations, other land use regulations, or building requirements are essential in order to further the purposes of this section;**

**the agency shall specify the essential changes to the governor. The governor shall recommend changes to the agencies or local governments with jurisdiction over the area and subject matter that the governor finds to be essential upon review of the specified changes and a public hearing. If no action or insufficient action**

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**under the governor's recommendations is taken within the time specified by the governor, the governor shall inform the general assembly and request legislative action appropriate to mitigate the effect of disaster.**

**(d) The governor, at the same time that the governor makes recommendations under subsection (c), may:**

**(1) suspend the standard or control that the governor finds to be inadequate to protect the public safety; and**

**(2) by rule place a new standard or control in effect.**

**The new standard or control remains in effect until rejected by concurrent resolution of both houses of the general assembly or amended by the governor. When it is in effect, the standard or control contained in the governor's regulation is administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. Any action taken by the governor under this section is subject to judicial review, but no court has jurisdiction to stay or restrain that action before a hearing on the merits.**

**Sec. 31. (a) A person in Indiana shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to successfully meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. Compensation for services or for the taking or use of property may be made only to the extent:**

**(1) that obligations recognized in this chapter are exceeded in a particular case; and**

**(2) that the claimant has not volunteered the claimant's services or property without compensation.**

**(b) Personal services may not be compensated by the state or any subdivision or agency of the state except under statute, local law, or ordinance.**

**(c) Compensation for property may be paid only if the property was commandeered or otherwise used in coping with a disaster emergency and its use or destruction was ordered by the governor or a member of the disaster emergency forces of Indiana.**

**(d) Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter must make a claim for it. The claim must be filed and shall be adjudicated as provided in IC 32-24.**

**(e) This section does not apply to or authorize compensation for**

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**the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.**

**Sec. 32. (a) The general assembly intends and declares to be the policy of the state that funds to meet disaster emergencies always be available.**

**(b) The general assembly intends that the first recourse shall be to funds regularly appropriated to state and local agencies. If the governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, the governor may make funds available from money in the budget agency from emergency or contingency appropriations available for emergency expenditures as provided in IC 4-12-1-15.**

**(c) Within the limits of the funds appropriated under this section, the governor may contribute to a political subdivision not more than twenty-five percent (25%) of the cost of emergency management agency personnel and administrative expenses that meet standards established by the governor.**

**Sec. 33. The department may reimburse the civil air patrol for fuel, lubricants, and maintenance for any missions not authorized by the United States Air Force using the same formula for reimbursement used by the:**

**(1) United States Department of Defense; and**

**(2) American Red Cross.**

**Sec. 34. A person who violates this chapter commits a Class B misdemeanor.**

**Chapter 4. State Disaster Relief Fund**

**Sec. 1. As used in this chapter, "disaster" has the meaning set forth in IC 10-14-3-1.**

**Sec. 2. As used in this chapter, "eligible entity" means a county, city, or town.**

**Sec. 3. As used in this chapter, "fund" refers to the state disaster relief fund established by this chapter.**

**Sec. 4. As used in this chapter, "public facility" means any:**

**(1) building or structure;**

**(2) bridge, road, highway, or public way;**

**(3) park or recreational facility;**

**(4) sanitary sewer system or wastewater treatment facility;**

**(5) drainage or flood control facility;**

**(6) water treatment, water storage, or water distribution facility; or**

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**(7) other improvement or infrastructure;**

**owned by, maintained by, or operated by or on behalf of an eligible entity.**

**Sec. 5. (a) The state disaster relief fund is established to provide money to assist eligible entities in paying for the costs of damage to public facilities resulting from disasters.**

**(b) The fund consists of money appropriated by the general assembly. The agency shall administer the fund. Expenses of administering the fund shall be paid from money in the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.**

**(c) Money in the fund is appropriated to carry out the purposes of the fund as provided in this chapter. Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**Sec. 6. Subject to the restrictions under this chapter, the agency may use money in the fund to make grants to an eligible entity that:**

**(1) contains territory for which a disaster emergency has been declared by the governor;**

**(2) has suffered damage to the entity's public facilities because of the disaster for which the disaster emergency was declared;**

**(3) has applied to the department for a grant; and**

**(4) complies with all other requirements established by the agency.**

**Sec. 7. Except as provided in section 8 of this chapter, the agency may not make a grant to an eligible entity under this section unless the damage to the entity's public facilities caused by the disaster exceeds an amount equal to one dollar ($1) multiplied by the population of the entity. A grant to an eligible entity under this subsection may not exceed an amount equal to:**

**(1) fifty percent (50%); multiplied by**

**(2) the result of:**

**(A) the total cost of the damage to the entity's public facilities caused by the disaster; minus**

**(B) an amount equal to one dollar ($1) multiplied by the population of the entity.**

**Sec. 8. If the governor declares more than one (1) disaster emergency in the same year for territory in an eligible entity, the agency may, in addition to a grant under section 7 of this chapter, make a grant to the entity under this section if the total cumulative**

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**cost of the damage to the entity's public facilities caused by the disasters exceeds two dollars ($2) multiplied by the population of the entity. A grant to an eligible entity under this section may not exceed:**

**(1) the product of:**

**(A) fifty percent (50%); multiplied by**

**(B) the total cumulative cost of the damage to the entity's public facilities caused by all disasters in the year; minus**

**(2) any grants previously made under section 7 of this chapter to the entity during the year.**

**Sec. 9. To qualify for a grant under this chapter, the executive of an eligible entity must apply to the agency on forms provided by the agency. The application must include the following:**

**(1) A description and estimated cost of the damage caused by the disaster to the entity's public facilities.**

**(2) The manner in which the entity intends to use the grant money.**

**(3) Any other information required by the agency.**

**Sec. 10. The fiscal officer of an entity receiving a grant under this chapter shall:**

**(1) establish a separate account within the entity's general fund; and**

**(2) deposit any grant proceeds received under this chapter in the account.**

**The department of local government finance may not reduce an entity's maximum or actual property tax levy under IC 6-1.1-18.5 on account of grant money deposited in the account.**

**Sec. 11. The agency shall adopt rules under IC 4-22-2 to carry out this chapter.**

**Sec. 12. A person who violates this chapter commits a Class B misdemeanor.**

**Chapter 5. Emergency Management Assistance Compact**

**Sec. 1. ARTICLE I—Purpose and authorities.**

**This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, "states" means the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.**

**The purpose of this compact is to provide for mutual assistance among the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state, whether arising from natural disaster, technological**

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**hazard, man made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.**

**This compact shall also provide for mutual cooperation in emergency related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.**

**Sec. 2. ARTICLE II—General implementation.**

**Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.**

**The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.**

**On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.**

**Sec. 3. ARTICLE III—Party state responsibilities.**

**(a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this article. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:**

**(1) review individual state hazards analyses and, to the extent**

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**reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, manmade disaster, emergency aspects of resources shortages, civil disorders, insurgency, or enemy attack;**

**(2) review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency;**

**(3) develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans;**

**(4) assist in warning communities adjacent to or crossing the state boundaries;**

**(5) protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and material;**

**(6) inventory and set procedures for the interstate loan and delivery of human and material resources, together with procedures for reimbursement or forgiveness; and**

**(7) provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.**

**(b) The authorized representative of a party state may request assistance to another party state by contacting the authorized representative of that state. The provisions of this compact shall only apply to requests for assistance made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty (30) days of the verbal request. Requests shall provide the following information:**

**(1) A description of the emergency service function for which assistance is needed, including, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building, inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.**

**(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time they will be needed.**

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**(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.**

**(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans, and resource records relating to emergency capabilities.**

**Sec. 4. ARTICLE IV—Limitations.**

**Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms of this compact. However, it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.**

**Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers, except that of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state emergency or disaster by the governor of the party state that is to receive assistance or upon commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state of emergency or disaster remains in effect, or loaned resources remain in the receiving state, whichever is longer.**

**Sec. 5. ARTICLE V—Licenses and permits.**

**Whenever any person holds a license, certificate, or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical, or other skills, and when such assistance is requested by the receiving party state, such person shall be considered licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.**

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**Sec. 6. ARTICLE VI—Liability.**

**Officers or employees of a party state rendering aid in another state under this compact shall be considered agents of the requesting state for tort liability and immunity purposes. No party state or its officers or employees rendering aid in another state under this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith in this article shall not include willful misconduct, gross negligence, or recklessness.**

**Sec. 7. ARTICLE VII—Supplementary agreements.**

**Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that among the states that are party to this compact, this compact contains elements of a broad base common to all states, and nothing in this compact precludes any state entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be 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, and equipment and supplies.**

**Sec. 8. ARTICLE VIII—Compensation.**

**Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid under this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.**

**Sec. 9. ARTICLE IX—Reimbursement.**

**Any party state rendering aid in another state under this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests. However, any aiding party state may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost, and any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Article VIII expenses shall**

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**not be reimbursable under this article.**

**Sec. 10. ARTICLE X—Evacuation.**

**Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant shall be worked out and maintained between the party states and the emergency management services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees; the number of evacuees to be received in different areas; the manner in which food, clothing, housing, and medical care will be provided; the registration of the evacuees; the providing of facilities for the notification of relatives or friends; and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.**

**Sec. 11. ARTICLE XI—Implementation.**

**(a) This compact shall become effective immediately upon its enactment into law by any two (2) states. Thereafter, this compact shall become effective as to any other state upon enactment by such state.**

**(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty (30) days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed under this compact before the effective date of withdrawal.**

**(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the Federal Emergency Management Agency and other**

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**appropriate agencies of the United States Government.**

**Sec. 12. ARTICLE XII—Validity.**

**This compact shall be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional, or if the applicability of this compact to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability of this compact to other persons and circumstances shall not be affected.**

**Sec. 13. ARTICLE XIII—Additional provisions.**

**Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state in any emergency for which the President is authorized by law to call into federal service the militia, or for any purpose for which the use of the Army or the Air Force would, in the absence of express statutory authorization, be prohibited under 18 U.S.C. 1385.**

**Sec. 14. Right To Alter, Amend, or Repeal.**

**The right to alter, amend, or repeal this chapter is hereby expressly reserved. The consent granted by this chapter shall:**

**(1) not be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the subject of the compact;**

**(2) not be construed as consent to the National Guard Mutual Assistance Compact;**

**(3) be construed as understanding that the first paragraph of Article II of the compact provides that emergencies will require procedures to provide immediate access to existing resources to make a prompt and effective response;**

**(4) not be construed as providing authority under Article III (a)(7) that does not otherwise exist for the suspension of statutes or ordinances;**

**(5) be construed as understanding that Article III (c) does not impose any affirmative obligation to exchange information, plans, and resource records on the United States or any party which has not entered into the compact; and**

**(6) be construed as understanding that Article XIII does not affect the authority of the President over the National Guard provided by Article I of the Constitution of the United States and 10 U.S.C.**

**Sec. 15. Construction and Severability.**

**It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes**

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**thereof. If any part or application of this compact, or legislation enabling the compact, is held invalid, the remainder of the compact or its application to other situations or persons shall not be affected.**

**Sec. 16. Inconsistency of Language.**

**The validity of this compact shall not be affected by any insubstantial difference in its form or language as adopted by the states.**

**Chapter 6. Interstate Emergency Management and Disaster Compact**

**Sec. 1. The general assembly of the state of Indiana hereby ratifies a compact on behalf of the state of Indiana with any other state legally joining therein in the form substantially as follows:**

**INTERSTATE EMERGENCY MANAGEMENT**
**AND DISASTER COMPACT**

**The contracting states solemnly agree:**

**ARTICLE I**

**The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster from national security, natural, or manmade situations including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the emergency management agencies or similar bodies of the states that are parties to this compact. The directors of emergency management of all party states constitute a committee to formulate plans and to take all necessary steps for the implementation of this compact.**

**ARTICLE II**

**It shall be the duty of each party state to formulate emergency management plans and programs within such state. There shall be frequent consultation between the representatives of such states and with the United States government and the free exchange of information and plans, including inventories of any materials and equipment available for emergency management. In carrying out such emergency management plans and programs, the party states**

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**shall so far as possible provide and follow uniform standards, practices, and rules and regulations including the following:**

**(1) Insignia, arm bands, and any other distinctive articles to designate and distinguish the different emergency management services.**

**(2) Mobilization of emergency management forces and other tests and exercises.**

**(3) Warning and signals for drills or actual emergencies or disasters.**

**(4) The effective screening or extinguishing of all lights and lighting devices and appliances.**

**(5) Shutting off water mains, gas mains, electric power connections, and the suspension of all other utility services.**

**(6) All materials or equipment used or to be used for emergency management purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party state.**

**(7) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or actual or impending emergencies or disasters.**

**(8) The safety of public meetings or gatherings.**

**(9) Mobile support units.**

**ARTICLE III**

**Any party state requested to render mutual aid shall take such action as necessary to provide and make available the resources covered by this compact in accordance with the terms hereof as long as it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state. Each party state shall extend to the emergency management forces of any other party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights, privileges, and immunities as if they were performing their duties in the state in which normally employed or rendering services. Emergency management forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency management authorities of the state receiving assistance.**

**ARTICLE IV**

**Whenever any person holds a license, certificate, or other**

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**permit issued by any state evidencing the meeting of qualifications for professional, mechanical, or other skills, such persons may render aid involving such skill in any party state to meet an emergency or disaster in this state, and such state shall give due recognition to such license, certificate, or other permit as if issued in the state in which aid is rendered.**

**ARTICLE V**

**No party state or its officers or its employees rendering aid in another state pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection with it.**

**ARTICLE VI**

**Since it is probable that the pattern and detail of the machinery for mutual aid among two (2) or more states may differ from that appropriate among other party states, this instrument contains elements of a broad base common to all states, and nothing in this agreement contained precludes any state from entering into supplementary agreements with another state or states. 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**

**Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency management forces of that state and the representatives of deceased members of the forces in case these members sustain injuries or are killed while rendering aid under the compact in the same manner and on the same terms as if the injury or death were sustained within that state.**

**ARTICLE VIII**

**Any party state rendering aid in another state under this compact shall be reimbursed by the party state receiving the aid for any loss or damage to or expense incurred in the operation of any equipment answering a request for aid and for the cost incurred in connection with the request. However, any aiding party state may assume in whole or in part the loss, damage, expense, or other cost, or may loan the equipment or donate the services to the receiving party state without charge or cost. Any two (2) or more party states may enter into supplementary agreements establishing**

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**a different allocation of costs as among those states. The United States government may relieve the party state receiving aid from any liability and reimburse the party state supplying emergency management forces for the compensation paid to and the transportation, subsistence, and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the state and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment, or facilities so utilized or consumed.**

**ARTICLE IX**

**Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party states and the various local emergency management areas thereof. Such plans shall include the manner of transporting such evacuees; the number of evacuees to be received in different areas; the manner in which food, clothing, housing, and medical care will be provided; the registration of the evacuees; the providing of facilities for the notification of relatives or friends; and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The plans must provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the evacuees; for expenditures for transportation, food, clothing, medicines, medical care, and like items. These expenditures shall be reimbursed by the party state of which the evacuees are residents or by the United States government under plans approved by it. After the termination of the emergency or disaster, the party state of which the evacuees are residents shall assume the responsibility for the ultimate support or repatriation of such evacuees.**

**ARTICLE X**

**This compact is to be available to any state, territory, or possession of the United States and the District of Columbia. The term "state" may include any neighboring foreign country or province or state of any neighboring foreign country.**

**ARTICLE XI**

**The committee established under Article I of this compact may request the emergency management agency of the United States government to act as an informational and coordinating body under this compact. Representatives of this agency of the United States government may attend meetings of the committee.**

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**ARTICLE XII**

**This compact shall become operative immediately upon its ratification by any state as between it and any other state or states so ratifying and shall be subject to approval by congress unless prior congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party states and with the emergency management agency and other appropriate agencies of the United States government.**

**ARTICLE XIII**

**This compact shall continue in full force and remain binding on each party state until the legislature or the governor of such party state takes action to withdraw therefrom. Such action shall not be effective until thirty (30) days after notice thereof has been sent by the governor of the party state desiring to withdraw to the governors of all other party states.**

**ARTICLE XIV**

**This compact is to be construed to effectuate the purposes stated in Article I. If any provision of this compact is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances is not to be affected by it.**

**ARTICLE XV**

**(a) This article is in effect only as among those states which have enacted it into law or in which the governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this article or in any supplementary agreement made in implementation of it shall be construed to abridge, impair, or supersede any other provision of this compact or any obligation undertaken by a state pursuant to the compact, except that if its terms so provide, a supplementary agreement in implementation of this article may modify, expand, or add to any such obligation as among the parties to the supplementary agreement.**

**(b) In addition to the occurrence, circumstances, and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements, and procedures of this compact apply to the following:**

**(1) Searches for and rescue of persons who are lost, marooned, or otherwise in danger.**

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**(2) Action useful in coping with disasters arising from any cause or designed to increase capability to cope with any such disasters.**

**(3) Incidents, or the imminence of them, which endanger the health or safety of the public and which require the use of special equipment, trained personnel, or personnel in larger numbers than are locally available in order to reduce, counteract, or remove the danger.**

**(4) The giving and receiving of aid by subdivisions of party states.**

**(5) Exercises, drills, or other training or practice activities designed to aid personnel to prepare for, cope with, or prevent any disaster or other emergency to which this compact applies.**

**(c) Except as expressly limited by this compact to a supplementary agreement in force pursuant to it, any aid authorized by this compact or a supplementary agreement may be furnished by any agency of a party state, a subdivision of the state, or by a joint agency of any two (2) or more party states or of their subdivisions. Any joint agency providing this aid is entitled to reimbursement for it to the same extent and in the same manner as a state. The personnel of such a joint agency, when rendering aid under this compact, shall have the same rights, authority, and immunity as personnel of party states.**

**(d) Nothing in this article is to be construed to exclude from the coverage of Articles I through XIV of this compact any matter which, in the absence of this article, could reasonably be construed to be covered by them.**

**(e) Nothing in subsection (a) is to be construed to limit previous or future entry into the Interstate Emergency Management and Disaster Compact of this state with other states.**

**Sec. 2. Duly authenticated copies of this chapter shall, upon its approval, be transmitted by the secretary of state to the governor of each state, to the president of the Senate of the United States, to the speaker of the United States House of Representatives, to the federal emergency management administration or any successor agency, to the secretary of state of the United States, and to council of state governments.**

**Sec. 3. Nothing contained in this chapter shall be construed as a limitation of powers granted in any other law to enter into interstate compacts or other agreements relating to emergency management, or impairing in any respect the force and effect**

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**thereof. The articles of the compact contained in section 1 of this chapter shall have the same force and effect as though each article were a section of this chapter.**

**Chapter 7. Interstate Earthquake Emergency Compact**

**Sec. 1. Indiana hereby adopts the interstate earthquake emergency compact with all other states legally joining therein in the form substantially as follows:**

**INTERSTATE EARTHQUAKE EMERGENCY COMPACT**

**ARTICLE I (purpose)**

**The purpose of this compact is to provide mutual aid among the states in meeting any emergency or disaster caused by earthquakes or other seismic disturbances. The full, immediate, and effective utilization of the resources of the respective states, including such resources as may be available from the United States government or any other source, is necessary to provide needed short-term earthquake disaster assistance to states requesting aid. These resources shall be incorporated into a plan or plans of mutual aid to be developed among the appropriate agencies of states that are parties to this compact. These agencies shall develop and follow procedures designed to assure the maintenance of resource inventories and the exchange of information about earthquakes and disaster response. It is the policy of the party states to carry out this compact in a spirit of cooperation to provide the most effective earthquake disaster assistance to the residents of the states and to provide an equitable division of any necessary earthquake relief efforts in order to avoid a disproportionate allocation of contributed resources.**

**ARTICLE II (intrastate planning)**

**Each party state shall have the duty to formulate earthquake relief plans and programs within such state. There shall be frequent consultation between the representatives of such states and with the United States government and the free exchange of relief plans and information, including inventories of any materials and equipment available for response to earthquake emergencies. To this end, each state will maintain a bank of standardized data which will establish a comprehensive listing of all resources within the seven-state region (available) that might be needed during an earthquake disaster. The inventory will be shared equitably among the party states in the event of an earthquake or other emergency, recognizing each state's primary responsibility to assist and protect 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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**Each party state shall provide compensation and death benefits to its injured officers, employees, or other persons certified by party states, pursuant to agreed upon criteria and procedures for certification, and the representatives of deceased officers, employees, and other certified persons in case officers, employees, or certified persons sustain injuries or death while rendering aid in another state pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer, employee, or certified person was regularly employed.**

**ARTICLE VIII (reimbursement)**

**Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment answering a request for aid and for the cost of all materials, transportation, wages, salaries, and maintenance of officers, employees, and equipment incurred in connection with such request, including amounts paid under Article VII, provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense, or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost. Any two (2) or more party states may enter into supplementary agreements establishing a different allocation of costs as among those states. The United States government may under some circumstances relieve the party state receiving aid from any liability and reimburse the party state rendering aid for (some) loss, damage, or expense incurred within the terms of this article.**

**ARTICLE IX (evacuation plans)**

**Plans for the orderly evacuation and reception of the civilian population as the result of an earthquake emergency shall be worked out from time to time between representatives of the party states. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. The plans must provide that the party state receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for the evacuees, for expenditures and**

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**transportation, and for food, clothing, medicines, medical care, and like items. These expenditures shall be reimbursed by the party state of which the evacuees are residents or may be reimbursed by the United States government under plans approved by it. The party state of which the evacuees are residents shall assume the responsibility for the ultimate support or repatriation of such evacuees.**

**ARTICLE X (availability)**

**Any state of the United States shall be eligible to become party to this compact. As to any eligible party state, this compact shall become effective when its legislature shall have enacted it into law provided that it shall not become initially effective until enacted into law by two (2) party states.**

**ARTICLE XI (withdrawal)**

**Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until ninety (90) days after the governor of the withdrawing state shall have sent formal notice in writing to the governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw. A withdrawing state shall be liable for any obligations which it may have incurred on account of its party status up to the effective date of withdrawal, except that if the withdrawing state has specifically undertaken or committed itself to any performance of an obligation extending beyond the effective date of withdrawal, it shall remain liable to the extent of such obligation.**

**ARTICLE XII (severability)**

**This compact is severable under IC 1-1-1-8.**

**Chapter 8. Transportation of High Level Radioactive Waste**

**Sec. 1. (a) This chapter applies to high level radioactive waste transported to or from facilities sited, constructed, or operated in accordance with the federal Nuclear Waste Policy Act of 1982.**

**(b) This chapter does not apply to radioactive materials shipped by or for the federal government for:**

**(1) military;**

**(2) national security; or**

**(3) national defense;**

**purposes.**

**Sec. 2. As used in this chapter, "high level radioactive waste" means:**

**(1) irradiated reactor fuel;**

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**(2) liquid wastes resulting from the operation of a first cycle solvent extraction system or its equivalent and the concentrated wastes from a subsequent extraction cycle or its equivalent in a facility for reprocessing irradiated reactor fuel; and**

**(3) solids into which liquid wastes described in subdivision (2) have been converted.**

**Sec. 3. (a) Before a person may transport high level radioactive waste in Indiana, the person who is responsible for the shipment must submit the following to the director:**

**(1) A notice that includes:**

**(A) the highway or railway route, date, and time of the shipment of high level radioactive waste; and**

**(B) other information required under 10 CFR 71.5(a) and 10 CFR 73.37(f).**

**(2) A transportation fee of one thousand dollars ($1,000) for each total shipment of nuclear waste.**

**(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.**

**Sec. 4. (a) The director shall consult with:**

**(1) the state health commissioner of the state department of health;**

**(2) the commissioner of the Indiana department of transportation;**

**(3) the commissioner of the department of environmental management;**

**(4) the director of the department of natural resources;**

**(5) the superintendent of the state police department;**

**(6) representatives of the:**

**(A) United States Nuclear Regulatory Commission;**

**(B) Federal Emergency Management Agency;**

**(C) United States Department of Energy; and**

**(D) United States Department of Transportation; and**

**(7) a representative of a local emergency management agency designated by the director;**

**to prepare a plan for emergency response to a high level radioactive waste transportation accident in Indiana. The plan must include provisions for evacuation, containment, and cleanup and must designate the role of each state or local government agency involved in the emergency response plan.**

**(b) The director shall report to the general assembly each year on the:**

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**(1) status of the plan prepared under subsection (a); and**

**(2) ability of the state to respond adequately to a high level radioactive waste transportation accident in Indiana.**

**Sec. 5. (a) Under 49 CFR Part 177, the director may require preferred highway routes for transporting high level radioactive waste in Indiana if the director determines under United States Department of Transportation "Guidelines for Selecting Preferred Highway Routes for Large Quantity Shipments of Radioactive Materials" that alternative routes are safer than proposed routes.**

**(b) The director shall:**

**(1) annually review federally approved highway and railway routes for transporting high level radioactive waste in Indiana; and**

**(2) select new state designated routes in accordance with 49 CFR Part 177 if safety considerations indicate the alternate routes would be preferable.**

**(c) Before the director may require alternative routes under subsection (a) or select new state designated routes under subsection (b), the director must do the following:**

**(1) Consult with all of the persons described in section 4(a) of this chapter.**

**(2) Conduct or engage in substantial consultation with the affected local county authorities.**

**(3) Notify the:**

**(A) state health commissioner of the state department of health;**

**(B) commissioner of the department of environmental management;**

**(C) superintendent of the state police department; and**

**(D) local emergency management agency and applicable local fire and law enforcement agencies in each affected county;**

**of the director's final decision concerning an alternative route or a new state designated route before the date upon which the alternative route or new state designated route takes effect.**

**(4) If the director wishes to change the route of a railway shipment of high level radioactive waste, the director must notify the United States Department of Energy and the appropriate rail carrier of any changes the director feels should be made to the route.**

**(d) The state is not liable by requiring alternate routes to be**

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**used as provided under this section.**

**Sec. 6. (a) The nuclear response fund is established to provide appropriate education, training, and equipment to local emergency responders in counties that will be affected by the transportation of high level radioactive waste under this chapter.**

**(b) Sources of money for the fund consist of transportation fees deposited under section 3(b) of this chapter.**

**(c) The state emergency management agency shall administer the fund. Money in the fund is annually appropriated to the state emergency response commission to be used for purposes described in subsection (a).**

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

**(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.**

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

**Sec. 7. This chapter does not require the disclosure of defense information or restricted data (as defined in the federal Atomic Energy Act of 1954 (42 U.S.C. 2014)).**

**Sec. 8. The agency may adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 6. IC 10-15 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**ARTICLE 15. EMERGENCY MANAGEMENT, FIRE AND BUILDING SERVICES, AND PUBLIC SAFETY TRAINING FOUNDATION**

**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. "Department" refers to the fire and building services department established by IC 22-12-5-1.**

**Sec. 4. "Executive director" refers to the executive director of the Indiana emergency management, fire and building services, and public safety training foundation established by IC 10-15-2-1.**

**Sec. 5. "Foundation" refers to the Indiana emergency management, fire and building services, and public safety training foundation established by IC 10-15-2-1.**

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**Sec. 6. "Funds" means the funds established by IC 10-15-3-1.**

**Sec. 7. "Institute" refers to the public safety institute established by IC 5-2-10.5-4.**

**Sec. 8. "Unit of local government" means a:**

**(1) county;**

**(2) city;**

**(3) town; or**

**(4) township;**

**in Indiana.**

**Chapter 2. Indiana Emergency Management, Fire and Building Services, and Public Safety Training Foundation**

**Sec. 1. The Indiana emergency management, fire and building services, and public safety training foundation is established as a public body corporate and politic.**

**Sec. 2. (a) The foundation consists of fifteen (15) voting members and four (4) nonvoting advisory members.**

**(b) The voting members shall be appointed by the governor. The voting members are as follows:**

**(1) The executive director, subject to subsection (d).**

**(2) The state fire marshal.**

**(3) The state building commissioner.**

**(4) The deputy director of the state emergency management agency.**

**(5) The deputy director of the state emergency management agency for emergency medical services.**

**(6) Ten (10) individuals appointed by the governor. Each Indiana congressional district must be represented by at least one (1) member who is a resident of that congressional district. Not more than five (5) of the members appointed under this subdivision may represent the same political party.**

**(c) The four (4) nonvoting advisory members are as follows:**

**(1) Two (2) members, one (1) from each political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.**

**(2) Two (2) members, one (1) from each political party, appointed by the speaker of the house of representatives with advice from the minority leader of the house of representatives.**

**(d) The executive director may vote for tie breaking purposes only.**

**(e) In the absence of a member, the member's vote may be cast by another member if the member casting the vote has a written**

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**proxy in proper form as required by the foundation.**

**Sec. 3. (a) A quorum consists of eight (8) of the voting members of the foundation described in section 2(b)(2) through 2(b)(6) of this chapter.**

**(b) One (1) of the following is necessary for the foundation to take action:**

**(1) An affirmative vote by at least a majority of the quorum.**

**(2) A tie vote broken by the executive director.**

**Sec. 4. Membership on the foundation does not constitute the holding of a public office. A member may not be disqualified from holding a public office or position because of appointment to or service on the foundation. A member may not be required to forfeit an office, a position, or employment because of appointment to or service on the foundation.**

**Sec. 5. (a) The term of each member appointed under section 2(b)(6) of this chapter is four (4) years.**

**(b) A member appointed to fill the unexpired term of a member serves until the end of the unexpired term.**

**(c) At the expiration of a member's term, the member may be reappointed if the member continues to be a part of the represented entity. A person is no longer a member when the person ceases to be a part of the represented entity.**

**Sec. 6. The terms of the members appointed under section 2(b)(6) of this chapter begin on July 1.**

**Sec. 7. (a) At the foundation's first meeting after June 30 of each year, the voting members appointed under section 2(b)(2) through 2(b)(6) of this chapter shall select:**

**(1) one (1) of the voting members who is not a state employee to serve as chairperson; and**

**(2) one (1) of the voting members who is not a state employee to serve as vice chairperson.**

**(b) The vice chairperson shall exercise all the duties and powers of the chairperson in the chairperson's absence or disability.**

**Sec. 8. (a) The executive director and agency, institute, and department staff designated by the director shall act as advisers to the foundation.**

**(b) An adviser to the foundation may do the following:**

**(1) Attend all meetings of the foundation.**

**(2) Participate in all proceedings at foundation meetings other than voting.**

**Sec. 9. (a) The foundation may acquire personal property to be donated under subsection (b). The foundation may receive**

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**donations of real property to be disposed of under subsection (c).**

**(b) Subject to subsection (d), the foundation may donate personal property to the following:**

**(1) The department.**

**(2) The institute.**

**(3) The agency.**

**(4) A unit of local government.**

**(c) The foundation shall dispose of real property donations in the following manner:**

**(1) Real property may be accepted by the foundation for purpose of resale, either on the open market or to the state or a unit of local government at a price set by the foundation.**

**(2) The proceeds from the sale of real property shall be donated to a fund that the donor has chosen or, if the donor has not chosen a fund, to a fund to be chosen by the foundation.**

**(d) The foundation must have the approval of the executive director to donate property to the state.**

**Sec. 10. The foundation may do the following:**

**(1) Adopt bylaws for the regulation of the foundation's affairs and the conduct of the foundation's business.**

**(2) Adopt an official seal, which may not be the seal of the state.**

**(3) Maintain a principal office and other offices the foundation designates.**

**(4) Sue and be sued in the name and style of "Indiana Emergency Management, Fire and Building Services, and Public Safety Training Foundation", with service of process being made to the chairperson of the foundation by leaving a copy at the principal office of the foundation or at the residence of the chairperson if the foundation has no principal office.**

**(5) Exercise the powers or perform the following duties of the foundation:**

**(A) Acquire by any means a right or an interest in or upon personal property of any kind or nature. The foundation shall hold the legal title to property acquired in the name of the foundation.**

**(B) Dispose of a right or an interest in personal property.**

**(6) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the duties and the execution of the powers of the foundation**

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**under this chapter.**

**(7) Assist the agency, department, and institute to develop projects.**

**(8) Receive and accept from any person grants for or in aid of the acquisition, construction, improvement, or development of any part of the projects of the foundation and receive and accept aid or contributions from any source of money, personal property, labor, or other things of value to be held, used, applied, or disposed of only for the purposes consistent with the purposes of this chapter for which the grants and contributions may be made.**

**(9) Hold, use, administer, and expend money that may be acquired by the foundation.**

**(10) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.**

**Sec. 11. (a) The foundation shall:**

**(1) adopt:**

**(A) rules under IC 4-22-2; or**

**(B) a policy;**

**establishing a code of ethics for its employees; or**

**(2) submit to the jurisdiction and rules adopted by the state ethics commission.**

**(b) A code of ethics adopted by the foundation by rule or policy under this section must be consistent with state law and approved by the governor.**

**Chapter 3. Funds**

**Sec. 1. (a) The following funds are established:**

**(1) Emergency management fund.**

**(2) Fire services fund.**

**(3) Building services fund.**

**(4) Emergency medical services fund.**

**(5) Stewardship fund.**

**(b) The funds established by subsection (a)(1) through (a)(4) consist of:**

**(1) gifts and proceeds received under section 5 of this chapter; and**

**(2) fees from license plates as set forth in section 6 of this chapter.**

**(c) The stewardship fund established by subsection (a)(5) consists of fees from license plates as set forth in section 6 of this chapter.**

**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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**Sec. 11. Before October 1 of each year, the foundation shall prepare an annual report concerning the foundation's activities for the prior year for the public and the general assembly.**

SECTION 7. IC 10-16 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**ARTICLE 16. INDIANA MILITARY CODE**

**Chapter 1. Definitions**

**Sec. 1. The definitions in this chapter:**

**(1) apply throughout this article, unless otherwise apparent from the context; and**

**(2) are subject to organization modification as adopted by regular army and regular air force troop structures that are incorporated in this article by reference.**

**Sec. 2. "Air group" has the same meaning as comparably used in the national military establishment.**

**Sec. 3. "Battalion" has the same meaning as comparably used in the national military establishment.**

**Sec. 4. "Battery" has the same meaning as comparably used in the national military establishment.**

**Sec. 5. "Battle group" has the same meaning as comparably used in the national military establishment.**

**Sec. 6. "Commanding officer" means a company, a troop, a battery, a squadron, a battalion, an air group, a regiment, a battle group, a wing, or a division commander.**

**Sec. 7. "Company" has the same meaning as comparably used in the national military establishment.**

**Sec. 8. "Court martial" means a military or naval court of justice for the trial of cases within the jurisdiction of the armed forces of the state.**

**Sec. 9. "Division" has the same meaning as comparably used in the national military establishment.**

**Sec. 10. "Federally recognized national guard" means that part of the Indiana national guard that has met all the requirements for and has been recognized by the national military establishment as a part of the reserve components of the armed forces of the United States.**

**Sec. 11. "General orders" means the official instructions issued by the military department of Indiana.**

**Sec. 12. "Headquarters" means the office of the appropriate commander.**

**Sec. 13. (a) "National guard" means the Indiana army national**

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**guard and the Indiana air national guard.**

**(b) The term may apply to the national guard of Indiana or the national guard of the United States according to the tenor of the appropriate section.**

**Sec. 14. "Officer" means a commissioned officer, including a warrant officer, in the armed forces of the state.**

**Sec. 15. "Organization" means unit or command.**

**Sec. 16. "Regiment" has the same meaning as comparably used in the national military establishment.**

**Sec. 17. "Regulations" means the official rules of the appropriate department.**

**Sec. 18. "Squadron" has the same meaning as comparably used in the national military establishment.**

**Sec. 19. "State and federal property" means:**

**(1) state property, real or personal, owned by the state; or**

**(2) federal property owned by the federal government and consigned to the state for use in its armed forces.**

**Sec. 20. "Troop" has the same meaning as comparably used in the national military establishment.**

**Sec. 21. "Unit" means military complements of a company, detachment, troop, battery, or any larger command organization.**

**Sec. 22. "Wing" has the same meaning as comparably used in the national military establishment.**

**Chapter 2. Military Department**

**Sec. 1. (a) The military department of the state:**

**(1) is established; and**

**(2) shall be administered and controlled by the governor as commander in chief.**

**(b) The military department consists of the following:**

**(1) An adjutant general, who shall be the executive and administrative head of the department.**

**(2) Other officers, enlisted individuals, and employees considered necessary and authorized.**

**Sec. 2. The military department shall administer all matters concerning or relating to the following:**

**(1) The militia.**

**(2) The national guard.**

**(3) Other military organizations under the jurisdiction of the state.**

**(4) Other duties as the governor may assign.**

**Sec. 3. (a) The governor shall:**

**(1) be the commander in chief of the military forces of the**

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**state;**

**(2) have supreme command of the military forces of the state while in the service of the state or until they are ordered and accepted into the service of the United States; and**

**(3) have power to:**

**(A) muster out any organization of the state;**

**(B) discharge enlisted men as provided; and**

**(C) perform other acts in keeping with the laws of the state, subject to the laws of the United States and regulations prescribed by the President of the United States.**

**(b) An armed military force from another state or territory may not enter Indiana without permission of the governor, unless the military force is:**

**(1) a part of the armed forces of the United States; or**

**(2) acting under the authority of the United States.**

**(c) An independent military organization under the jurisdiction of the state, except as a corps of cadets in the educational institutions, may not bear arms without first securing permission of the commander in chief.**

**Sec. 4. This article shall be interpreted liberally in favor of the exercise of all the constitutional powers of the governor as commander in chief.**

**Sec. 5. (a) The governor may appoint an honorary staff of aides with the brevet title of colonel, lieutenant colonel or major, or comparable naval rank.**

**(b) The staff officers hold office at the will of the governor. Their commissions expire with the term of office of the governor making the appointment.**

**(c) The adjutant general shall be ex officio chief of staff.**

**Sec. 6. (a) The governor shall appoint the adjutant general.**

**(b) The adjutant general must hold the rank of not less than brigadier general.**

**(c) The governor may increase the rank of the adjutant general not to exceed the rank of major general as a reward for efficient and loyal service to the state.**

**Sec. 7. The adjutant general shall appoint two (2) assistant adjutants general to serve at the will and pleasure of the adjutant general as follows:**

**(1) One (1) assistant adjutant general from the Indiana army national guard to be chief of staff to the adjutant general for all the Indiana army national guard forces. This assistant**

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**adjutant general shall perform duties assigned by the adjutant general and is responsible for all administrative and operational functions of the Indiana army national guard. A person is not eligible for appointment as assistant adjutant general unless the person is a member of the Indiana army national guard with at least six (6) years service in the Indiana army national guard and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the table of organization for the army national guard.**

**(2) One (1) assistant adjutant general from the Indiana air national guard to be chief of staff to the adjutant general for all the Indiana air national guard forces. This assistant adjutant general shall perform duties assigned by the adjutant general and is responsible for administrative and operational functions of the Indiana air national guard. A person is not eligible for appointment as air forces chief of staff unless the person is a member of the Indiana air national guard with at least six (6) years service as a commissioned officer and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the tables of organization for the air national guard.**

**Sec. 8. The adjutant general shall do the following:**

**(1) Execute all orders given by the commander in chief.**

**(2) Give bond with surety to the state, to the approval of the governor, in the sum of ten thousand dollars ($10,000) for the faithful discharge of the duties of the office of adjutant general.**

**Sec. 9. (a) The adjutant general shall perform duties required by law, in rules adopted under this chapter, and in the statutes of the United States and required by the governor. If the adjutant general:**

**(1) fails or refuses to properly and efficiently perform the duties of the office; or**

**(2) is guilty of misconduct or conduct prejudicial to good order and military discipline;**

**written charges setting forth the acts involved shall be filed with the governor. The governor shall take action on the charges for the best interests of the service.**

**(b) The adjutant general shall superintend the preparation of all**

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**returns and reports required by the United States from the state.**

**(c) The adjutant general shall:**

**(1) keep a register of all the officers of the armed forces of the state; and**

**(2) keep in the adjutant general's office all records and papers required to be kept and filed.**

**(d) If necessary, the adjutant general shall, at the expense of the state, cause:**

**(1) the armed forces law;**

**(2) the general regulations of the state; and**

**(3) the uniform code of military justice of the United States;**

**to be printed, indexed, and bound in proper and compact form. One (1) copy of each publication shall be distributed to the commissioned officers, sheriffs, clerks of boards of county commissioners, and county treasurers of Indiana. The adjutant general shall issue to each commissioned officer and headquarters one (1) copy of the necessary textbooks and of such annual reports concerning the militia as the governor directs.**

**(e) The adjutant general shall cause to be prepared and issued all blank books, blank forms, and blank notices required to implement this chapter. The books and blanks are property of the state.**

**(f) The adjutant general shall attend to the safekeeping and repairing of the ordnance, arms, accouterments, equipment, and all other military and naval property belonging to the state or issued to it by the United States. The governor shall order the adjutant general to dispose of all military and naval property of the state that after a proper inspection is found unsuitable for the use of the state. The adjutant general shall dispose of the property:**

**(1) by public auction after advertisement of the sale weekly for three (3) weeks in at least one (1) newspaper published in the English language in the city or county where the sale is to take place;**

**(2) by private sale when ordered by the governor; or**

**(3) with the approval of the governor, by turning over the property to any other department, board, or commission of state government that can use the property.**

**If the adjutant general believes that better prices may or should be obtained, the adjutant general shall bid in the property or suspend the sale. All parts of uniforms before being offered for sale shall be mutilated so they cannot be again used as uniforms. The adjutant general shall periodically account to the governor of the sales**

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**made. The adjutant general shall expend the proceeds of the sales for the use and benefit of the military or naval forces of the state as the governor directs.**

**(g) The adjutant general shall keep an accurate account of all expenses necessarily incurred, including the following:**

**(1) Pay of officers and enlisted persons.**

**(2) Allowances to officers and organizations.**

**(3) Pensions.**

**(4) Any other money required to be disbursed by the adjutant general, including the following:**

**(A) Subsistence of the national guard.**

**(B) Transportation of the national guard.**

**(C) Transportation of all military and naval property of the state or of the United States.**

**These expenses shall be audited and paid in the same manner as other military and naval accounts.**

**(h) The adjutant general shall:**

**(1) issue military and naval property; and**

**(2) make purchases of military and naval property;**

**as the governor directs. Military or naval property may not be issued to persons or organizations other than those belonging to the state armed forces, except to those parts of the sedentary militia as the governor may call out.**

**(i) The seal used in the office of the adjutant general on January 1, 1954, shall be:**

**(1) the seal of that office; and**

**(2) delivered by the adjutant general to the successor in office.**

**(j) Except as provided in subsection (k), the adjutant general shall be the auditor of all military accounts payable by the state.**

**(k) The auditor of state shall audit expenditures made by the adjutant general or through the adjutant general's office. Copies of all orders and contracts relating to expenditures described in this subsection shall be filed in the auditor's office.**

**Sec. 10. (a) The adjutant general may be paid a sum equal to the pay received by an officer of the same grade in federal services, excluding allowances.**

**(b) The governor, with the approval of the budget committee, may periodically adjust the salary of the adjutant general to meet the pay adjustments of an officer of the same grade in federal service.**

**Chapter 3. State Armory Board**

**Sec. 1. (a) The state armory board is established to provide,**

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**manage, and care for armories for the use of the military and naval forces of Indiana.**

**(b) The board consists of the following members:**

**(1) The following ex officio members:**

**(A) The governor.**

**(B) The adjutant general.**

**(2) Five (5) members appointed by the governor. At least three (3) of the members must be or must have been officers of the military or naval forces of the United States or of the state of Indiana.**

**(3) The presidents of the local armory boards as provided under IC 10-16-4-3(c).**

**Sec. 2. The state armory board established by section 1 of this chapter may contribute funds in support of the following authorized duties and responsibilities of the adjutant general:**

**(1) The military department of the Indiana ceremonial unit.**

**(2) The Indiana guard reserve.**

**(3) The annual report of the adjutant general's department.**

**(4) The medical treatment, pensions, and funeral expenses of officers and soldiers wounded, disabled, or killed while in the active service of the state.**

**(5) Public relations expenditures of the adjutant general's department that are not paid by the United States Department of Defense.**

**(6) Recruitment and retention expenditures of the adjutant general's department that are not paid by the United States Department of Defense.**

**(7) The publication of the armed forces law of Indiana in accordance with IC 10-16-2-9(d).**

**Sec. 3. (a) The term of each member of the state armory board expires four (4) years from the date of the member's appointment.**

**(b) If there is a vacancy in the state armory board, the governor may fill the vacancy for the unexpired term.**

**Sec. 4. The members of the state armory board shall perform the duties imposed upon them by this chapter without compensation. However, the state shall pay the actual necessary expenses of the members that are incident to the performance of their duties from the appropriation made for armory purposes.**

**Sec. 5. (a) The state armory board shall erect or provide within Indiana armories for the use of the military and naval forces of the state for drill, meeting, and rendezvous purposes by the organization of the military or naval forces occupying the**

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**armories.**

**(b) All property of the United States or of the state issued to the occupying organization for military or naval purposes shall be stored and safely kept in the armories.**

**Sec. 6. (a) The state armory board may:**

**(1) lease real estate from:**

**(A) federal, state, or local government; or**

**(B) a federal, state, or local agency; or**

**(2) purchase real estate throughout the state;**

**where necessary to provide armories.**

**(b) The state armory board shall lease or purchase real estate in the name and for the use of the state. The state armory board shall erect on the real estate an armory to be used for meetings, rendezvous, and drill purposes by the following organizations:**

**(1) A company.**

**(2) A battery.**

**(3) A troop.**

**(4) A battalion.**

**(5) A regiment.**

**(6) A division organization.**

**(7) An air squadron.**

**(8) A related group.**

**The ordnance stores, quartermaster stores, and other property issued to an organization described in this subsection and occupying the armory shall be stored in the armory.**

**(c) The state armory board shall arrange for the occupancy and use of the armories under the direction and responsibility of the senior officer in command of an organization described in subsection (b).**

**(d) An armory may not be erected on land that is leased for less than fifty (50) years.**

**(e) The Indiana wing of the civil air patrol and its subordinate units may use armory facilities without charge when the officer responsible for the armory determines the use would not interfere with operational training requirements of the military forces concerned.**

**Sec. 7. The state armory board shall constitute a board for the general management, care, and custody of the armories. The state armory board may adopt rules for:**

**(1) the management and government of the armories; and**

**(2) the guidance of the organizations occupying the armories.**

**Sec. 8. (a) This section applies if a contract for the procurement**

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**of property by the state armory board or a local armory board is awarded under this chapter by acceptance of bids, proposals, or quotations.**

**(b) A bid, proposal, or quotation submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:**

**(1) beneficiary of the trust; and**

**(2) settlor empowered to revoke or modify the trust.**

**Sec. 9. (a) The state armory board may receive from any source donations of land or contributions of money to aid in providing or erecting armories throughout Indiana for the use of:**

**(1) the armed forces of Indiana; and**

**(2) the armed forces of Indiana called or inducted into federal service.**

**Property received under this subsection shall be held as other property for the use of the state.**

**(b) Counties, cities, and municipalities may make donations and contributions under subsection (a).**

**(c) This subsection applies to real estate:**

**(1) donated under subsection (a); and**

**(2) upon which the state of Indiana has not erected structures.**

**The state armory board may determine that real estate donated under subsection (a) is no longer usable or cannot be used by the military department. The state armory board may certify its determination to the adjutant general. The adjutant general may reconvey the real estate to the donor.**

**Sec. 10. All expenses incurred in the operation of state armories shall be paid out of:**

**(1) the rentals;**

**(2) the income;**

**(3) the earnings;**

**(4) any other receipts; and**

**(5) any other appropriation provided by law;**

**to pay the expenses incurred in the operation of the armories.**

**Sec. 11. The state armory board may use the receipts under IC 10-16-9-3(a)(3) to make contributions to organizations that promote the public image of the national guard, the United States armed forces, or veterans of the United States armed forces. These contributions may be made for the following purposes:**

**(1) Public events.**

**(2) Activities on Veterans' Day, Memorial Day, the Fourth of July, and other holidays.**

**(3) Monuments, plaques, or inscriptions that memorialize**

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**veterans of United States wars or military actions.**

**(4) Other appropriate activities that the state armory board approves.**

**Sec. 12. (a) If the state armory board receives from the governor information of the disbandment of the organization of the armed forces of Indiana occupying and using an armory, the state armory board shall take charge of the armory.**

**(b) The state armory board shall sell the armory for the highest price at public or private sale after publication of the sale for a period of ten (10) days and return the proceeds into the state treasury.**

**Sec. 13. (a) The state armory board may sell, lease, convey, or otherwise dispose of any real property belonging to the state and being under the charge and in the custody and possession of the state armory board if, in the judgment of the state armory board, the real property can no longer be used for the purpose for which it was acquired.**

**(b) The sale shall be made at public or private sale, after appropriate publication, for the highest price to be obtained for the same. If the state armory board takes bids in the sale of real property, the board shall require a bid submitted by a trust (as defined in IC 30-4-1-1(a)) to identify all of the following:**

**(1) Each beneficiary of the trust.**

**(2) Each settlor empowered to revoke or modify the trust.**

**(c) All money derived from the sale, conveyance, or other disposition of any real property shall be paid into the state treasury, but may be used for the purchase of other real property for armory purposes.**

**Sec. 14. (a) If the state armory board sells, conveys, or otherwise disposes of any real property, the value of the property shall be determined by three (3) disinterested appraisers appointed by the state armory board with the approval of the governor.**

**(b) Real property may not be sold, conveyed, or otherwise disposed of for less than the appraised value of the real property. If the real property cannot be sold at its appraised value, it may be reappraised.**

**(c) Real property may not be sold, conveyed, or otherwise disposed of unless:**

**(1) the governor approves the sale, conveyance, or disposition; and**

**(2) the attorney general states in writing that all the conditions necessary to the legal and valid sale, conveyance,**

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**or disposition of such property have been fully complied with.**

**Sec. 15. (a) The purchaser of real property sold under this chapter or to whom real property is conveyed or otherwise disposed of under this chapter shall pay the purchase money as agreed upon and certified by the state armory board to the treasurer of state for the use and benefit of the state armory board. The purchaser shall take the receipt of the treasurer of state.**

**(b) The auditor of state shall execute a deed of conveyance to the purchaser after the purchaser presents the following documents to the auditor of state:**

**(1) The receipt of the treasurer of state.**

**(2) A certified resolution approved by the state armory board setting forth the terms and conditions of the sale, conveyance, or other disposition.**

**The deed of conveyance shall be signed by the governor and officially attested by the auditor of state with the seal of the state.**

**Sec. 16. (a) The state armory board shall report annually of the proceedings incident to the location and management of the armories and a detailed account of disbursements.**

**(b) The report shall be filed in the office of auditor of state and a copy furnished the adjutant general for publication in the annual report of the adjutant general's department.**

**Sec. 17. The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall make a full and complete examination and report of all transactions of all individuals, persons, trustees, boards, banks, firms, corporations, and others engaged in the acquisition of sites for and the construction of state armories, including examination of the following:**

**(1) The plans and specifications of armories.**

**(2) Construction work performed or being performed.**

**(3) The records of bonds issued and redeemed or proposed to be issued.**

**(4) The records of all lease contracts for building or maintaining armories.**

**(5) The records of receipts and earnings of all armories, except those earnings and receipts arising from shows, benefits, and other similar activities engaged in by members of the armories and other volunteers for the use and benefit of the members.**

**(6) All money handled by the board or boards, by trustees of state armories, by the state armory board or local armory**

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**boards, or by the adjutant general, including all appropriations made for armories by the general assembly.**

**All powers conferred upon the state examiner, deputy examiner, field examiner, private examiner, and the attorney general under IC 5-11-6 by petition are conferred upon these officers, examiners, and the department without any petition. All the powers given these officers, examiners, and the department under any other statute may be used for the purpose of carrying out this chapter.**

**Sec. 18. (a) The state examiner, with the approval of the governor, may employ expert engineering and architectural services when necessary to assist the state examiner, deputy examiner, field examiners, or private examiners in making inspections and examinations under this chapter.**

**(b) The state examiner, with the approval of the governor, shall fix and determine the amount to be paid for the expert service. Field examiners of the state board of accounts, when employed in performing the services provided for in this chapter, are entitled to receive the per diem provided by IC 4-10-11-2 and IC 4-10-11-2.1 for field examiners and all necessary expenses incurred in carrying out their duties as provided for in this chapter.**

**Chapter 4. Local Armory Boards**

**Sec. 1. (a) There shall be a local armory board at each armory in Indiana.**

**(b) This subsection applies to an armory that is used and occupied by one (1) military unit. The local armory board consists of the following three (3) members:**

**(1) One (1) member appointed by the state armory board.**

**(2) The ranking two (2) officers of the local military unit.**

**(c) This subsection applies to an armory that is used and occupied by more than one (1) military unit. The local armory board consists of the following members:**

**(1) One (1) member appointed by the state armory board.**

**(2) The ranking officer of each major unit using and occupying the armory.**

**Sec. 2. (a) The local armory boards shall do the following:**

**(1) Carry into effect all rules and regulations adopted by the state armory board.**

**(2) Recommend rules and regulations concerning local matters to the state armory board.**

**(3) Prescribe their own rules and regulations concerning local matters.**

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**(4) In the absence of any directive or rule from the state armory board, take local actions necessary to maintain and administer the needs of the local armory.**

**(b) A local armory board shall report any initial action described in subsection (a) to the state armory board for final ratification. An action described in subsection (a) is considered ratified by the state armory board if:**

**(1) the state armory board does not take any action; and**

**(2) the local armory board receives notification of any action; not more than twenty (20) days after the date the local armory board files a report under this subsection.**

**Sec. 3. (a) The senior member of a local armory board shall serve as president of the local armory board.**

**(b) The president of a local armory board shall do the following:**

**(1) Report all actions taken by the local board to the state armory board.**

**(2) Keep a record of all expenditures, income, and actions authorized by the local board.**

**(3) Submit an annual report to the state armory board of the information described in subdivisions (1) and (2) by January 15 of each year.**

**(c) A president of a local armory board is an ex officio member of the state armory board and may attend all meetings concerning the president's armory called by the president of the state armory board. A president of a local armory board may be a voting member of the state armory board only on matters of local concern and of specific nature involving the particular local armory of which the person is president.**

**Sec. 4. (a) A local armory board may receive from counties, cities, and municipalities donations of land or contributions of money to aid in providing or erecting improvements on the armories.**

**(b) A donation or contribution received under this section shall be held as other property for the use of the state.**

**Sec. 5. The state examiner of the state board of accounts personally, or through the deputy examiners or field examiners, shall make a full and complete examination and report upon the records and receipts of the local armory boards to the extent of and as provided for in the examination of the state armory board under IC 10-16-3-17.**

**Sec. 6. The members of the local armory boards shall perform the duties imposed upon them by this chapter without any**

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**compensation for their services. However, the actual expenses incurred by the members of the local armory boards incident to the management and care of the armories are payable from the local armory board funds.**

**Sec. 7. (a) A local armory board may retain all rental, income, earnings, and any and all other receipts accrued through its operation of the local armory.**

**(b) The local armory board shall keep a full and complete record of funds the board receives and disburses. The report is subject to audit and submitted to the adjutant general not later than July 1 of each year and at other times as the adjutant general requires.**

**(c) A local armory board, subject to approval of the state armory board, may expend revenue received for the improvement, including street improvement, alterations, repair, and maintenance of the armory and facilities under its control. The local armory board may expend the funds for the benefit of state military organizations assigned to the local armory. If the funds are not needed for the operation, repair, and maintenance of the armory, or if a military organization is not assigned to the armory, the state armory board may order the funds turned over to the state armory board. The transferred funds may be used for the benefit of other armories of the state or of the national guard of the state or expended as a whole.**

**Chapter 5. Military Department of Indiana Ceremonial Unit**

**Sec. 1. The adjutant general may organize and maintain a military department of Indiana ceremonial unit. The unit shall be operated for the following purposes:**

**(1) Rendering appropriate military honors at state functions and at funeral services for those who have served in the military forces of the United States or the state of Indiana.**

**(2) Preserving the history of the Indiana military through the demonstration of close order marching, drill, and ceremonies.**

**Sec. 2. The membership of the ceremonial unit must be composed of officers, commissioned or warranted, and other members of the Indiana national guard who volunteer for service in the ceremonial unit and are appointed by the adjutant general or the adjutant general's designee.**

**Sec. 3. The members of the ceremonial unit shall perform the duties imposed upon them by this chapter in a volunteer status. However, the state armory board shall pay the actual expenses of the members incident to the performance of their duties from**

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**donations made to the board for the management and maintenance of the ceremonial unit.**

**Sec. 4. The state armory board may receive gifts of money or property from individuals, associations, institutions, or organizations to carry out the purposes of the ceremonial unit.**

**Chapter 6. Organization and Personnel**

**Sec. 1. Under Article 12, Section 1 of the Constitution of the State of Indiana, the militia consists of all able-bodied males who are:**

**(1) at least eighteen (18) years of age; and**

**(2) less than forty-six (46) years of age;**

**except those persons who are exempted by the laws of the United States or of Indiana.**

**Sec. 2. The militia shall be divided into two (2) classes, the sedentary militia and the national guard, as follows:**

**(1) The sedentary militia consists of all persons subject to bear arms under the Constitution of the State of Indiana who do not belong to the national guard.**

**(2) The national guard consists of those able-bodied citizens between the proper ages as established by this article who may be enrolled, organized, and mustered into the service of the state as provided in this article. The organized militia of the state constitutes and shall be known as the Indiana national guard.**

**Sec. 3. (a) The Indiana national guard consists of those units:**

**(1) specified by:**

**(A) the Secretary of the Army; and**

**(B) the Secretary of the Air Force; and**

**(2) approved by the governor.**

**(b) The composition of authorized units shall be the same as those prescribed for the regular army and the regular air force. The forces of the Indiana national guard shall be fully armed, uniformed, organized, and equipped in accordance with the provisions of the national military establishment regulations governing the regular army and regular air force.**

**Sec. 4. (a) Officers shall be commissioned by the governor. The governor is, ex officio, the commander in chief.**

**(b) A commission may not be issued to any officer of the Indiana national guard except to general officers until the officer has passed a satisfactory examination before a board demonstrating:**

**(1) the officer's knowledge of military affairs proportionate to the office to be held; and**

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**(2) the officer's general knowledge and fitness for the service.**

**(c) A person is not eligible for appointment:**

**(1) to the office of adjutant general;**

**(2) as a major general; or**

**(3) as a brigadier general;**

**unless the person has served at least ten (10) years as a commissioned officer of the national guard, army, or air force of the United States.**

**(d) A person is not eligible for appointment to any staff (other than the governor's honorary staff), corps, or department unless the person has the technical training requisite to qualify for the appointment, to be determined by an examining board appointed for the purpose.**

**Sec. 5. (a) A person may not be commissioned as an officer of the Indiana national guard unless the person:**

**(1) is temperate and of good moral character; and**

**(2) has successfully passed tests as to physical, mental, and professional fitness as may be prescribed by the laws and regulations applicable to the federally recognized national guard.**

**(b) In the selection and appointment of commissioned officers, preference shall be given to:**

**(1) a person with prior active military service;**

**(2) an enlisted person;**

**(3) a member of the air national guard; and**

**(4) a graduate of a school teaching military science.**

**Sec. 6. (a) At any time, the moral character, capacity, and general fitness for the service of any Indiana national guard officer may be determined by an efficiency board of three (3) commissioned officers, senior in rank to the officer whose fitness for service is under investigation.**

**(b) The governor may convene the efficiency board. If the findings of the board are:**

**(1) unfavorable to the officer; and**

**(2) approved by the governor;**

**the officer shall be discharged.**

**(c) The commission of an officer in the Indiana national guard may be vacated:**

**(1) upon the officer's resignation;**

**(2) upon the officer's absence without leave for three (3) months;**

**(3) upon the recommendation of an efficiency board; or**

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**(4) under a sentence of a court-martial.**

**However, an officer who has not returned or accounted for all the public property or accounted for funds for which the officer is responsible may not receive an honorable discharge or separation.**

**(d) Officers rendered surplus by the disbandment of their organization, or other causes, shall be separated from the Indiana national guard or placed in the inactive national guard at the discretion of the governor.**

**Sec. 7. A commissioned officer of the Indiana national guard, before entering upon the duties of the officer's office, shall take and subscribe to the following oath, or other oath as may be required by national guard regulations:**

**"I, _____, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of Indiana against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the President of the United States and the governor of the state of Indiana, that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of _____, in the national guard of the state of Indiana upon which I am about to enter, so help me God.".**

**Sec. 8. (a) The period of enlistment in the Indiana national guard is for the time prescribed by national guard regulations. The qualifications for enlistment must be the same as those prescribed by regulations for admission to the regular army or regular air force or national guard regulations. However, the privilege of continuing the active service during the whole of an enlistment period and of reenlisting in the service may not be denied except as otherwise provided.**

**(b) An enlisted person of the Indiana national guard shall sign an enlistment contract and take and subscribe to the oath required by national guard regulations.**

**(c) A federally recognized officer of the Indiana national guard may administer the enlistment oath.**

**(d) The adjutant general may authorize officers of the services on duty at armed forces entrance stations to administer the oath of enlistment to an applicant presented to them by an authorized representative of the Indiana national guard for enlistment in the Indiana national guard. The state adjutant general's authorization must be in writing.**

**Sec. 9. An enlisted person who is discharged from service in the**

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**Indiana national guard shall receive a discharge in writing in the form and with the classification prescribed by national guard regulations. In time of peace, a discharge may be given before the expiration of an enlistment term in the following cases:**

**(1) By sentence of a general court-martial.**

**(2) By direction of the governor on account of disability.**

**(3) On account of sentence of imprisonment by a civil court, whether suspended or not.**

**(4) On account of a bona fide permanent change of residence to another state.**

**(5) For the purpose of enlisting in the United States Army, Air Force, Navy, or Marine Corps.**

**(6) For other causes prescribed by national guard regulations or the commander in chief.**

**However, an enlisted person who has not returned or accounted for all of the public property for which the enlisted person is responsible, may not receive an honorable discharge.**

**Sec. 10. All matters relating to:**

**(1) organization, commissioning, and separation of officers;**

**(2) enlisting and discharge of enlisted persons; and**

**(3) discipline and government of the Indiana national guard;**

**that are not otherwise provided in this article shall be decided by the uniform code of military justice governing the armed forces of the United States, the regulations, customs, and usage of the armed forces of the United States, or national guard regulations.**

**Sec. 11. (a) The inactive national guard of Indiana consists of those federally recognized officers and persons placed in the inactive national guard under the provisions of national guard regulations.**

**(b) The administration of the inactive national guard shall be in accordance with applicable national guard regulations.**

**Sec. 12. (a) A commissioned officer:**

**(1) who serves in the Indiana national guard for at least five (5) years; or**

**(2) who becomes permanently disabled from performing the officer's duties, irrespective of length of service;**

**may, upon honorable retirement from the service, whether by resignation or otherwise, upon application to the adjutant general, be carried upon a roll to be established and maintained in the office of the adjutant general. The roll shall be designated the Indiana national guard retired list.**

**(b) The commissioned officer may wear, on occasion of**

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**ceremony, the uniform of the highest rank held by the officer.**

**(c) An officer carried on the Indiana national guard retired list, if qualified, is eligible for detail or appointment on the general staff or the staff of any commander when not physically disqualified for military duty. However, if an officer carried on the Indiana national guard retired list is appointed to a staff position as described in this section, the officer shall be recommissioned in the rank to which the officer has been appointed. The officer shall hold this rank during the time of the staff appointment unless the officer is promoted to a higher rank.**

**(d) If the officer retires for a second time from active service, the officer shall be entered on the Indiana national guard retired list with the officer's highest rank.**

**(e) An officer whose name appears on the national guard retired list is not entitled to receive any military pay or emolument from the state during the time the officer remains on the national guard retired list unless the officer is specifically assigned to duty on orders from the governor. If the officer is assigned to duty on orders from the governor, the officer is entitled only to the military pay and allowance provided by law for officers of the rank to which appointed.**

**Chapter 7. Training and Active Duty of National Guard; Benefits of Members**

**Sec. 1. As used in section 6 of this chapter, "employer" refers to an employer:**

**(1) other than the state or a county, township, municipality, or school corporation in Indiana; and**

**(2) that employs any employee other than an employee in a temporary position.**

**Sec. 2. As used in section 5 of this chapter, "member" refers to the following:**

**(1) A member of the Indiana national guard.**

**(2) A member of a reserve component.**

**(3) A member of the retired personnel of the naval, air, or ground forces of the United States.**

**Sec. 3. (a) Each detachment and unit in the national guard shall assemble for drill and instruction, including indoor target practice, in accordance with national guard regulations.**

**(b) In addition, each detachment and unit shall participate in encampments, maneuvers, or other exercises, including outdoor target practice, in accordance with national guard regulations, unless the unit or detachment is excused from participation by the**

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**governor.**

**(c) A commissioned officer and enlisted person or member of the Indiana air national guard shall be present and perform all the duties required of the officer, person, or member at each assembly for drill and instruction, encampment, maneuvers, or other exercises, unless regularly excused by competent authority.**

**Sec. 4. An employer who knowingly or intentionally refuses to allow a member of the Indiana national guard to attend any assembly at which the member has a duty to perform under this chapter commits a Class B misdemeanor.**

**Sec. 5. (a) This section applies to all officers and employees of the state or any county, township, municipality, or school corporation in Indiana who are members.**

**(b) A member is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to regular vacation period without loss of time or pay for the time that the member is:**

**(1) on training duties of the state under the order of the governor as commander in chief; or**

**(2) a member of any reserve component under the order of the reserve component authority;**

**for any consecutive or nonconsecutive period that does not exceed a total of fifteen (15) days in any calendar year. The entitlement to a leave of absence without loss of time or pay provided in this subsection is not at the discretion of the member's employer.**

**(c) A member is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to the member's regular vacation period for the total number of days that the member is on state active duty under section 7 of this chapter. A leave of absence provided under this subsection may be with or without loss of time or pay at the discretion of the member's employer.**

**Sec. 6. A member of the Indiana national guard is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to the member's regular vacation period for the total number of days that the member is on state active duty under section 7 of this chapter. The leave of absence may be with or without loss of time or pay at the discretion of the member's employer.**

**Sec. 7. (a) The governor shall order on state duty all or part of the national guard in the following cases:**

**(1) War.**

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**(2) Invasion.**
**(3) Insurrection.**
**(4) Public disaster.**
**(5) Breach of the peace or imminent danger of breach of the peace.**
**(6) Forcible obstruction of the execution of the laws, or reasonable belief that the execution of the laws will be obstructed.**
**(7) At any other time the governor considers necessary.**

**(b) A member of the Indiana national guard who is ordered out on duty may not be held civilly liable for any act done by the person in the discharge of the person's military duty. The member may not be subject to criminal prosecution if an alleged criminal act occurred while the member was carrying out the orders of a superior officer that the member reasonably believed to be legal orders under all of the attendant facts and circumstances.**

**(c) If the President of the United States calls, orders, or requisitions troops, the governor shall first order into the service of the United States the organization and arms of the service specified in the president's requisition.**

**(d) If a civil suit or proceeding is commenced in any court by any person against any member of the Indiana national guard acting under the authority of an order described in subsection (b), the attorney general shall defend the member. If the action or proceeding is criminal, the governor shall designate counsel to represent the accused and the state will be financially responsible for the expense of the defense of any civil or criminal action incurred. The expenses for the defense shall be paid by the adjutant general out of appropriated funds.**

**Sec. 8. On days of military duty, the Indiana national guard, called out by proper authority and performing military duty, is considered to be under military discipline. An officer or enlisted person is not subject to arrest on any civil process during this time.**

**Sec. 9. (a) If:**

**(1) insurrection, rebellion, invasion, tumult, riot, resistance to law or process, breach of the peace, or public disaster, occurs in the vicinity of a station of the Indiana national guard;**
**(2) the exigencies of a situation make it impossible for the senior commanding officer of the Indiana national guard station to communicate with the governor or the adjutant general; and**
**(3) the sheriff of the county involved or an officer acting on**

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**behalf of the sheriff provides the senior commanding officer of the Indiana national guard station with a written request signed by the sheriff of the county involved or officer stating the facts and the nature of the service desired;**

**the senior commanding officer may order out the Indiana national guard units at that station and cause them to perform whatever duty is required by the circumstances.**

**(b) A commanding officer who has called out Indiana national guard units as described in subsection (a) shall immediately report what that officer has done and all the circumstances of the case to the governor. The actions performed shall be considered to have been taken by order of the governor.**

**Sec. 10. An officer whose command is called out under section 9 of this chapter and who is reporting to any civil officer may require the civil officer to make the order in writing and prescribe the outline of the duties required of the officer and the officer's command. The officer may decline to obey the orders until the orders are put in writing. Although the commanding officer must obey all lawful written orders of the civil officer, the military officer may use the officer's discretion as to the manner of carrying out the orders if the officer complies with their spirit.**

**Sec. 11. (a) Except as provided in subsection (b), before using any military force to disperse an unlawful assembly (as defined in IC 35-45-1-1):**

**(1) the civil officer calling out the military force or a law enforcement officer; or**

**(2) if a civil officer or law enforcement officer is not present, the officer in command of the troops or the officer's designee;**

**shall command the persons comprising the unlawful assembly to disperse and retire peaceably to their homes or businesses. A particular form of words is not required in ordering the dispersion of any unlawful assembly.**

**(b) A person is not required to order an unlawful assembly to disperse if:**

**(1) giving the order to disperse would put the person in imminent danger of loss of life or great bodily harm; or**

**(2) the unlawful assembly is engaged in the commission of any felony or is causing violence to a person or property.**

**Sec. 12. (a) If a person taking part in an unlawful assembly described in this chapter refuses to disperse after having been ordered to disperse in accordance with this chapter or if a command to disperse is not required under this chapter and a civil**

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**officer to whom military force is ordered to report, or if a civil officer is not present, then the military officer (or if the command is acting under the direct order of the governor, then the officer within the limits provided in the officer's instructions) shall:**

**(1) arrest persons taking part in the unlawful assembly; or**

**(2) disperse the unlawful assembly.**

**(b) If, in arresting a person or dispersing an unlawful assembly:**

**(1) a person is killed, wounded, or otherwise injured; or**

**(2) property is injured or destroyed;**

**by the civil officer or officer or member of the Indiana national guard, or other persons lawfully aiding them, the officer, member, or person shall be held blameless.**

**Sec. 13. If a part of the Indiana national guard or a person lawfully aiding the Indiana national guard in the performance of its duty as described in this chapter is attacked or in imminent danger of attack, the commanding officer:**

**(1) is not required to await orders from a civil authority; and**

**(2) may quell the attack, disperse the attacking party, and take any other necessary step for the safety of the officer's command.**

**Sec. 14. (a) Except as provided in subsection (b), any part of the Indiana national guard parading or performing a lawful duty has the right-of-way in any street or highway through which the Indiana national guard passes.**

**(b) The Indiana national guard may not interfere with the following:**

**(1) The carriage of United States mail.**

**(2) The operations of any fire engine or fire department.**

**(3) A police vehicle.**

**(4) Any other emergency vehicle.**

**Sec. 15. (a) If an unlawful assembly has occurred or is so imminent that the Indiana national guard has been called out under this chapter, the civil officer under whose orders the Indiana national guard is acting or the commanding officer of the Indiana national guard, if it is advisable in subduing or preventing the unlawful assembly, may:**

**(1) prohibit a person from occupying or making use of a street or place where the Indiana national guard is located; and**

**(2) otherwise regulate the passage and occupancy of streets and places.**

**(b) A person who knowingly or intentionally enters a street or remains on a street after being informed that the Indiana national**

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**guard has prohibited this conduct commits a Class B misdemeanor.**

**(c) The officer in command of the Indiana national guard may immediately arrest or order the arrest of a person who violates subsection (b).**

**(d) If the officer in command of the Indiana national guard has arrested a person in accordance with this section, the officer shall deliver the person to a civil magistrate.**

**Sec. 16. (a) A muster or an assembly for instruction, review, or parade may not be held or called in any county on any day during which a general election or special election is held in the county, except in case of or imminent danger of riot, invasion, insurrection, or public disaster.**

**(b) An officer who orders a muster or an assembly on an election day shall forfeit an amount as a court-martial adjudges.**

**Sec. 17. An officer or enlisted person in active service of the state shall be paid the greater of:**

**(1) the sum equivalent to the pay and allowances received by officers and enlisted men of the same rank or grade in the service of the armed forces of the United States; or**

**(2) the sum per day equal to twelve (12) times the hourly federal minimum wage in effect at the time of active service.**

**However, with the approval of the budget committee, the adjutant general may adjust the pay of an officer or enlisted person to meet the pay and allowance adjustments of officers and enlisted persons of the same rank or grade for service in the armed forces of the United States.**

**Sec. 18. (a) A member of the Indiana national guard who:**

**(1) when on duty or assembled for duty, in case of riot, tumult, breach of peace, insurrection, invasion, public disaster or whenever ordered by the governor, the commanding general of the national guard, or called to the aid of civil authorities, is injured, is disabled, or contracts a disease because of the member's duty or assembly; or**

**(2) without fault or neglect on that member's part, is wounded or disabled while performing any lawfully ordered duty that temporarily incapacitates the member from pursuing the member's usual business or occupation;**

**shall, during the period of incapacity, receive the pay to which the member was entitled while on or assembled for duty, plus any actual necessary expenses for care and medical attention.**

**(b) If a claim is made under this section, the adjutant general may cause examinations of the claimant to be made from time to**

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**time by a medical officer designated for that purpose by the adjutant general. The adjutant general may direct the removal of a claimant to and treatment in a hospital designated by the adjutant general. If the claimant refuses:**

**(1) to allow an examination; or**

**(2) to go to a designated hospital or to otherwise follow the advice or treatment prescribed;**

**the claimant forfeits and is barred from all right to any claim or allowance under this section.**

**(c) Under this chapter:**

**(1) a disability may not be considered temporary if the disability continues for more than one (1) year from the date of receiving the injury or of incurring or contracting the disease or disability; and**

**(2) pay and expenses for care and medical attendance for more than one (1) year is not allowed.**

**(d) The adjutant general may appoint a medical examiner or a board of three (3) officers, at least one (1) being a medical officer, to inquire into the merits of any claim arising under this section. However, the adjutant general may determine any claim without appointing a medical examiner and fix the amount to be allowed under this section. A medical examiner or board appointed under this section has the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers and punish their failures to do so as is possessed by a general court-martial. The findings of the medical examiner or board are subject to the approval of the adjutant general, who may return the proceedings of the medical examiner or board for revision and for taking further testimony. The amount found due a member by the medical examiner or board and approved by the adjutant general of the state shall be paid by the state in the same manner as other military accounts are paid.**

**Sec. 19. (a) A member of the Indiana national guard who is wounded or disabled or was disabled in the service of the state including service related to:**

**(1) a riot;**

**(2) a tumult;**

**(3) a breach of the peace;**

**(4) a resistance to process;**

**(5) an invasion;**

**(6) a public disaster;**

**(7) the aid of civil authority; or**

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**(8) a lawfully ordered parade, drill, encampment, or inspection;**

**within ten (10) years preceding the member's application for a pension under this chapter shall, upon proof of the disability, be placed on the roll of invalid pensioners of the state and shall receive out of money in the state treasury not otherwise appropriated, upon the audit of the adjutant general and approval of the governor, the same pension or reward that a person under similar circumstances would receive from the United States. In case of a wound, an injury, or a disease that results in death, the surviving spouse, dependent children, or dependent parent of the member of the Indiana national guard shall receive the pension and reward dating from the time of receiving the injuries on account of which the pension or reward is allowed. An officer or enlisted person is not entitled while in active service to apply for or receive a pension.**

**(b) If a member of the Indiana national guard dies in the active service of the state, the member's reasonable funeral expenses, not exceeding four thousand dollars ($4,000), shall be paid by the state in the manner as the governor directs.**

**(c) This section does not make applicable any provision of the national service life insurance law of the United States, and the pension or reward granted under this section shall be that provided for by the pension laws of the United States in substance, without regard to form.**

**Sec. 20. (a) Before the name of a person is placed upon the pension roll under this chapter, proof must be made under regulations as the adjutant general may prescribe that the applicant is entitled to a pension.**

**(b) The adjutant general, with the approval of the governor, shall strike from the pension roll the name of a person if it appears by satisfactory proof that the person was placed on the pension roll through a false or fraudulent representation.**

**(c) The adjutant general, with the approval of the governor, may increase, reduce, or withdraw any pension according to the right, justice, and practice in the United States Department of Veterans Affairs pension office.**

**Sec. 21. (a) The adjutant general may appoint a pension examiner who shall inquire into the merits of any claim for pay and care and pension, whether pending or adjudicated. The pension examiner may administer oaths, orally examine witnesses, issue subpoenas, and take affidavits and depositions in the course of an**

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**examination.**

**(b) The adjutant general shall appoint examining boards consisting of not more than three (3) medical officers of the Indiana national guard, who shall, under the adjutant general's direction, make an examination of a claimant as directed by the adjutant general. The examining board shall certify the result of its examination in the form prescribed by the adjutant general.**

**(c) A person who is adversely affected by the report of one (1) medical officer is entitled, upon request, to an examination before a board consisting of three (3) medical officers. The adjutant general, with the approval of the governor and with the consent of the applicant, may commute any pension by payment of a lump sum to be accepted by the applicant in full satisfaction of all claims.**

**Sec. 22. If a member of the Indiana national guard or a member of a reserve component of the armed forces of the United States:**

**(1) is a noncustodial parent (as defined in IC 31-9-2-83);**

**(2) misses visitation as provided in an order issued under IC 31-14-14 or IC 31-17-4 due to participating in an activity required under this chapter; and**

**(3) notifies the custodial parent at least seven (7) days before the member misses the anticipated visitation described in subdivision (2), unless the member is unable to provide notice due to a government emergency;**

**the member shall be allowed to make up the lost visitation at the member's earliest convenience but not later than one (1) month after the member misses the visitation under this section, if exercising the lost visitation does not conflict with the child's school schedule.**

**Chapter 8. Guard Reserve**

**Sec. 1. (a) To supplement the Indiana national guard, the governor may organize and maintain within Indiana military forces the governor considers necessary to defend Indiana if any part of the Indiana national guard is in active federal service.**

**(b) The Indiana guard reserve shall be composed of officers, commissioned or assigned, and able bodied citizens who volunteer for service, supplemented, if necessary, by members of the militia enrolled by draft or otherwise as provided by law.**

**(c) These forces:**

**(1) are additional to and distinct from the Indiana national guard; and**

**(2) shall be known as the Indiana guard reserve.**

**The members of the Indiana guard reserve may be uniformed.**

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**Sec. 2. (a) The governor may adopt rules and regulations not inconsistent with this chapter governing the enlistment, organization, administration, equipment, maintenance, training, and discipline of members of the Indiana guard reserve. However, the rules and regulations must conform to applicable law governing and pertaining to the Indiana national guard and the rules and regulations adopted under those laws and under regulations as the Secretary of Defense of the United States may prescribe for the organization, standard of training, instruction, and discipline.**

**(b) The adjutant general is designated as the commanding officer of the Indiana guard reserve. The administration of the Indiana guard reserve shall be in the state military department.**

**(c) The governor may disband the Indiana guard reserve at any time the governor considers necessary and safe.**

**Sec. 3. The adjutant general shall determine and pay for administration, operation, training, and all expenses incidental to administration, operation, and training that are incurred in carrying out this chapter.**

**Sec. 4. (a) For the use of members of the Indiana guard reserve, the governor may requisition from the secretary of defense arms, ammunition, clothing, and equipment that the secretary of defense may issue.**

**(b) The governor shall make available the facilities of state armories and their equipment, and other state premises and property as may be available.**

**(c) School authorities may allow the use of school buildings and school grounds by the Indiana guard reserve, on the terms and conditions set out by the adjutant general.**

**Sec. 5. The Indiana guard reserve may not be required to serve outside Indiana except as follows:**

**(1) Upon the request of the governor of another state, the governor of Indiana may order any part or all the Indiana guard reserve to assist the military or police forces of another state who are engaged in defending the other state. The governor may recall these forces.**

**(2) An organization, a unit or a detachment of the Indiana guard reserve, upon order of the officer in immediate command of the guard reserve, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of Indiana into another state until the insurrectionists, saboteurs, enemies, or enemy forces are**

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**apprehended or captured by the organization, unit, or detachment or until the military or police forces of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the persons. The pursuit is not authorized unless the other state gives authority by law for the pursuit by forces of Indiana. Any persons who are apprehended or captured in another state by an organization, unit, or detachment of the forces of Indiana shall without unnecessary delay be surrendered to the military or police forces of the state in which they are taken or to the United States. The surrender of insurrectionists or saboteurs to the military or police forces of the other state does not constitute a waiver by Indiana of its right to extradite or prosecute the insurrectionists or saboteurs for any crime committed in Indiana.**

**Sec. 6. (a) Military forces, organizations, units, or detachments of another state that are in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces may continue the pursuit into Indiana until the military or police forces of Indiana or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture the insurrectionists, saboteurs, enemies, or enemy forces.**

**(b) Military forces, organizations, units, or detachments of another state may arrest or capture insurrectionists, saboteurs, enemies, or enemy forces within Indiana while in fresh pursuit. A person who is captured or arrested by the military forces of the other state while in Indiana shall without unnecessary delay be surrendered to the military or police forces of Indiana to be dealt with according to law.**

**(c) This section may not be construed to make unlawful any arrest in Indiana that would otherwise be lawful. This section does not repeal any provision of IC 35-33-3.**

**Sec. 7. This chapter may not be construed to authorize the Indiana guard reserve or any part of the Indiana guard reserve to be called, ordered, or in any manner drafted into the military services of the United States. However, a person may not, by reason of the person's enlistment or commission in the Indiana guard reserve, be exempted from United States military service required under any law of the United States.**

**Sec. 8. A civil organization, a society, a club, a post, an order, a fraternity, an association, a brotherhood, a body, a union, a league, or any other combination of persons or civil group may not be**

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**enlisted in the Indiana guard reserve as an organization or unit.**

**Sec. 9. A person may not be commissioned or enlisted in the Indiana guard reserve who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this state, of another state, or of the United States.**

**Sec. 10. The oath to be taken by officers commissioned in the Indiana guard reserve shall be substantially in the form prescribed for officers of the national guard, substituting the words "Indiana guard reserve" where necessary.**

**Sec. 11. A person may not be enlisted for more than three (3) years. However, an enlistment may be renewed. The oath to be taken upon enlistment in the Indiana guard reserve shall be substantially in the form prescribed for enlisted persons of the national guard, substituting the words "Indiana guard reserve" where necessary.**

**Sec. 12. (a) If the Indiana guard reserve or any part of the Indiana guard reserve is ordered out for active service or armory drill:**

**(1) the uniform code of military justice governing the Indiana national guard relating to courts-martial, their jurisdiction, and the limits of punishment; and**

**(2) the rules and regulations prescribed under the uniform code of military justice;**

**are in full force and effect as provided for in IC 10-16-9-1.**

**(b) An officer or enlisted person of the Indiana guard reserve may not be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where ordered to attend for military duty. An officer and enlisted person of the Indiana guard reserve is, during the service in the Indiana guard reserve, exempt from service upon any posse comitatus.**

**Sec. 13. The adjutant general of Indiana, with the approval of the governor, may procure a policy of group insurance for and covering members of the military forces of Indiana covering and insuring against any injury received or had by members from any accident while on drill or active duty.**

**Sec. 14. (a) The members of the Indiana guard reserve provided for in this chapter shall receive pay quarterly for time spent in authorized drill and instruction to be paid from any appropriation enacted for that purpose.**

**(b) The adjutant general shall:**

**(1) cause quarterly payrolls to be prepared and submitted;**

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**and**

**(2) provide by regulations for the processing of payrolls.**

**(c) This section applies only to drill and instruction pay and does not apply to payroll for active duty.**

**Sec. 15. (a) Adequate provisions shall be made to allow the enlistment and induction of able bodied citizens of each and all racial groups in Indiana into all branches and departments of the Indiana guard reserve organized to defend and enforce the laws of Indiana. To that end, all racial groups in Indiana are entitled to that representation in each branch or department of the Indiana guard reserve in approximate proportion to the group or groups to the population of Indiana. However, this section or any other statute may not be construed so as to allow racial segregation.**

**(b) Race or color may not be a cause for excluding the application to serve or the service of any person in any branch of service provided for in this chapter.**

**Chapter 9. Court-Martial Procedures**

**Sec. 1. (a) Except as otherwise provided, if the Indiana national guard is in active service on behalf of the state:**

**(1) in case of:**

**(A) public disaster;**

**(B) riot;**

**(C) tumult;**

**(D) breach of the peace; or**

**(E) resistance of process;**

**(2) whenever called upon in aid of civil authorities;**

**(3) under martial law;**

**(4) at encampments or any scheduled training periods or drills for which a member is entitled to pay, within or outside Indiana; or**

**(5) upon any other duty requiring the entire time of the Indiana national guard, or any part of the Indiana national guard;**

**the uniform code of military justice governing the armed forces of the United States with any subsequent change approved by the adjutant general as applicable to Indiana military law, is in force and regarded as a part of this article for the Indiana national guard until the Indiana national guard is relieved from duty.**

**(b) Confinement in a penitentiary under this article must be in a penitentiary in Indiana. An offense committed by the member of the national guard while in active service may be tried and punished by a court-martial lawfully appointed.**

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**(c) Except as provided in subsections (d) and (e), if the accused member of the Indiana national guard is found guilty, the convicted member shall be punished according to the uniform code of military justice and the rules and regulations governing the United States armed forces but within the limits prescribed by federal law for court-martial in the national guard.**

**(d) If the offense charged is also an offense by the civil law of Indiana, the officer whose duty it is to approve the charge may order the person charged to be turned over to the civil authorities for trial.**

**(e) Punishment under the rules and articles of the uniform code of military justice that extend to the taking of life may not be inflicted, except in time of actual war, invasion, or insurrection, declared by proclamation of the governor to exist, or to be threatened or anticipated.**

**(f) If a:**

**(1) person resisting the laws of the state or unlawfully or riotously assembled for that purpose; or**

**(2) bystander or other person in the vicinity;**

**is killed or injured by state forces called into active service under this article and acting in obedience to the orders of its commanding officer, the officer or member of the Indiana national guard is not subject to indictment, trial, or any civil process other than by a court-martial, to be convened for that purpose by the governor.**

**(g) The finding of the court-martial, when submitted to and approved by the governor, in accordance with the uniform code of military justice, is final and conclusive on all persons.**

**(h) If an indictment is found or information filed against the person, a writ or other process may not be issued by the clerk of the court where the indictment was returned or information filed against the defendant. The clerk shall immediately transmit to the governor a certified copy, and, upon the receipt, the governor shall cause to be convened a court-martial to determine the truth of the charges and the punishment, if any, to be inflicted.**

**Sec. 2. (a) The military courts of Indiana shall be organized as follows:**

**(1) General court-martial.**

**(2) Special court-martial.**

**(3) Summary court-martial.**

**(b) The courts shall be constituted, have cognizance of the same subject, and possess like powers, except as to punishments, as similar courts provided for by the laws and regulations governing**

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**the armed forces of the United States. The proceedings of the courts-martial must follow the forms and modes of procedure prescribed for the courts governing the armed forces of the United States and as approved by the adjutant general.**

**(c) A general court-martial may be convened by orders of the governor and may try a person subject to military law. The general court-martial may impose fines of not more than two hundred dollars ($200) and sentence a person to:**

**(1) a forfeit of pay and allowances;**

**(2) a reprimand;**

**(3) dismissal or dishonorable discharge from the services;**

**(4) reduction of noncommissioned officers to the ranks; or**

**(5) any combination of two (2) or more of the punishments described in subdivisions (1) through (4).**

**(d) The adjutant general or the commanding officer of each camp or other place, division, regiment, separate battalion, air squadron, group, or other detached command may appoint a special court-martial for that command. However, a special court-martial may be appointed by superior authority if the superior authority considers it desirable. The special court-martial:**

**(1) may try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the military laws of the United States or state; and**

**(2) has the same powers of punishment as does a general court-martial, except that fines imposed by the courts may not exceed one hundred dollars ($100).**

**(e) The adjutant general or the commanding officer of each camp or other place, division, regiment, battalion, company, air squadron, group, or other detachment of the national guard may appoint for the place or command a summary court to consist of one (1) officer, who may administer oaths and try the enlisted persons of the place or command for breaches of discipline and violations of laws when governing the organizations. The court, when satisfied of the guilt of the soldier, may:**

**(1) impose fines of not more than twenty-five dollars ($25) for any offense;**

**(2) sentence noncommissioned officers to reduction in rank; and**

**(3) sentence to forfeiture of pay and allowances.**

**The proceedings of the court must be informal and the minutes**

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**must be the same as prescribed for summary courts of the armed forces of the United States.**

**(f) All courts-martial of the Indiana national guard, including summary courts, may sentence to confinement instead of imposing an authorized fine if the sentence of confinement does not exceed one (1) day for each one dollar ($1) of fine authorized.**

**(g) A sentence of dismissal from the service or dishonorable discharge imposed by a national guard court-martial may not be executed until approved by the governor.**

**(h) A conviction by court-martial that has been approved by the convening authority under this article may be appealed to a military court of appellate review. The military court of appellate review must consist of three (3) Indiana national guard judge advocates appointed to the military court of appellate review by the adjutant general.**

**(i) Presidents of courts-martial and summary courts officers may do the following:**

**(1) Issue warrants to arrest an accused person and to bring the person before the court for trial if the person has disobeyed an order in writing from the convening authority to appear before the court. A copy of the charge must be delivered to the accused with the order.**

**(2) Issue subpoenas duces tecum.**

**(3) Enforce by attachment attendance of witnesses and the production of books and papers.**

**(4) Sentence for a refusal to be sworn or to answer as provided in action before civil courts.**

**(j) All processes of a court-martial, when it is impracticable to be executed by the military forces of the state, shall be:**

**(1) brought in the name of the state; and**

**(2) executed by the civil officers designated by the president of the court-martial or summary court officer issuing the process.**

**The designated civil officer shall execute all processes and return the processes to the officer who issued the processes. The civil officer shall be paid the fees and allowances provided for like processes in civil actions of the state. The fees shall be charged in case of conviction of the accused as a part of the penalty of the offense of which the accused may be convicted whether the punishment for the offense is imprisonment or a fine, or both. The payment of the costs in addition to the payment of the fine imposed shall be enforced by imprisonment until the payment is satisfied,**

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**at a rate of one dollar ($1) per day of the costs or fine, or both.**

**Sec. 3. (a) Fines may be collected in the following manner:**

**(1) By the retention of any pay or allowances due or to become due from the state or the United States.**

**(2) By commitment to a jail designated by the reviewing authority until the fine is paid or until one (1) day is served for each one dollar ($1) of the fine imposed.**

**(3) By payment to the county treasurer. The county treasurer shall immediately transmit the payment to the treasurer of state. The treasurer of state shall quarterly pay the sums to the armory board, and the sums are appropriated continuously for the purposes of IC 10-16-3-11. It is sufficient to record upon the payroll opposite the name of the person fined a notation of the sentence of the court-martial and the date of approval of the sentence, together with the name and rank of the reviewing authority.**

**(b) A sentence of imprisonment imposed by a court-martial during active service or at camps of instruction shall be carried out by confinement in a guardhouse, tent, or other places designated by the reviewing authority. A sentence of imprisonment imposed by court-martial upon persons not in active service or at camps of instruction shall be carried out by confinement in a jail to be designated by the reviewing authority.**

**Sec. 4. If a fine is assessed by a court-martial against a member of the Indiana national guard to whom pay is not due or about to become due, the member of the Indiana national guard fails or refuses to make payment to the treasurer of the state and the proceedings of the court have been approved by the reviewing authority, the reviewing authority in the case of a general or special court-martial, or the summary court officer in the case of a summary court-martial, shall issue a writ in a form approved by the adjutant general for the confinement of the member of the Indiana national guard until the:**

**(1) fine has been paid; or**

**(2) member has served one (1) day for each one dollar ($1) of fine imposed and costs of the action accrued.**

**Sec. 5. If a sentence of imprisonment is to be served in a place other than in a guardhouse or tent, the reviewing authority in the case of a general or special court-martial and the summary court officer in the case of a summary court-martial shall issue to the sheriff of the county where the confinement has been ordered by the reviewing authority an order of confinement in a form**

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**approved by the adjutant general.**

**Sec. 6. (a) The commanding officer of any detachment, company, or other unit or organization may impose disciplinary punishment upon any enlisted member of the officer's command.**

**(b) An officer exercising command normally exercised by a general officer may impose disciplinary punishment upon any warrant or commissioned officer of the exercising officer's command.**

**(c) A punishment imposed by authority of this section may include the following:**

**(1) Admonition.**

**(2) Reprimand.**

**(3) Withholding privileges for up to seven (7) twenty-four (24) hour duty days.**

**(4) Restriction to specific area limits for up to seven (7) twenty-four (24) hour duty days.**

**(5) Imposition of a fine of not more than two-thirds (2/3) of one (1) month's pay to which the member would have been entitled during the month of the offense.**

**(d) A commanding officer may also:**

**(1) order a member of the officer's command to be confined under correctional custody for not more than eight (8) days;**

**(2) reduce the member's rank to the next inferior grade; or**

**(3) order a member confined and reduce the member's rank as provided in subdivisions (1) and (2).**

**However, only the commanding officer who holds promotion authority over the member charged with an offense may prescribe the punishment of correctional custody, fine, or reduction in rank.**

**(e) Fines shall be collected as directed under section 3 of this chapter.**

**(f) Confinement shall be carried out in compliance with sections 5 and 11 of this chapter.**

**(g) This section may not be construed to be a waiver of the right to trial by court-martial.**

**(h) A sentence may not be executed until the right of appeal has been exhausted or waived as prescribed in the uniform code of military justice.**

**Sec. 7. (a) Officers, warrant officers, and enlisted persons of the Indiana national guard may be placed in arrest by their military superiors for violations of military offenses committed during periods of authorized military duty.**

**(b) If any member of the Indiana national guard fails or refuses**

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**to report to the member's appointed place of duty, the commanding officer may:**

**(1) arrest or cause to be arrested the member; and**

**(2) have the member brought before the commanding officer at the member's unit or organization headquarters.**

**(c) If military personnel are not available to make the arrest or if the commanding officer considers it advisable, the commanding officer may issue a warrant to any sheriff, constable, or other law enforcement officer authorized to serve warrants of arrest under civil law. The law enforcement officer shall serve the warrant in the same manner as other warrants of arrest and make return of the warrant to the commanding officer issuing the warrant.**

**Sec. 8. (a) The president or military judge of a general and a special court-martial and a summary court officer may each appoint by warrant and at any time remove one (1) or more marshals. A marshal shall do the following:**

**(1) If ordered by the president of a general or special court-martial or summary court officer, execute any process, mandate, or order issued by the president or court or officer.**

**(2) Perform all acts and duties authorized to be performed by any sheriff, marshal, or constable under this article.**

**(b) A commanding officer imposing disciplinary punishment under section 6 of this chapter may request the summary court officer having jurisdiction over the unit to appoint a marshal to carry out the process, mandate, or order issued by the commanding officer.**

**Sec. 9. An action on civil proceeding may not be presented against:**

**(1) any member of the armed forces of Indiana who prefers charges against any person subject to military discipline; or**

**(2) any member of a military court or officer or person acting under the court's authority or reviewing its proceedings on account of the:**

**(A) approval, imposition, or execution of any sentence;**

**(B) imposition or collection of a fine or penalty; or**

**(C) execution of any warrant, writ, execution, process or mandate of a military court.**

**Sec. 10. The jurisdiction of the courts and boards established by this chapter is presumed, and the burden of proof rests on any person seeking to oust the courts or boards of jurisdiction in any action or proceedings.**

**Sec. 11. (a) The reviewing authority shall designate:**

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**(1) the jail of any county; and**

**(2) when ordered out of the state for duty, an appropriate place of confinement;**

**as the place where any sentence of confinement by a military court shall be executed.**

**(b) With regard to punishment under section 6 of this chapter, confinement shall be at the county jail designated by the officer holding appellate jurisdiction over the case and having the advice of a staff judge advocate as to the legality of the proceedings. However, at the discretion of the officer holding appellate jurisdiction, short term confinement may be carried out in an acceptable municipal jail.**

**(c) Unless the commanding officer who ordered the sentence directs otherwise, a sentence of confinement or correctional custody shall be served on a consecutive day basis.**

**Sec. 12. (a) A person connected with the military service:**

**(1) shall treat a court-martial with respect; and**

**(2) in default of respectful consideration, may be proceeded against by arrest and trial.**

**(b) A person who is not connected with the military service shall behave with respect and decorum toward a court-martial.**

**(c) A person who engages in disorderly conduct in the presence of a court-martial commits a Class C infraction.**

**Sec. 13. The general principle and spirit of the military laws and regulations for the government of the armed forces of the United States, when not in conflict with the express provisions of this chapter or the Constitution of the State of Indiana, shall be the guide of commanding officers and courts-martial.**

**Sec. 14. A lack of form may not vitiate the proceedings of a court-martial.**

**Sec. 15. An officer may administer oaths when necessary under this article.**

**Chapter 10. Public Property and Military Equipment**

**Sec. 1. (a) The officer in permanent or temporary command of a station is responsible for the security of all public property of the command, whether in use or in store. Although for purposes of periodical accountability to proper authorities, the public property has been officially accepted and receipted for by any subordinate officers, the commanding officer is responsible and pecuniarily liable for the strict observance of the regulations in regard to its preservation, use, and issue. The officer shall take care that:**

**(1) all storehouses are properly guarded;**

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**(2) only reliable agents are employed; and**

**(3) only trustworthy enlisted persons are detailed for duty in storehouses or in connection with the property.**

**(b) If an officer, a soldier, or an airman responsible for state and federal property:**

**(1) resigns;**

**(2) is promoted;**

**(3) is dismissed; or**

**(4) is discharged;**

**the officer, soldier, or airman shall deliver all arms, accoutrements, or stores only to the officer appointed to receive the arms, accoutrements, or stores and take duplicate receipts for the arms, accoutrements, or stores and file a duplicate receipt with the adjutant general. In case of the death of an officer, a soldier, or an airman responsible for state and federal property, the next in command shall immediately take charge of the arms, accoutrements, or stores and deliver them to the person appointed to receive the arms, accoutrements, or stores. However, if the officer, soldier, or airman is commissioned in place of the deceased, the officer, soldier, or airman shall execute and file duplicate receipts for the arms, accoutrements, and stores with the adjutant general.**

**(c) An officer responsible for state and federal property shall be charged for any damage to or loss or destruction of the property unless the officer shows to the satisfaction of the adjutant general, by proper evidence, that the damage, loss, or destruction was caused by unavoidable causes and without fault or neglect on the officer's part.**

**(d) If an article of state or federal property is lost or damaged by the neglect or fault of an officer, a soldier, or an airman, the officer, soldier, or airman shall pay for the value of the property or the cost of repairs, in a sum to be determined by the proper authority, upon the demand of the adjutant general.**

**(e) The amount charged against an enlisted solider or airman on the muster and payrolls for loss of or damage or repairs to military property may not exceed the value of the article or cost of repairs. The charge may only be made:**

**(1) on conclusive proof; and**

**(2) with an inquiry if the soldier or airman demands it.**

**(f) The adjutant general may pay from the funds appropriated to the military department for operating expenses the expenses necessary for the apprehension and prosecution of any person**

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**absconding with property belonging to the state or United States if the person is not in Indiana.**

**Sec. 2. (a) If an officer, a soldier, or an airman or a former officer, soldier, or airman responsible for any national guard, state or federal equipment, property, or military stores has:**

**(1) failed to return the property or any part of the property on demand of proper authority;**

**(2) damaged beyond the injury resulting from the necessary use of the arms or other issues; or**

**(3) has caused a deficiency in the number or quantity of the state and federal arms, property, or military stores;**

**the amount of the unnecessary damages or losses shall be determined by a board of survey appointed in accordance with appropriate national guard regulations.**

**(b) The amounts due under subsection (a) shall be collected by law in the name of the state of Indiana and paid into the state military fund.**

**(c) The attorney general shall bring the suit in the name of the state of Indiana and cause the amounts collected to be paid into the state military fund.**

**Sec. 3. The uniforms, arms, and equipment of a member of the national guard, together with any military property of any detachment company, battery, battalion, regiment, division, air squadron, or group, are exempt from execution for debt.**

**Sec. 4. If property owned by the state for the use of the Indiana national guard is determined by the governor or the adjutant general to not be of value to the Indiana national guard, the governor or the adjutant general may enter in the records of the military department an entry to the effect that the property is not valuable to the Indiana national guard.**

**Sec. 5. (a) If an entry under section 4 of this chapter is made, the governor or adjutant general may order the property sold at public or private sale as in their judgment will be for the best interests of the state.**

**(b) Payment for a sale of property under subsection (a) shall be made in cash to the adjutant general who shall:**

**(1) enter of record the receipt of the money;**

**(2) turn the property over to the purchaser; and**

**(3) pay the money to the treasurer of the state.**

**The money becomes and remains a part of the military fund to be used for the benefit of the Indiana national guard.**

**Sec. 6. A loan company or pawnbroker that possesses a license**

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**issued by the state or by a municipal corporation shall make a report, in writing, to the adjutant general, on a form prescribed and furnished by the adjutant general, showing, by item and serial number, all property of the United States government:**

**(1) received as security for a loan or loans of money; or**

**(2) purchased or otherwise obtained without the advancement of a loan;**

**and which is marked with the words "Property of the United States Government" or is stamped as to indicate that it is the property of one (1) of the military branches of the United States government.**

**Sec. 7. A loan company or pawnbroker may not sell or otherwise dispose of any property described in section 6 of this chapter, unless the loan company or pawnbroker has obtained a written permit from the adjutant general authorizing the sale or disposition of the property and that states that the property:**

**(1) cannot be identified as being the property of the United States government or of any of its military branches; and**

**(2) may be lawfully sold or otherwise disposed of according to the laws of Indiana and the United States.**

**Sec. 8. (a) An officer shall report illegal disposition of property.**

**(b) All law enforcement officers and all commissioned and noncommissioned officers of the national guard shall seize immediately all military property:**

**(1) found in the possession of any person who is not the legal custodian or owner of the property; or**

**(2) from a person who may secrete, sell, dispose of, offer for sale, purchase, or retain the military property;**

**after a demand has been made upon the person or the person's legal representative for the return of the military property.**

**(c) A law enforcement officer, commissioned officer, or noncommissioned officer of the national guard shall report the officer's action to the adjutant general.**

**Sec. 9. (a) A bill or an account may not be made by an officer or enlisted person with a view of the bill or account being paid by the state unless the expenditure is expressly authorized by the laws of Indiana or the adjutant general.**

**(b) An account may not be paid unless it is accompanied by vouchers or receipts showing by whomever paid or are to be paid, to whom paid, date of service, authority for, and amount of the expenditure, and for what purpose the expenditure was made.**

**Sec. 10. A personal payment may not be made under this article to the accountable officer of an organization or unit who does not**

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**fully and satisfactorily account to the adjutant general for all money paid or property issued to the accountable officer under this article.**

**Sec. 11. (a) Federal property loaned to the state for use by the Indiana national guard or other purposes shall be issued and accounted for in the manner prescribed by national guard regulations or other pertinent federal directives.**

**(b) State property shall be issued and accounted for in the manner prescribed by the governor or state laws.**

**(c) All public property:**

**(1) shall be used in the manner and for the purposes intended in the public service; and**

**(2) may not be used by an individual for the individual's personal benefit, pleasure, or gain.**

**Chapter 11. Military Funds**

**Sec. 1. The general assembly may appropriate the sums necessary to constitute a contingency fund to be known as the governor's civil and military contingency fund.**

**Sec. 2. The governor's civil and military contingency fund:**

**(1) remains in the state treasury; and**

**(2) shall be drawn on the warrant of the governor:**

**(A) for the expenses as may accrue under this chapter; and**

**(B) to pay the expenses of all encampments ordered or approved by the governor, inspections, courts-martial, boards of inquiry, inspection, examination and survey, and pay of officers and soldiers on state active duty.**

**Sec. 3. The governor may, by general order:**

**(1) provide for the disbursement of the governor's civil and military contingency fund for the proper organization of the national guard and the promotion of its discipline, instruction and military efficiency;**

**(2) appoint boards of examination, inquiry, and survey; and**

**(3) provide for the collection of any fine, penalty, or forfeiture due from any officer or member of the Indiana national guard out of any payment to be made to the officer or member by the state.**

**Sec. 4. (a) The commanding officer of a company and regiment shall convene a council of administration at least two (2) times each year.**

**(b) A council of administration must consist of:**

**(1) three (3) officers next in rank to the commanding officer;**

**(2) if there are only two (2) officers next in rank, then the next**

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**two (2);**

**(3) if there is only one (1) officer next in rank, then the next one (1); or**

**(4) if there is not any other officer other than the commanding officer, then the commanding officer shall act alone.**

**Sec. 5. (a) The junior member of the council shall:**

**(1) record the proceedings of the council in a book; and**

**(2) submit the book to the commanding officer.**

**(b) If the commanding officer disapproves the proceedings and the council, after reconsideration, adheres to its decisions, a copy shall be sent by the commanding officer to the next higher commander. The decision of the next higher commander:**

**(1) is final; and**

**(2) shall be entered in the council book.**

**The decision and council book shall be published for the information and government of all concerned.**

**Sec. 6. (a) The proceedings of councils of administration shall be signed by the senior member of the council and recorded. The recorder of each meeting, after entering the whole proceedings, together with the final order, shall deposit the book with the commanding officer.**

**(b) The approval or disapproval of the officer ordering the council shall be signed by the officer.**

**Sec. 7. The council of administration shall:**

**(1) audit and settle the account of the organization for which the council is appointed; and**

**(2) pass specific resolves for all expenditures of the funds of the organization.**

**Sec. 8. (a) An officer or a member of the Indiana national guard may not receive any compensation for duty at drills, parades, or encampments unless personally present for the duty, whether excused or not. A substitute for the member may not receive compensation.**

**(b) Officers and members shall sign payrolls before the last day of services for duty performed. The signature of a soldier shall be made in the presence of the member's commanding officer. If the member signs by mark, the mark must be attested to by the officer.**

**(c) The payrolls described in subsection (b) shall be prepared and submitted according to the orders and regulations of the state military department.**

**Sec. 9. An officer of the Indiana national guard charged with the disbursement or safekeeping of public money or of any of the funds**

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**authorized to be established by this article who does not:**

**(1) render to the proper authorities a satisfactory account of the money; or**

**(2) pay over to a successor the money:**

**(A) in the officer's hands; or**

**(B) the officer failed satisfactorily to account for;**

**shall be proceeded against as is provided in cases of fines by court-martial. The proceedings of the council of administration shall be taken as evidence in the case.**

**Sec. 10. (a) The governor, as trustee, may receive from the Secretary of Defense of the United States the funds:**

**(1) designated as "Other Funds" in the custody of the Secretary of Defense;**

**(2) that were collected by certain Indiana national guard organizations for their own use and benefit; and**

**(3) that have not been disposed of because the Indiana national guard organizations for whose benefit the funds were collected have been broken up and have never been reconstituted.**

**(b) The governor, as trustee, may receive from any branch of the United States government any military funds that may be recovered from the United States government. The funds received shall be:**

**(1) paid into the state treasury; and**

**(2) kept as a separate and distinct fund; and**

**(3) distributed for the benefit of the Indiana national guard.**

**The funds are appropriated in the manner determined by the governor.**

**Chapter 12. Awards and Decorations**

**Sec. 1. The following awards and decorations are established to be bestowed upon the officers and enlisted persons of the armed forces of Indiana under the conditions and in the manner provided in this article:**

**(1) An Indiana Distinguished Service Cross shall be awarded to any commissioned officer or enlisted person of the militia, who:**

**(A) performs, at great personal danger and risk of life or limb in peace or war, any act of heroism designed to protect life or property; or**

**(B) in the face of a military or armed enemy of the United States government or of the state of Indiana, performs an act over and beyond the call of duty, which act, danger, or**

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**risk the officer or enlisted person could have failed to perform or incur without being subject to censure for neglect of duty.**

**(2) An Indiana Distinguished Service Medal shall be awarded to a commissioned officer or an enlisted person of the militia and other officers, enlisted persons, and civilians, who perform unusually distinguished or meritorious service, that:**

**(A) to a marked degree is reflected in the increased efficiency of the militia; or**

**(B) brings exceptional and great honor or credit to the Indiana armed forces and commands the attention and respect of the citizens of Indiana and of the military establishment throughout the United States.**

**(3) Long Service Medals shall be awarded to officers and enlisted persons for honest and faithful service in the federally recognized Indiana national guard for periods of:**

**(A) ten (10) years;**

**(B) fifteen (15) years;**

**(C) twenty (20) years;**

**(D) twenty-five (25) years; and**

**(E) for longer periods.**

**A symbol shall be worn on the ribbon of each medal, one (1) for each year in addition to the period for which the medal was issued, until the officer or enlisted person is entitled to a medal for the next period for which a different long service medal is issued.**

**(4) An Indiana national guard commendation medal shall be awarded to any commissioned officer or enlisted person of the militia and other officers, enlisted persons, and civilians, who have distinguished themselves by meritorious achievement or meritorious service. The required meritorious achievement or meritorious service while of lesser degree than that required for the award of the Indiana distinguished service medal must have been accomplished with distinction. The award may be made for acts of outstanding courage that do not meet the requirements for award of the Indiana distinguished service medal. It is particularly desirable that emphasis be placed on the award of this decoration to outstanding company grade officers, warrant officers, and enlisted personnel whose achievements and service meet the prescribed standards.**

**(5) An Indiana Emergency Service Ribbon shall be awarded to all currently assigned officers, warrant officers, and**

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**enlisted members of the Indiana national guard who have served on state active duty during a state emergency. For purposes of this subdivision, "state emergency" means any emergency for any period declared by the governor or the adjutant general. The Indiana emergency service ribbon shall be awarded to denote honorable state active military duty by members of the Indiana army and air national guard during state emergencies.**

**(6) Other medals for any war or campaign or mobilization for which a medal has not been awarded by the federal government may be:**

**(A) established by executive order of the governor; and**

**(B) awarded to members of any federally recognized military force of the state who participated in the military force.**

**For the purposes of this article, officers and enlisted persons of the regular army assigned to the armed forces of Indiana as instructors and assistant instructors shall be considered as officers and enlisted persons of the Indiana armed forces.**

**Sec. 2. The medals and decorations provided for in this chapter must be of a character and design that shall be decided upon and approved by a board of officers of the federally recognized Indiana national guard selected by the adjutant general by order of the governor. The board shall select proper and appropriate designs for medals and ribbons and symbols that reflect the history and traditions of Indiana.**

**Sec. 3. The governor, through the military department, shall publish general orders necessary to:**

**(1) carry out this chapter; and**

**(2) prepare the rules and procedure by which recommendations or applications shall be made for any of the awards and decorations established under this chapter and for the method and manner of approving the recommendations and applications and the making of awards.**

**Chapter 13. Naval Battalion**

**Sec. 1. In addition to the military forces authorized in Indiana, a naval or military school in Indiana that is receiving recognition from the United States Department of the Navy under 34 U.S.C. 312, approved June 29, 1906, may organize not more than four (4) companies of naval militia that constitute a battalion to be known as the naval battalion of the Indiana national guard.**

**Sec. 2. The naval battalion is under the command of the**

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**commandant of the school, who shall hold the ex officio rank of lieutenant colonel.**

**Sec. 3. The officers of each naval battalion consist of one (1) commander and a staff to consist of the following:**

**(1) One (1) executive officer, with the rank of lieutenant commander.**

**(2) One (1) navigating officer and four (4) watch officers with the rank of lieutenant.**

**(3) One (1) chief engineer, one (1) paymaster, and one (1) surgeon, each with the rank of lieutenant.**

**Sec. 4. Each company consists of the following:**

**(1) One (1) cadet lieutenant.**

**(2) One (1) cadet lieutenant (junior grade).**

**(3) One (1) cadet ensign.**

**(4) At least forty (40) and not more than one hundred (100) petty officers and enlisted persons.**

**Sec. 5. (a) The commissions of the battalion officers shall be issued by the governor upon the recommendation of the commandants and of the chairman of the board of trustees of the school.**

**(b) The commissions of cadet officers may be issued by the commandant. However, a cadet officer may not acquire any authority over militiamen other than a cadet of the school because of the issuance of the commission of cadet officer.**

**Sec. 6. The graduation and service of retired or honorably discharged United States naval officers and graduates of the United States Naval Academy may be accepted as evidence of fitness without further examination for appointment as officers of the naval battalion.**

**Sec. 7. The minimum age for the enlistment of cadets is fourteen (14) years of age and the minimum term of enlistment is one (1) year.**

**Sec. 8. When the regular term of the naval school is over for the year, the officers and cadets of the schools may:**

**(1) return to their homes; and**

**(2) be excused from weekly drills and from other duties and formalities;**

**until the school reopens, unless the officers and cadets are called together for special duty by the governor or the President of the United States.**

**Sec. 9. (a) In all matters not otherwise specifically provided for, the provisions of this article that provide for the organization of**

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**the Indiana national guard apply to the naval battalion.**

**(b) An officer or a cadet of the school may not receive from the state any allowance for uniform or any pay for drills, target practice, or any other military or naval duties unless called into the service of the state by the governor in accordance with IC 10-16-7-17.**

**Sec. 10. (a) The general routine of duty, discipline, and exercise of naval battalions and posts must conform with the laws, customs, and usages of the navy, as far as the laws, customs, and usages of the navy apply.**

**(b) If the laws, customs, and usages of the navy do not apply, then the routine of duty, discipline, and exercise must conform to the laws governing the volunteer forces of the state.**

**Chapter 14. Naval Force**

**Sec. 1. In addition to the land military forces of the state, there is established a naval force to be known as the Indiana naval force.**

**Sec. 2. (a) The governor is the commander in chief of the Indiana naval force.**

**(b) The naval force is under the immediate command and jurisdiction of the adjutant general. The adjutant general has all the rights, powers, and duties in connection with the naval force as the adjutant general has in connection with the land military forces.**

**(c) The governor, as commander in chief, may:**

**(1) make all necessary rules; and**

**(2) issue orders;**

**the governor considers necessary for the organization, administration, and discipline of the naval force. The rules must conform, as far as practicable, with the military and naval laws of the state and the United States.**

**Sec. 3. All provisions of law relating to governing, maintaining, and equipping the land military forces of Indiana apply equally to and govern the naval forces, except for provisions that are inconsistent with the different nature of the service.**

**Sec. 4. The commander in chief may accept from the United States Navy or from any other source for the naval force, and use any vessel, lifeboat, boat gear, boat equipment, life-saving equipment, rifles, field pieces, and other naval equipment or life-saving equipment necessary to properly safeguard the lives and property of the citizens of Indiana.**

**Chapter 15. Marine Corps Battalion**

**Sec. 1. In addition to the land military forces of the state**

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**authorized by law, there is established a naval force to be known as the Indiana marine corps battalion of militia.**

**Sec. 2. (a) The governor is the commander in chief of the marine corps militia forces of Indiana.**

**(b) The marine corps militia shall be under the immediate command and jurisdiction of the adjutant general. The adjutant general has all the rights, powers and duties in connection with the marine corps militia, as the adjutant general has in connection with the land military forces.**

**(c) The marine corps battalion of militia shall be divided into the following three (3) divisions by the adjutant general:**

**(1) One (1) for the southern division of the state.**

**(2) One (1) for the northern division.**

**(3) One (1) for the central division.**

**The adjutant general shall determine where each division shall be located.**

**(d) A person may not be appointed as an officer of the marine corps militia who does not hold a United States marine corps reserve commission.**

**(e) The governor, as commander in chief, may:**

**(1) make all necessary rules; and**

**(2) issue orders;**

**the governor considers necessary for the organization, administration, and discipline of the marine corps militia. The rules must conform, as far as practicable, with the military and naval laws of Indiana and the United States.**

**Sec. 3. All provisions of law relating to governing, maintaining, and equipping the land military forces of Indiana apply equally to and govern the marine corps militia forces, except provisions that are inconsistent with the different nature of the service.**

**Sec. 4. The commander in chief may accept and use from the United States Navy, or from any other source, for the marine corps militia and use any vessel, lifeboat, boat gear, boat equipment, life-saving equipment, rifles, field pieces, and any other naval equipment or life-saving equipment necessary to properly safeguard the lives and property of the citizens of Indiana.**

**Sec. 5. (a) The lieutenant colonel in command of the battalion of the marine corps militia shall be appointed by the governor from the regular marine corps reserve officers in Indiana.**

**(b) The lieutenant colonel shall act as chief of staff subject to the orders of the:**

**(1) governor;**

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**(2) adjutant general; and**

**(3) major general commandant of the United States Marine Corps.**

**Chapter 16. Military Academy Officers and Miscellaneous Provisions**

**Sec. 1. An officer and enlisted person of the Indiana national guard is exempt from:**

**(1) service on any jury in any court of Indiana; and**

**(2) from service in any posse comitatus.**

**Sec. 2. A person who:**

**(1) fails to perform a duty imposed on the person by this article; or**

**(2) otherwise violates this article;**

**commits a Class C infraction.**

**Sec. 3. Upon recommendation of the superintendent of any military, naval, or air academy in Indiana where:**

**(1) there is stationed by the United States Department of Defense at least one (1) officer; and**

**(2) there is established at least one (1) unit of the reserve officers training corps;**

**upon approval of the adjutant general, the governor may appoint the members of faculties and staffs as officers. In the unassigned Indiana national guard, the appointment may not be above the rank of colonel. In the Indiana naval forces, the appointment may not be above the rank of lieutenant commander.**

**Sec. 4. The military or naval laws of Indiana pertaining to the Indiana national guard or the Indiana naval forces do not apply to officers appointed under section 3 of this chapter. These commissions do not have any authority over the Indiana armed forces.**

**Sec. 5. The commissions made under section 3 of this chapter are in force at the pleasure of the governor and during the term of the governor and expire:**

**(1) at the end of the term of office of the governor who made the appointment; and**

**(2) upon the termination of any officer as a member of the faculty or staff of the military, naval, or air academy.**

**Chapter 17. Division of Graves Registration**

**Sec. 1. The director of the division of graves registration established by the adjutant general shall:**

**(1) be a member of a patriotic organization;**

**(2) be appointed by the adjutant general; and**

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**(3) serve without compensation.**

**Sec. 2. (a) A burial permit may not be issued by an officer in Indiana having authority to issue burial permits until the following information is secured, if practicable, and except where an immediate burial should be made to avoid the danger of contagion:**

**(1) Was the deceased a veteran of any of the wars in which the United States has been engaged?**

**(2) If so, what is the date when the veteran entered the service, and what is the date on which the veteran was discharged?**

**(3) What medals and decorations were won by the veteran?**

**(4) What was the division or regiment in which the veteran was enlisted?**

**(b) If the death certificate shows that the deceased was a veteran of any war in which the United States has been engaged, that information shall be placed upon the burial permit.**

**Sec. 3. There is annually appropriated to the governor an amount of not more than one thousand dollars ($1,000) from the state general fund to pay any expenses that are incurred in the administration and enforcement of this chapter.**

**Chapter 18. Stout Field; Ban on Commercial Flights**

**Sec. 1. A contract may not be entered into by the adjutant general or the armory board that provides for the use of Stout Field, Indianapolis, for purposes of commercial flying by transportation companies.**

SECTION 8. IC 10-17 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**ARTICLE 17. VETERANS' AFFAIRS**

**Chapter 1. Indiana Veterans' Affairs**

**Sec. 1. The purpose of this chapter is to create a department with full authority to aid and assist veterans of the armed forces of the United States entitled to benefits or advantages provided on or after March 3, 1945, by the United States, the state, or another state or government.**

**Sec. 2. (a) The Indiana department of veterans' affairs is established. The:**

**(1) department;**

**(2) commission of veterans' affairs;**

**(3) director of veterans' affairs;**

**(4) county and city officers; and**

**(5) assistants and employees of persons described in subdivisions (1) through (4);**

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**acting under the supervision of and under the rules of the department may act at the request of any veteran of the armed forces or a veteran's spouse, surviving spouse, or dependent as necessary or reasonably incident to obtaining or attempting to obtain for the person making the request any advantage, benefit, or compensation accruing, due, or believed to be accruing or due to the person under any law of the United States, Indiana, or any other state or government by reason of the service of the veteran in the armed forces of the United States.**

**(b) The:**

**(1) veterans' affairs commission shall supervise and control the department; and**

**(2) director of veterans' affairs shall administer the department under the commission's supervision and control;**

**as provided in this article.**

**(c) The domicile of the department is in Indianapolis. Suitable offices and quarters shall be provided in Indianapolis.**

**Sec. 3. (a) There is established a veterans' affairs commission. The commission consists of four (4) members appointed by the governor for four (4) year terms. However, terms of office of commission members terminate with the term of office of the governor or when successors are appointed and qualified. Members of the commission must be honorably discharged veterans who have had at least six (6) months service in the armed forces of the United States and are citizens of the United States and Indiana. Not more than two (2) members of the commission may be:**

**(1) active members of the same veterans' organization; or**

**(2) members of the same political party.**

**Vacancies in the commission must be filled by the governor, and the appointees shall serve for the remainder of the term of office of the original appointee. Each member of the commission before entering upon the member's duties shall take and subscribe an oath that the member will support the Constitution of the United States and the Constitution of the State of Indiana and will faithfully discharge all the duties devolving upon the member as a member of the commission.**

**(b) Members of the commission shall each be paid ten dollars ($10) for each day devoted to the work of the commission but not more than one thousand dollars ($1,000) each in any one (1) fiscal year. Members are also entitled to reimbursement for necessary traveling and other expenses.**

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**(c) The commission shall elect annually one (1) commission member as chairperson. The:**

**(1) principal office of the commission must be maintained in Indianapolis in space:**

**(A) provided by the proper state officials; or**

**(B) rented or otherwise provided if suitable space cannot be obtained in state buildings;**

**(2) records of the commission must be maintained in the principal office; and**

**(3) regular meetings of the commission must be held at the principal office unless the chairperson finds it is necessary or convenient in the performance of the duties of the commission to meet at some other place in Indiana.**

**At least one (1) regular meeting must be held per quarter. Special meetings may be held at times and places specified by the call of the chairperson, a majority of the commission, or the governor. Notice of the date, time, and place of meetings must be given in person or by mail by the director of veterans' affairs. A majority of the members of the commission constitutes a quorum for the transaction of business. The director of veterans' affairs shall act as secretary of the commission and shall keep adequate records and minutes of the commission's business and official actions.**

**(d) The governor may remove any member of the commission if the governor considers the member to be guilty of misconduct, incapability, or neglect of duty.**

**Sec. 4. The commission may do acts necessary or reasonably incident to the fulfillment of the purposes of this chapter, including the following:**

**(1) Adopt rules under IC 4-22-2 to administer this chapter.**

**(2) Advise the veterans' state service officer in problems concerning the welfare of veterans.**

**(3) Determine general administrative policies within the department.**

**Sec. 5. (a) The position of director of veterans' affairs is established. The governor shall appoint the director for a four (4) year term. However, the term of office of the director terminates when the term of office of the governor terminates or when a successor to the director is appointed and qualified. The director must be:**

**(1) an honorably discharged veteran who has at least six (6) months service in the armed forces of the United States; and**

**(2) a citizen of Indiana and a resident of Indiana for at least**

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**five (5) years immediately preceding the director's appointment.**

**(b) The director is entitled to reimbursement for necessary traveling and other expenses.**

**(c) The governor may remove the director if the governor considers the director guilty of misconduct, incapability, or neglect of duty.**

**(d) The governor shall appoint an assistant director of veterans' affairs. The assistant director is entitled to receive reimbursement for necessary traveling and other expenses. The assistant director has the same qualifications as the director of veterans' affairs and shall assist the director in carrying out this chapter.**

**Sec. 6. (a) The director of veterans' affairs:**

**(1) is the executive and administrative head of the department of veterans' affairs; and**

**(2) shall direct and supervise the administrative and technical activities of the department;**

**subject to the general supervision of the commission.**

**(b) The duties of the director include the following:**

**(1) To attend all meetings of the commission and to act as secretary and keep minutes of the commission's proceedings.**

**(2) To appoint, by and with the consent of the commission, under this chapter and notwithstanding IC 4-15-2, the employees of the department necessary to carry out this chapter and to fix the compensation of the employees. Employees of the department must be:**

**(A) honorably discharged veterans who have had at least six (6) months service in the armed forces of the United States and who are citizens of the United States and Indiana; or**

**(B) spouses, surviving spouses, parents, or children of an individual described in clause (A).**

**An employee must qualify for the job concerned.**

**(3) To carry out the program for veterans' affairs as directed by the governor and the commission.**

**(4) To carry on field direction, inspection, and coordination of county and city service officers as provided in this chapter.**

**(5) To prepare and conduct service officer training schools with the voluntary aid and assistance of the service staffs of the major veterans' organizations.**

**(6) To maintain an information bulletin service to county and 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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**veterans are entitled.**

**Chapter 2. County Recording of Military Discharge**

**Sec. 1. To provide a special and permanent record of discharges from a branch of the military service of the United States of members of a branch of the service who are residents of Indiana, the county recorder shall procure a sufficiently large and well bound book of good material in which the county recorder shall record all discharges.**

**Sec. 2. A book providing for the recording of discharges from the army, navy, or any other branch of the service must consist of printed forms in blank, similar to and in conformity with the wording of the forms of discharge used by the United States government, the size of type being reduced to permit the printing of the form of the discharge on one (1) page of the record. Each book must be provided with an alphabetical index.**

**Sec. 3. A fee may not be collected for recording a discharge under this chapter. The recorder shall immediately provide the discharged person with a certified copy of the discharge at no charge in accordance with IC 10-17-3-2.**

**Chapter 3. Certified Copies of Discharge Documents**

**Sec. 1. As used in this chapter, "honorably discharged veterans" includes persons placed on inactive duty under honorable conditions but not discharged from military service.**

**Sec. 2. The state or a political subdivision shall provide upon request, without charge or fee, one (1) certified copy of a document or record if it is shown that the certified copy is necessary to secure benefits to:**

**(1) members of the military service;**

**(2) honorably discharged veterans; or**

**(3) surviving spouses or dependents of an individual described in subdivision (1) or (2);**

**under a federal or state law.**

**Sec. 3. The state or a political subdivision may collect a charge per copy of not more than the amount specified in IC 36-2-7-10(b) if a person requests more than one (1) certified copy of the document or record. The funds received under this section shall be placed in the general fund of the state or county.**

**Chapter 4. Leave of Absence for Military Training**

**Sec. 1. (a) A person who:**

**(1) is a qualified member of the reserve components of the armed forces;**

**(2) is a member of the Ready Reserve;**

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**(3) is a member of an organized unit;**

**(4) in order to receive military training with the armed forces of the United States not to exceed fifteen (15) days in one (1) calendar year:**

**(A) leaves a position other than a temporary position in the employ of an employer; and**

**(B) provides evidence:**

**(i) defining date of departure and date of return for purposes of military training ninety (90) days before the date of departure; and**

**(ii) of the satisfactory completion of the training immediately after the training is completed; and**

**(5) is qualified to perform the duties of the position described in clause (A);**

**is entitled to be restored to the person's previous or a similar position with the same status and pay.**

**(b) Seniority continues to accrue during a period of absence described in subsection (a), and the period of absence for military training must be construed as an absence with leave. At the discretion of the employer, the leave may be with or without pay.**

**Sec. 2. Absence for military training does not affect an employee's right to receive normal vacation, sick leave, bonus, advancement, and other advantages of the employee's particular position.**

**Sec. 3. If an employer fails to comply with sections 1 and 2 of this chapter, an employee may:**

**(1) bring an action at law for damages for the employer's noncompliance; or**

**(2) apply to the circuit court for equitable relief that is just and proper under the circumstances.**

**Sec. 4. (a) A person who, as a reserve member of the armed forces of the United States, is called upon to receive temporary military training is entitled to a temporary leave of absence from the person's employer not to exceed fifteen (15) days per calendar year. A person described in this section shall:**

**(1) provide the employer with evidence of the dates of the person's departure and return as soon as practicable before the person's departure; and**

**(2) furnish the employer, upon the person's return, evidence of the person's satisfactory completion of the training.**

**Upon the person's return, the person shall be restored to the person's previous or similar position, with the same status that the**

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**person held before leaving for the person's training period.**

**(b) A leave granted under this section may be granted, with or without pay, within the discretion of the employer.**

**(c) A temporary leave of absence granted under this section does not affect the rights of the person to vacation leave, sick leave, or other normal benefits of the person's employment.**

**Sec. 5. An employer that refuses to grant an employee a temporary leave of absence as provided in section 4 of this chapter is subject to a suit for any damages sustained by the person denied the leave of absence.**

**Chapter 5. Veteran Benefits**

**Sec. 1. A person who:**

**(1) served in the:**

**(A) armed forces of the United States in World War II;**

**(B) active military or naval service on or after September 16, 1940, and before the termination of World War II;**

**(C) armed forces of the United States during the Korean crisis on or after June 25, 1950; or**

**(D) armed services of the United States during the Vietnam conflict on or after August 5, 1964;**

**(2) sustained injury or disease in the line of duty:**

**(A) as a direct result of armed conflict;**

**(B) while engaged in extra-hazardous service, including service under conditions simulating war; or**

**(C) while the United States was engaged in war; and**

**(3) was discharged or released from the service specified under subdivision (1) under conditions other than dishonorable;**

**and the spouse, surviving spouse, or child of a person described in subdivisions (1) through (3) who is a resident of Indiana has the rights and privileges held by soldiers, sailors, nurses, or other veterans, spouses, surviving spouses, and children of World War I under section 2 of this chapter or other statutes.**

**Sec. 2. The:**

**(1) soldiers and sailors of World War I;**

**(2) soldiers and sailors of the war with Spain;**

**(3) soldiers and sailors of the war in the Philippine Islands;**

**(4) soldiers who were in service on the Mexican border during the years 1916 and 1917; and**

**(5) soldiers and sailors who are in the regular service of the United States;**

**who are residents of Indiana and the surviving spouses and**

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**orphans of individuals specified in subdivisions (1) through (5) have the rights and privileges held by the soldiers and sailors of the Civil War and the surviving spouses and orphans of the soldiers and sailors of the Civil War.**

**Sec. 3. (a) A nurse who:**

**(1) served as a nurse during World War I with the armed forces of the United States;**

**(2) was honorably discharged from service; and**

**(3) is a resident of Indiana;**

**has the benefits, rights, privileges, and immunities conferred under Indiana law upon honorably discharged soldiers, sailors, and marines who served in World War I.**

**(b) The benefits, rights, privileges, and immunities described in subsection (a) that are conferred under Indiana law upon a representative, an heir, or a relative of an honorably discharged deceased soldier, sailor, or marine who served in the armed forces of the United States during World War I are also conferred upon a representative, an heir, or a relative of a deceased nurse described in subsection (a).**

**Chapter 6. Contracts of Minor Veterans Under Servicemen's Readjustment Act of 1944**

**Sec. 1. (a) A person who is:**

**(1) less than twenty-one (21) years of age; and**

**(2) authorized to participate in the rights, privileges, and benefits conferred by the federal Servicemen's Readjustment Act of 1944, as amended, and other acts of Congress granting a right, privilege, or benefit to veterans;**

**and the minor spouse of a person described in subdivisions (1) and (2) may execute a contract that is necessary to the full realization of the rights, privileges, and benefits conferred under the federal law if the person is otherwise competent to enter into agreements and contracts.**

**(b) A contract entered into under subsection (a) by a person who is less than eighteen (18) years of age has the same force and effect as contractual obligations of a person who is at least eighteen (18) years of age.**

**Chapter 7. Dependent Benefits of Vietnam Prisoners**

**Sec. 1. As used in this chapter, "dependent" means a child:**

**(1) born before or during the period during which the child's father was a prisoner of war or person missing in action; or**

**(2) legally adopted or in the legal custody of the child's father before and during the period during which the father was a**

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**prisoner of war or person missing in action.**

**Sec. 2. As used in this chapter, "prisoner of war or person missing in action" means a person who:**

**(1) was a resident of Indiana at the time the person entered service of the United States armed forces; and**

**(2) while serving in the United States armed forces, was declared a prisoner of war or a person missing in action as established by the United States Secretary of Defense after January 1, 1960.**

**Sec. 3. (a) A dependent of a prisoner of war or person missing in action, upon the person's acceptance for enrollment in an Indiana state supported institution of higher education or state supported vocational school, may obtain a bachelor's degree or certificate of completion without tuition or charge as long as the dependent is eligible.**

**(b) A dependent is entitled to the benefits of this chapter notwithstanding any circumstance, including the return of the father or the reported death of the father.**

**Chapter 8. Reporting of Veterans Exposed to Chemicals**

**Sec. 1. As used in this chapter, "agent orange" means the herbicide composed primarily of trichlorophenoxyacetic acid and dichlorophenoxyacetic acid.**

**Sec. 2. As used in this chapter, "department" refers to the Indiana department of veterans' affairs.**

**Sec. 3. As used in this chapter, "director" refers to the director of veterans' affairs.**

**Sec. 4. As used in this chapter, "veteran" means an individual who:**

**(1) was a resident of Indiana:**

**(A) at the time of the individual's induction into the armed forces of the United States; or**

**(B) on or before March 31, 1983; and**

**(2) served in Vietnam, Cambodia, or Laos during the Vietnam conflict.**

**Sec. 5. (a) A physician who has primary responsibility for treating a veteran who believes the veteran may have been exposed to chemical defoliants or herbicides or similar agents, including agent orange, while serving in the armed forces of the United States shall, at the request of the veteran, submit a report to the department on a form provided by the department. If there is no physician having primary responsibility for treating the veteran, the hospital treating the veteran shall, at the request of the veteran,**

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**submit the report to the department. If the veteran desires to submit a report directly to the department, the veteran must submit the report on a form provided by the department and made available to the veteran at physicians' offices, hospitals, and county courthouses.**

**(b) The department shall provide forms to all physicians, hospitals, and county courthouses in Indiana for distribution to a veteran who believes that the veteran may have been exposed to chemical defoliants or herbicides or similar agents while serving in the armed forces of the United States. Forms provided under this subsection must request the following information:**

**(1) Symptoms of the veteran that may be related to exposure to a chemical defoliant or herbicide or similar agent, including agent orange.**

**(2) Diagnosis of the veteran.**

**(3) Methods of treatment prescribed.**

**(c) The department may require the veteran to provide other information determined by the director.**

**Sec. 6. (a) The department, in consultation and cooperation with a department certified medical toxicologist and herbicide specialist, shall compile information submitted under this chapter into a report. The report must contain an evaluation of the information and shall be distributed annually to the legislative services agency, the United States Department of Veterans Affairs, the state department of health, and other veterans groups. The report must also contain:**

**(1) current research findings on the exposure to chemical defoliants or herbicides or similar agents, including agent orange; and**

**(2) statistical information compiled from reports submitted by physicians or hospitals.**

**(b) The department shall forward to the United States Department of Veterans Affairs a copy of all forms submitted to the department under section 5 of this chapter.**

**Chapter 9. Indiana Veterans' Home**

**Sec. 1. The conduct and maintenance of the Indiana Veterans' Home, located near Lafayette in Tippecanoe County, Indiana, are governed by this chapter and IC 16-19-6.**

**Sec. 2. The home may receive for the use of the institution and expend as the donor directs:**

**(1) gifts;**

**(2) legacies;**

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**(3) devises; and**

**(4) conveyances;**

**of real and personal property that are made, given, or granted to or for the home or in its name.**

**Sec. 3. The board of county commissioners in each county may appropriate money out of the general fund of the county to erect cottages or any other needed building on the grounds of the home.**

**Sec. 4. The superintendent of the Indiana Veterans' Home, subject to applicable orders and rules made by the administrative unit for special institutions of the state department of health:**

**(1) has the immediate charge and management of the institution;**

**(2) directs and controls the resident employees; and**

**(3) superintends the care and management of the members in the home.**

**Sec. 5. (a) A person may not be appointed or employed in an office or a place in the institution by the superintendent of the Indiana Veterans' Home because of the political views or affiliation of the appointee or employee or for a reason other than capacity and fitness for the duties to be performed by the appointee or employee. However, among applicants for appointment found capable and fit, preference shall be given to an honorably discharged military veteran and the spouse, widow, widower, mother, and child of an honorably discharged military veteran.**

**(b) In appointing a candidate for the position of superintendent of the Indiana Veterans' Home, the state health commissioner shall give preference to a person who has been honorably discharged after service in the armed forces of the United States.**

**Sec. 6. The superintendent may remove or suspend an employee appointed by the superintendent of the Indiana Veterans' Home only for cause and subject to the state personnel act under IC 4-15-2.**

**Sec. 7. (a) The following persons who are legal residents of Indiana for at least three (3) years immediately preceding application for admission and who are disabled or destitute are eligible for admission to the home:**

**(1) An honorably discharged member of the armed forces who has served with the United States in any of its wars.**

**(2) An honorably discharged member of the armed forces who has served in an authorized campaign of the United States and who has a service connected disability, as evidenced by a pension certificate or the award of compensation.**

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**(3) The spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).**

**(4) The surviving spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).**

**(b) The administrative head of the administrative unit for special institutions of the state department of health or its successor shall adopt rules concerning admission to the home.**

**(c) In adopting rules governing the admission, maintenance, and discharge of members of the veterans' home, the administrative head of the administrative unit for special institutions of the state department of health or its successor may establish a fund called the veterans' home comfort and welfare fund. The administrative head shall deposit all money collected from the members for the cost of their care and maintenance in the fund. The administrative head shall expend this money in any manner that adds to the comfort and welfare of the members of the institutions.**

**(d) A part of the veterans' home comfort and welfare fund may be withdrawn and deposited in a special fund called the veterans' home building fund. The veterans' home building fund shall be used for the construction, maintenance, remodeling, or repair of buildings of the Indiana Veterans' Home.**

**(e) Preference under this section may be given to a person who served in an Indiana military organization. Except in cases where the surviving spouse of a veteran marries another veteran, the benefits of this chapter extend only to a surviving spouse and the spouse of a veteran if the contract of marriage was entered into more than five (5) years before the date of death of the veteran. Except as otherwise provided by law, upon the death of a person in the home, money paid to the person or due to the person from a bank, a trust company, a corporation, or an individual becomes an asset of the person's estate and shall be distributed in the manner prescribed by the probate law of the state.**

**Sec. 8. (a) Each member, the estate of a deceased member, or the estate of a member under guardianship is liable for the costs of maintenance of the member in an amount up to one hundred percent (100%) of the daily per capita cost of personal services and all other operating expenses for the preceding fiscal year. The per capita charge may be adjusted to reflect the level of care provided.**

**(b) The level of care must be as consistent as possible with:**

**(1) the care category of the facility in which the member is placed;**

**(2) the rules of the Indiana health facilities council adopted**



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**under IC 16-28; and**

**(3) the applicable code of the federal government covering reimbursement from the United States Department of Veterans' Affairs or another department of the federal government.**

**(c) The liability created for the costs of maintenance of a member constitutes a lien upon the real property of the member if the lien is recorded as provided in this chapter. The lien has priority over all liens subsequently acquired.**

**Sec. 9. (a) The billing and collection of the maintenance cost of a member under section 8 of this chapter shall be made by the superintendent of the Indiana Veterans' Home based on the per capita cost for the preceding fiscal year.**

**(b) All money collected shall be deposited in the veterans' home comfort and welfare fund. The fund shall be used in part by the state health commissioner for the comfort and welfare of the members and in part to reimburse the state general fund in an amount specified by the general assembly.**

**(c) Excess money in the veterans' home comfort and welfare fund shall be placed in the veterans' home building fund.**

**(d) The fund shall be used for new construction, maintenance, remodeling, and repair of the buildings at the Indiana Veterans' Home.**

**Sec. 10. (a) The superintendent of the Indiana Veterans' Home, with the approval of the state health commissioner, may accept payment at a lesser rate than prescribed in section 8 of this chapter. The superintendent of the Indiana Veterans' Home, in determining whether or not to accept the lesser amount, shall consider the amount of money necessary to maintain or support a dependent of the member. An agreement to accept a lesser amount is subject to cancellation or modification at any time by the superintendent of the Indiana Veterans' Home with the approval of the state health commissioner.**

**(b) A member who is issued a statement of a sum due as maintenance charges may petition the superintendent of the Indiana Veterans' Home for a release from or modification of the statement. The superintendent shall submit a written statement of the facts to the state health commissioner for a final determination.**

**Sec. 11. (a) The superintendent of the Indiana Veterans' Home, with the approval of the state health commissioner, may adopt a standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the**

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**home. A member shall receive at least thirty dollars ($30) per month for personal needs before a maintenance charge is levied against current income.**

**(b) The monthly maintenance charge may not exceed one-twelfth (1/12) of the annual per capita cost of the preceding year.**

**(c) The superintendent may adjust the standard for determining the lesser rate to provide that in the case of married members with the spouses residing at the home this standard will allow at least forty dollars ($40) to be deducted from income by the member before the charge for maintenance is applied.**

**(d) The superintendent, in adopting the standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home, shall take into account as current income:**

**(1) a pension;**

**(2) compensation or income from any source; and**

**(3) benefits from:**

**(A) the federal Social Security Administration;**

**(B) the railroad retirement law; or**

**(C) a retirement annuity or insurance annuity.**

**(e) The agreement to accept a lesser rate from current income does not relieve the estate of the member of the charge for the full per capita cost for the period the member resided in the home. However, the claim for the full per capita cost will not be filed or allowed if there is a surviving spouse, dependent child less than eighteen (18) years of age, or dependent parent.**

**Sec.12. (a) If charges for the cost of maintenance of a member remain unpaid in whole or in part for a period of six (6) months, the superintendent of the Indiana Veterans' Home may file, in the office of the county recorder of the county in which the real property is located, a notice of lien designating:**

**(1) the name and place of residence of the member against whose property the lien is asserted;**

**(2) the date when the charges become delinquent for more than six (6) months; and**

**(3) a legal description of the real property subject to the lien.**

**One (1) copy of the notice of lien shall be retained by and filed in the office of the superintendent, and one (1) copy shall be furnished to the member or guardian.**

**(b) From the date on which notice of lien is recorded in the office of the county recorder, the recorded notice constitutes due**

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**notice of a lien against the member or the member's estate for any amounts then recoverable and any amounts that become recoverable under this chapter and gives a specific lien in favor of the Indiana Veterans' Home. The lien continues from the date of filing until the lien is satisfied or released.**

**Sec. 13. (a) The attorney general, upon notification of the superintendent of the Indiana Veterans' Home, shall file a claim in the name of the state on behalf of the superintendent of the home against the estate of a person who fails to make payment as required in this chapter. If the claim is allowed or judgment is obtained, the claim or judgment constitutes a lien against that part of the estate of the person described in the claim.**

**(b) The attorney general may bring suit against the legal guardian of a patient for failure to comply with an established maintenance agreement or for failure to make an agreement. Suit may be brought for the amount due the state for the maintenance charges of the member. The court may order the payment of maintenance charges for a period as the circumstances require. An order may be entered against one (1) or more of the defendants. An order for the payment of money may be enforced by attachment, garnishment, or a proceeding supplemental against the defendants. Other judgments at law and costs may be adjudged against the defendants and apportioned among them.**

**(c) The attorney general may bring a proceeding to foreclose on a lien arising from maintenance charges under section 8 of this chapter during the lifetime of the member if the superintendent believes it is in the best interest of the veterans' home to foreclose on the lien.**

**(d) Upon:**

**(1) the death of a member whose property is encumbered by a lien arising under section 8 of this chapter; and**

**(2) notification by the superintendent;**

**the attorney general shall file a claim against the member's estate for recovery of all charges for maintenance that have accrued at the date of death. Notwithstanding any other law, a claim filed for recovery of charges for maintenance has priority in order of payment from the estate over all other claims except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses. However, if real property of the deceased member is occupied by a surviving spouse of the member, the home may not assert its lien or claim during the lifetime of the surviving spouse. However, if other claimants or persons have**

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**opened an estate and are attempting to enforce their claims, or if there have been fraudulent attempts to avoid the claim or lien, the veterans' home shall file and assert the claim for recovery of costs of treatment and maintenance.**

**Sec. 14. The superintendent of the Indiana Veterans' Home may make agreements with instrumentalities of the federal government for application of monetary awards to be applied toward the maintenance charges to provide a sufficient amount of the periodic award to be deposited in the member's trust account to meet the immediate personal needs of a member. The amount applied toward the settlement of maintenance charges may not exceed the amount specified in section 8 of this chapter.**

**Sec. 15. (a) If space is available, the superintendent of the Indiana Veterans' Home, with the approval of the state health commissioner, may accept a veteran who is:**

**(1) otherwise eligible for admission to the home;**

**(2) in need of nursing home care; and**

**(3) transferred at the request of the United States Department of Veterans' Affairs from one (1) of its facilities.**

**(b) The United States Department of Veterans' Affairs under United States Department of Veterans' Affair's regulations shall award the cost of care to the home. A rate of charge described in section 8 of this chapter may not be used to determine the cost of care under this section.**

**Sec. 16. (a) The treasurer of state may require an investigation to determine the true number of members in the home at any time.**

**(b) Twenty percent (20%) of the money annually allowed by the government of the United States for a military veteran maintained in the home shall be deposited in the state general fund to the credit of the veterans' home building fund. Money deposited in the state general fund may be invested in securities of the United States government. The money in the building fund shall be used only for the maintenance, remodeling, or repair of buildings at the Indiana Veterans' Home. Money deposited in the building fund is appropriated and subject to allocation by the budget committee. The remaining eighty percent (80%) of the money annually allowed by the government of the United States for a military veteran maintained in the home shall be deposited in the state general fund as a reimbursement to the general fund for operating expenses of the home.**

**Chapter 10. Veterans' Burial Allowance**

**Sec. 1. If:**

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**(1) a person who dies:**

**(A) has served as a member of the armed forces of the United States as a soldier, sailor, or marine in the army, air force, or navy of the United States or as a member of the women's components of the army, air force, or navy of the United States, is a resident of Indiana, and while a member of the armed forces and before discharge from the armed forces or after receiving an honorable discharge from the armed forces; or**

**(B) is the spouse or surviving spouse of a person described in clause (A) who is a resident of Indiana; and**

**(2) a claim is filed for a burial allowance:**

**(A) by an interested person with the board of commissioners of the county of the residence of the deceased person; and**

**(B) stating the fact:**

**(i) of the service, death, and discharge if discharged from service before death; and**

**(ii) that the body has been buried in a decent and respectable manner in a cemetery or burial ground;**

**the board of commissioners shall hear and determine the claim like other claims and, if the facts averred are found to be true, shall allow the claim of not more than one hundred dollars ($100) for service rendered and material furnished in care of the body and where necessary an amount of not more than twenty-five dollars ($25) for a place of burial of the body.**

**Sec. 2. (a) Not more than one (1) claim may be allowed for a decedent who qualifies under this chapter.**

**(b) The total sum of the claim filed and for which allowances must be made may not exceed one hundred dollars ($100). However, if the federal government provides a marker for the grave of the person, the board of commissioners shall make a further allowance of not more than one hundred dollars ($100) for setting of the marker.**

**Sec. 3. Money expended by a county under this chapter shall be considered a gift. Persons for and on behalf of the state or a political subdivision of the state may not file a claim for a lump sum death benefit with the federal Social Security Administration claiming reimbursement for money so expended.**

**Sec. 4. Before a person enters into a contract to set a grave marker provided by the federal government as described in section 2(b) of this chapter with a person who receives the grave marker**

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**from the federal government or the person's representative, the person who will set the grave marker must disclose the following information to the person who receives the grave marker or the person's representative:**

**(1) The price of the least expensive installation procedure that the person who will set the grave marker will charge and a description of the goods and services included in the procedure.**

**(2) The prices of any other installation procedures or options that may be performed or provided by the person who will set the grave marker and a description of the goods and services included in the procedures or options.**

**Chapter 11. Indiana State Veterans' Cemetery**

**Sec. 1. As used in this chapter, "cemetery" refers to the Indiana state veterans' cemetery established by this chapter.**

**Sec. 2. As used in this chapter, "commission" refers to the veterans' affairs commission established by IC 10-17-1-3.**

**Sec. 3. As used in this chapter, "department" refers to the Indiana department of veterans' affairs established by IC 10-17-1-2.**

**Sec. 4. The Indiana state veterans' cemetery is established.**

**Sec. 5. The cemetery consists of real property located on the grounds of Madison State Hospital in Jefferson County, Indiana.**

**Sec. 6. The director of veterans' affairs or the director's designee may act under this chapter as the official representative for the commission in accordance with IC 10-17-1-8.**

**Sec. 7. The department may do the following:**

**(1) Adopt rules under IC 4-22-2 to carry out this chapter.**

**(2) Contract with persons or agencies to carry out the duties established under this chapter.**

**Sec. 8. The department shall do the following:**

**(1) Oversee the construction of the cemetery.**

**(2) Operate and maintain the cemetery.**

**Sec. 9. (a) The Indiana state veterans' cemetery fund is established as a dedicated fund for the purpose of providing money for planning, construction, operation, and maintenance of the cemetery. The fund shall be administered by the director of veterans' affairs.**

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

**(1) Money appropriated by the general assembly for purposes of this chapter.**

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**(2) Money donated to the department and designated for use under this chapter.**

**(3) Funds received from the federal government.**

**(4) Funds received in payment for services.**

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

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished by the budget agency, all money in the fund reverts to the state general fund.**

**(e) All earnings accruing to the state veterans' cemetery fund is appropriated continuously for the purposes specified in this section.**

**(f) Except as provided in subsection (e), money in the fund must be retained in the fund unless the money is appropriated for a specific purpose by the general assembly upon the recommendation of the budget committee.**

**Sec. 10. (a) A veteran who is eligible to be buried in a national cemetery according to 38 U.S.C. 2402 is eligible to be buried in the Indiana state veterans' cemetery established under this chapter.**

**(b) The spouse of a veteran who is eligible to be buried in a national cemetery according to 38 U.S.C. 2402 is eligible to be buried in the Indiana state veterans' cemetery established under this chapter.**

SECTION 9. IC 10-18 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**ARTICLE 18. WAR MEMORIALS**

**Chapter 1. Indiana War Memorials Commission**

**Sec. 1. As used in this chapter, "commission" refers to the Indiana war memorials commission established by section 2 of this chapter.**

**Sec. 2. (a) The Indiana war memorials commission is established.**

**(b) The commission consists of ten (10) members. Each Indiana congressional district must be represented by at least one (1) member who is:**

**(1) a resident of that congressional district;**

**(2) a veteran of service in the armed forces of the United States of America in time of war;**

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**(3) a citizen of Indiana at the time of the service; and**
**(4) appointed:**
**(A) in the manner;**
**(B) for the terms;**
**(C) to have the powers; and**
**(D) to perform the duties;**
**as provided in this chapter.**

**(c) The commission:**
**(1) as the commission and in the commission's name, may prosecute and defend suits; and**
**(2) has all other duties, rights, and powers that are:**
**(A) necessary to implement this chapter; and**
**(B) not inconsistent with this chapter.**

**(d) The members of the commission are not liable in their individual capacity, except to the state, for any act done or omitted in connection with the performance of their duties under this chapter.**

**(e) A suit against the commission must be brought in a court with jurisdiction in Marion County. Notice or summons of the suit shall be served upon the president, vice president, or secretary of the commission. In a suit against the commission, it is not necessary to name the individual members of the commission as either plaintiff or defendant. Commission members may sue and be sued in the name of the Indiana war memorials commission.**

**(f) The commission shall:**
**(1) report to the governor through the adjutant general; and**
**(2) be under the adjutant general for administrative supervision.**

**Sec. 3. (a) The governor shall appoint members of the commission for a term of three (3) years, subject to removal as provided in this section.**

**(b) The commissioners:**
**(1) must be persons of high standing and character; and**
**(2) serve without compensation, except for reimbursement for any reasonable expenses necessarily incurred by the commissioners in the performance of their duties.**

**(c) The commissioners shall be selected without regard to their political affiliations. However, not more than six (6) of the commissioners at any time may be members of the same political party.**

**(d) The governor may, for just cause, based upon written charges specifying alleged misconduct, remove any member of the**

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**commission, after notice to the member and a public hearing.**

**(e) The governor shall appoint a qualified person to fill the unexpired term of a member who does not complete the member's term.**

**Sec. 4. (a) The governor shall execute a certificate of appointment that makes reference to this chapter and sets forth the term of appointment for each member of the commission. The governor shall deposit the certificates of appointment in the office of the secretary of state, who shall record the certificates in a book kept for that purpose.**

**(b) The secretary of state shall notify each person appointed as a commissioner of the person's appointment. The person's acceptance of the appointment shall be signified by subscribing to an oath, to be endorsed on the certificate of appointment:**

**(1) to support the Constitution of the United States and the Constitution of the State of Indiana; and**

**(2) to faithfully and honestly discharge the person's duty under the law as a commissioner.**

**(c) The secretary of state shall deliver the certificate, when recorded, to the person named in the certificate. The certificate constitutes the commission of the person named as a member of the commission for the term specified.**

**(d) If a person appointed fails to qualify under this section within ten (10) days after notice of the person's appointment, the governor shall appoint another qualified person as a commissioner.**

**Sec. 5. (a) The commission shall elect the following:**

**(1) One (1) member of the commission to serve as president.**

**(2) One (1) member of the commission to serve as vice president.**

**(3) One (1) qualified person who is not a member of the commission to serve as secretary of the commission.**

**The commission shall elect officers each year. Officers shall hold their respective offices for one (1) year or during the pleasure of the commission.**

**Sec. 6. (a) The president and vice president of the commission shall, before entering upon the discharge of their duties, give bond to the approval of the governor, each in the sum of ten thousand dollars ($10,000), conditioned for the faithful performance of the duties as may be imposed upon them by law.**

**(b) The officers and any other officers required to give a bond under this chapter may furnish as surety any surety company authorized to transact business in Indiana that meets the approval**

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**of the commission, and the premium on any such shall be paid as a part of the expenses of the commission.**

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

**(1) Preside over the meetings of the commission.**

**(2) Sign all vouchers approved by the commission under this chapter.**

**(3) Sign all contracts and agreements in the name of the commission that have been authorized by the commission. The secretary shall attest to contracts signed by the president.**

**(b) If the president is absent or unable to act, the vice president shall perform the president's duties.**

**Sec. 8. (a) The secretary appointed by the commission shall take an oath to faithfully perform the duties of the secretary's office.**

**(b) The secretary shall do the following:**

**(1) Keep a record of the proceedings of the commission.**

**(2) Make a record of contracts and obligations.**

**(3) Furnish each contractor with a copy of the contractor's contract that:**

**(A) is endorsed "approved by order of the commission";**

**(B) lists the date of the approval; and**

**(C) is signed by the secretary.**

**A contract is not valid until endorsed and delivered by the secretary.**

**(4) Certify all vouchers ordered by the commission.**

**(5) Keep a set of books to show the financial condition of the commission.**

**(6) Make quarterly statements as provided in this chapter of the costs and expenditures of the commission, a complete list of vouchers, and for what purpose and to whom paid. The reports shall be filed with the auditor of state as provided in this chapter and are open to the inspection and use of the general assembly.**

**(c) The secretary shall give a bond in the sum of ten thousand dollars ($10,000) for the faithful performance of the secretary's duties.**

**(d) The contracts for any purpose connected with the Indiana World War Memorial shall be recorded by the secretary in a book kept for that purpose. The secretary shall retain on file all vouchers and other valuable papers of value to the commission, to the contractor, and to the public.**

**Sec. 9. (a) The commission may employ a superintendent.**

**(b) The superintendent shall give bond in an amount and with**

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**surety to be approved by the commission.**

**(c) The superintendent's duties and compensation shall be prescribed by the commission.**

**Sec. 10. (a) The commission shall employ an individual who is responsible for the care and preservation of all personal property owned by the commission that has historic significance.**

**(b) The individual employed by the commission under subsection (a) must meet the qualifications set by the division of state museums and historic sites of the department of natural resources.**

**Sec. 11. (a) The commission shall do the following:**

**(1) Keep a record of the commission's proceedings.**

**(2) Make a quarterly report for public use that includes the following:**

**(A) A detailed account of the expenditures of the commission.**

**(B) A summary of the commission's proceedings that includes:**

**(i) a statement of all contracts let;**

**(ii) the name of the person to whom the contracts were let; and**

**(iii) the amount of each contract.**

**(b) The report required under subsection (a) must be filed with the auditor of state.**

**(c) Reports created and filed under this section are public records.**

**Sec. 12. (a) The commission may adopt rules that set forth:**

**(1) the time, place, and method of calling and conducting meetings; and**

**(2) the manner and method of the conduct of business, including:**

**(A) the government and regulation of the commission's employees; and**

**(B) the management of the ground and premises under the commission's care and control;**

**as the commission considers prudent and not inconsistent with this chapter and other statutes.**

**(b) The commission shall meet at the call of the commission's president or at the time set forth in the commission's rules. A majority of the members constitutes a quorum for the transaction of business. However, all official action of the commission must receive the approval in a meeting of a majority of all the members**

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**of the commission.**

**Sec. 13. (a) The commission shall designate one (1) of its members to do the following:**

**(1) Assume general charge of and preserve all Indiana battle flags.**

**(2) Have custody of all battle and organization flags in the possession of the state that were used by any of the military organizations of the state:**

**(A) in any of the wars or campaigns in which the United States has been engaged; and**

**(B) in which Indiana veterans have participated.**

**(3) In the preservation of the battle flags, as far as possible, see that the name and the branch of service in which the organization served are attached to or preserved with the flag.**

**(4) Collect data in reference to each organization or military unit whose flag is in the possession of the commission and place the data with the flag or banner of each of the organizations or military units.**

**(b) The commission shall do the following:**

**(1) Collect Indiana battle flags not in the possession of the state from the United States, patriotic societies, or individuals.**

**(2) Reinforce, collect the data for, and otherwise prepare all battle flags for preservation.**

**(3) Collect, systematize, and prepare a brief history of each flag and index and catalogue each flag.**

**(4) Collect, purchase, and procure all necessary materials for the preservation of the flags.**

**(5) For the purpose of collecting and preparing the necessary data, reinforcing the flags, and performing other duties required by this chapter:**

**(A) with the approval of the budget agency, employ and fix the compensation of employees as may be necessary; and**

**(B) purchase material of any character that is required in carrying out this chapter.**

**Sec. 14. (a) The Civil War flags fund is established to restore and preserve Civil War flags.**

**(b) The commission:**

**(1) shall administer the fund; and**

**(2) may spend the money in the fund for the purposes of the fund.**

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

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**(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.**

**(e) All money accruing to the fund is appropriated continuously for the purposes of the fund.**

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

**Sec. 15. (a) All flag cases completed shall be in the custody of the commission. The superintendent shall have the cases cleaned periodically as necessary.**

**(b) The commission may determine the method and manner in which the flags shall be preserved.**

**Sec. 16. (a) Out-lot five (5) and out-lot thirty-six (36), in Indianapolis, according to the original plat of the city, are dedicated and set apart as grounds for the Indiana War Memorial subject to the provisions of this chapter.**

**(b) Out-lots five (5) and thirty-six (36) dedicated in subsection (a), together with all or any part of squares five (5) and sixteen (16) or any part of those squares, in Indianapolis, according to the original plat of the city, that are acquired, dedicated, and set apart and added to the real estate dedicated in subsection (a) by:**

**(1) the state; or**

**(2) Indianapolis, by Marion County, or Indianapolis and Marion County jointly and then conveyed by the city, county, or city and county jointly by proper deed, grant, or contract to the state;**

**for War Memorial and other public purposes constitutes and shall be referred to as "Memorial Place". The permanent name of "Memorial Place" shall be selected by the commission.**

**(c) A necessity is declared to exist to limit:**

**(1) the kind, character, and height of buildings upon; and**

**(2) the use of real estate and buildings that are located within three hundred (300) feet of the outside boundaries of;**

**Memorial Place as constituted in this chapter. The commission may acquire, by purchase, donation, or condemnation, the right to limit the kind, character, and height of buildings upon and the use of real estate and buildings on real estate within three hundred (300) feet of the outside boundaries of Memorial Place.**

**(d) The commission shall erect and maintain in Indianapolis, upon or within grounds dedicated or acquired under this chapter, as the commission considers best, a suitable structure or**

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**structures:**

**(1) to commemorate the valor and sacrifice of the soldiers, sailors, and marines of the United States and of all others who rendered faithful, loyal, heroic, and self-sacrificing service at home and overseas in World War I;**

**(2) to provide a place or places of meeting and headquarters for organizations of soldiers, sailors, and marines or any other patriotic societies or associations;**

**(3) to keep records, archives, documents, flags, mementos, and relics; and**

**(4) for other public meetings and other public purposes;**

**to inculcate a true understanding and appreciation of the duties, benefits, and privileges of American citizenship and inspire patriotism and respect for the law to the end that peace may prevail, good will be promoted, justice be administered and established, public order maintained, and liberty and freedom under the law perpetuated.**

**Sec. 17. (a) If squares five (5) and sixteen (16) or any part of those squares in Indianapolis, according to the original plat of the city, are acquired, dedicated, and set apart and added to the real estate dedicated in this chapter by the state for war memorial and other public purposes by Indianapolis, by Marion County, or by the city and county jointly by proper deed, contract, or grant, by which the city or county, or the city and county jointly, convey the real estate or any part of the real estate to the state for war memorial and other public purposes, the commission may accept from the city, the county, or the city and county jointly the deed, grant, or contract by which the real estate or any part of the real estate is conveyed to the state for war memorial and other public purposes, subject to the terms, conditions, and provisions contained in the deed, grant, or contract.**

**(b) The commission may agree that, to the extent that the city, the county, or the city and county jointly appropriate and use money in the acquisition of the real estate or any part of the real estate, the real estate and interests in the real estate and the memorial structures erected on the real estate (to the extent of the money so appropriated and used by the city, by the county, or by the county and city jointly) shall be a city war memorial, a county war memorial, or a joint war memorial.**

**(c) If the real estate or any part of the real estate is acquired and conveyed to the state, the commission may erect structures on outlots five (5) and thirty-six (36) dedicated in this chapter or upon**

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**any part of the real estate so dedicated or acquired as provided in this chapter as the commission considers best.**

**(d) The commission shall develop any part or all of the real estate described in this chapter that has been dedicated or acquired as provided in this chapter as a memorial place, together with square twenty-five (25), known as University Square in Indianapolis, according to the original plat of the city, to secure a harmonious and unified architectural and aesthetic effect of the entire series of grounds used and dedicated for memorial purposes. The grounds must include square twenty-five (25), known as University Square, which shall be and constitute a part of the memorial park, and shall be used as a public park.**

**(e) The commission may sell buildings and improvements situated on outlots five (5) and sixteen (16) when they come under the commission's jurisdiction, custody, and control or remove the buildings and improvements as the commission considers best. The commission may contract with Indianapolis, with Marion County, or with the county and city jointly, concerning the use and rents of the buildings and improvements on squares five (5) and sixteen (16) until it is necessary to remove the buildings for the purpose of erecting the memorial structure or structures. The commission may contract with the city or county or the city and county jointly with reference to the sale of buildings and improvements upon the real estate that may be acquired and conveyed to the state by the city or county or by the city and county jointly for War Memorial and other public purposes. The contracts must provide how the proceeds from the rent or sale of buildings and improvements shall be applied.**

**Sec. 18. The commission may do the following:**

**(1) Make and execute contracts and other instruments that may be required in connection with the erection and maintenance of a suitable structure or structures upon or within Memorial Place.**

**(2) Adopt rules for the following:**

**(A) The proper management, government, and use of Memorial Place and the structures situated on Memorial Place.**

**(B) The government of employees.**

**(3) Acquire by condemnation the right to limit the kind, character, and height of buildings upon and the use of real estate or buildings located within three hundred (300) feet of the outside boundaries.**

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**(4) Adopt reasonable rules as are proper to limit the kind, character, and height of buildings located or erected within three hundred (300) feet of the outside boundaries of Memorial Place and the use of the buildings or real estate. A building constructed or maintained or business conducted in violation of any rule may be abated as a nuisance in an action begun and prosecuted by the commission.**

**(5) Receive donations, gifts, devises, and bequests and use them in connection with the purposes of this chapter.**

**Sec. 19. (a) The grounds that belong to the state in Indianapolis:**

**(1) designated in the Constitution of the State of Indiana as Governor's Circle;**

**(2) later called "Circle Park"; and**

**(3) known and designated as "Monument Place";**

**shall be known and designated as "Monument Circle".**

**(b) All written instruments and all laws that relate to the grounds described in subsection (a) in statutes are effective for the purpose intended when the grounds are described and designated as Monument Circle.**

**Sec. 20. The commission shall adopt rules for the government of the monument and Monument Circle. The rules are binding and effective when approved by the governor.**

**Sec. 21. (a) The commission:**

**(1) has general control of the State Soldiers' and Sailors' Monument Circle; and**

**(2) may employ a superintendent.**

**(b) The superintendent may, with the advice and consent of the commission, appoint engineers, elevator operators, electricians, and watchmen as are actually required, all of whom are subject to removal at any time by the commission for any reason satisfactory to the commission.**

**(c) The superintendent:**

**(1) has direct charge and supervision of the monument and Monument Circle, subject to the orders of the commission; and**

**(2) may require watchmen to act as elevator operators and elevator operators to act as watchmen.**

**(d) The superintendent and the engineers, watchmen, and elevator operators have police powers with all powers of a constable.**

**Sec. 22. (a) The superintendent shall execute a bond in the penal sum of five thousand dollars ($5,000), to be approved by the**

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**commission.**

**(b) The superintendent shall:**

**(1) on the first day of each month, make a sworn statement to the auditor of state of all receipts and expenditures, with vouchers attached for the preceding month, on account of the monument; and**

**(2) at the same time, pay over to the treasurer of state all money received by the superintendent from all sources in the operation of the monument for the preceding month.**

**The auditor of state shall draw a warrant on the treasurer of state, payable to the superintendent, engineers, elevator operators, and watchmen, for the amounts due them as salaries and to the superintendent for a total of expenditures other than salaries incurred in the management of the monument and Monument Circle as shown by the vouchers.**

**Sec. 23. The Soldiers' and Sailors' Monument and all approaches to the monument and all surroundings belonging to the state shall be maintained perpetually and inviolate for the purpose originally designed.**

**Sec. 24. A person may not desecrate the Soldiers' and Sailors' Monument in Indianapolis, the street known as Monument Circle, or any of the premises or approaches surrounding the monument by building a wall, fence, or other obstruction in or about the premises, approaches, or street known as Monument Circle surrounding the monument:**

**(1) to sell or offer to sell any article of merchandise;**

**(2) to have or to hold any show, carnival, circus, or masquerade;**

**(3) to maintain any tent or building in or about the street, premises, or approaches;**

**(4) to hold a political meeting;**

**(5) to in any way obstruct the view or approaches to the street, or premises; or**

**(6) to use the premises, street, or approaches;**

**for purposes other than those intended in this chapter.**

**Sec. 25. A person who intentionally damages or removes any of the property of the state on Monument Circle is liable for the payment of a penalty not less than twice the sum necessary to repair the damage or restore the lost property. The penalty may be collected by the commission in a civil action.**

**Sec. 26. (a) The commission may do the following:**

**(1) Make or sell the following:**

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**(A) Pictures, models, books, and other representations of the monuments and grounds.**

**(B) Souvenirs.**

**(2) Establish and maintain souvenir shops on property that the commission manages.**

**(3) Hire and pay salaries for full-time or part-time employees for the souvenir shops.**

**(4) Contract with a nonprofit organization or corporation for the continuous management of the souvenir shops.**

**(5) Report annually to the governor on the activities, revenues, expenditures, and profits of the souvenir shops.**

**(b) Notwithstanding section 27 of this chapter, the following apply to the profits from souvenir shop sales:**

**(1) The souvenir shop fund is established. The souvenir shop fund shall be administered by the commission.**

**(2) Profits from the sales at souvenir shops established under subsection (a) shall be deposited in the souvenir shop fund.**

**(3) The treasurer of state shall invest the money in the souvenir shop fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.**

**(4) The expenses of administering the souvenir shop fund shall be paid from money in the fund.**

**(5) The commission may spend the money in the souvenir shop fund for the following purposes:**

**(A) Maintenance or repair of properties managed by the commission.**

**(B) Maintenance, repair, and acquisition of the following:**

**(i) Battle flags.**

**(ii) Appropriate artifacts.**

**(iii) Appropriate memorabilia.**

**(6) All money accruing to the souvenir shop fund is appropriated continuously for the purposes listed in subdivision (5).**

**(7) Money in the souvenir shop fund at the end of a state fiscal year does not revert to the state general fund.**

**(c) A person may not make or sell pictures, models, books, or other representations of the monuments or grounds unless the person is authorized to do so by the commission.**

**Sec. 27. Money recovered or accrued under this chapter shall be used:**

**(1) to keep:**

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**(A) the State Soldiers' and Sailors' Monument and subsidiary monuments; or**

**(B) the Monument Circle and its decorations and improvements;**

**in repair; and**

**(2) to restore any parts of the monuments or the Monument Circle that have been broken, destroyed, removed, or injured.**

**Sec. 28. The superintendent of the State Soldiers' and Sailors' Monument and of Monument Circle and those serving under the superintendent who are appointed by the commission have police powers and may make arrests or do other things as may be needed to enforce the laws for the protection and care of the monuments and Monument Circle.**

**Sec. 29. The commission may grant the use for public purposes of any structures or any parts of structures erected by the commission under this chapter without rent or charge or for only a nominal rental:**

**(1) to any organizations of soldiers, sailors, and marines and others as a place for their meeting and headquarters and for the keeping of records, archives, documents, flags, mementos, and relics; and**

**(2) for other public meetings and other public purposes not inconsistent with the purpose of this chapter;**

**for the time and upon the terms and conditions as the commission determines.**

**Sec. 30. (a) The commission may not enter into a contract for:**

**(1) the purchase or sale of property, material, or supplies; or**

**(2) the performance of work or labor, except for salaries of employees;**

**if the work and labor or materials and supplies cost more than ten thousand dollars ($10,000) without first giving notice of its intention to purchase or sell the materials or supplies or to contract for the work or labor by publication in a newspaper of general circulation printed and published in the English language in Indianapolis for two (2) successive weeks before the time fixed for the letting of the contract or the sale of the property.**

**(b) A contract under this section must be in writing. The other contracting party shall furnish bond for the faithful performance of the contract in an amount fixed by the commission and with surety to the commission's approval, conditioned upon the faithful performance of the contract. However, if the commission decides to purchase a patented article or material or an article or material**

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**of a special type, character, or design of construction or make that may be purchased from only one (1) person, firm, limited liability company, or corporation, their agents or representatives, or for which there is a fixed, standard price, the commission is not required to take or receive competitive bids. However, the commission shall publish in the manner set forth under subsection (a) the number and character of the article or kind and quality of material proposed to be purchased, the unit price, and the total sum to be paid.**

**(c) A contract made in violation of this section is void.**

**Sec. 31. (a) The Indiana War Memorial fund:**

**(1) is subject to the laws of this state that concern the deposits and safekeeping of public funds; and**

**(2) shall be deposited under the advisory supervision of the state board of finance in the same way and manner and at the same rate of interest and under the same restriction as state funds.**

**(b) Interest that accrues to the fund shall be added to and become a part of the Indiana War Memorial fund.**

**(c) The Indiana War Memorial fund and the accounts of each public officer, employee, or person entrusted by law with the raising, disposition, or expenditure of the fund or any part of the fund are subject to the same penalties and the same provisions for publicity as are provided by law for state funds and state officers.**

**Sec. 32. The commission, with the approval of the governor, may let a contract for the erection of additional structures on the site of the Indiana World War Memorial, in accordance with plans and specifications adopted by the commission, with the approval of the governor, to any competent and reliable contractor.**

**Sec. 33. (a) The commission shall commemorate the valor of those loyal citizens of this state who served with the armed forces of the United States during World War II and the Korean Conflict by placing their names in the archives of the World War Memorial located at Indianapolis.**

**(b) The names must be placed in the archives in the same manner as those honored by Indiana who served in World War I.**

**Sec. 34. (a) The commission shall commemorate the valor of those loyal citizens of Indiana who served with the armed forces of the United States during the Vietnam conflict by placing their names in the archives of the World War Memorial located at Indianapolis.**

**(b) The names must be placed in the archives in the same**

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**manner as those honored by Indiana who served in World War I, World War II, and the Korean Conflict.**

**Sec. 35. A suit to enjoin the enforcement of this chapter or to prevent the levy or collection of taxes under this chapter may not be commenced.**

**Sec. 36. All property of every nature and kind constituting a memorial or used in connection with a memorial is exempt from taxation for all purposes.**

**Sec. 37. Except as otherwise provided in this chapter, a person who violates this chapter commits a Class B infraction.**

**Sec. 38. It is a Class D felony for a member of the commission or the architect, secretary, superintendent, or any other person in the employ of the commission to:**

**(1) knowingly be interested in or derive any profit from any contract, employment, or purchase connected with the Indiana World War Memorial or with any action of the commission; or**

**(2) knowingly be interested in any claim against the commission or the state growing out of the erection or maintenance of the Indiana World War Memorial;**

**other than for the compensation for their services or for their expenses as provided in this chapter.**

**Chapter 2. World War Memorials**

**Sec. 1. As used in this chapter, "world war memorial" means:**

**(1) World War I memorial parks and artificial lakes in World War I memorial parks; or**

**(2) World War I structures.**

**Sec. 2. (a) A county may through its county executive acquire by:**

**(1) purchase;**

**(2) donation; or**

**(3) condemnation;**

**suitable real estate to construct and maintain structures to commemorate the bravery, courage, valor, and sacrifice of the soldiers, sailors, and marines of the United States and of all others who rendered faithful, loyal, heroic, and self-sacrificing service at home or overseas in World War I.**

**(b) At a world war memorial, a county may do the following:**

**(1) Provide a place for meetings and headquarters for organizations of active or retired military personnel or any other patriotic associations.**

**(2) Provide storage for the keeping of records, archives,**

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**documents, flags, mementos, and relics.**

**(3) Provide space for public meetings and for other public purposes.**

**(4) Inculcate an understanding and appreciation of the duties, benefits, and privileges of American citizenship.**

**(5) Inspire patriotism and respect for the law to the end that peace may prevail.**

**(6) Promote good will and justice.**

**(7) Perpetuate liberty and freedom.**

**(c) In addition to the powers provided under subsections (a) and (b), a county may do the following:**

**(1) Acquire by purchase, donation or condemnation any interest in real property to be dedicated by the county and added to any real property that is dedicated by the state for World War Memorial and other public purposes, by proper contract, deed or grant. The real property acquired shall be conveyed by the county to the state for World War Memorial and other public purposes as provided in the contract, deed, or grant.**

**(2) Join with any city located in the county to acquire by purchase, donation, or condemnation, interests in real property to be dedicated by the county and the city jointly and added to any real property that is dedicated by the state for World War Memorial and other public purposes, by proper contract, deed, or grant. The real property acquired shall be conveyed by the county and city jointly to the state for World War Memorial purposes and other public purposes as provided in the contract, deed, or grant.**

**(3) Join with any city located in the county to:**

**(A) acquire by purchase, donation, or condemnation interests in real property;**

**(B) construct and maintain on the real property a joint city and county World War Memorial; and**

**(C) use the real property for other public purposes as provided in this chapter.**

**Sec. 3. (a) A county executive may appropriate, without any appropriation by the county council of the funds of the county for a world war memorial and other public purposes.**

**(b) Funds appropriated for a world war memorial may not exceed one-half of one percent (0.5%) of the adjusted value of taxable property of the county, to be determined under IC 36-1-15.**

**(c) The county shall use the funds appropriated to acquire real**

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**estate and construct structures for a world war memorial and other public purposes, as authorized by this chapter.**

**Sec. 4. (a) A county and its county executive may appropriate money for any or all of the purposes as provided in this chapter:**

**(1) out of the general funds of the county; or**

**(2) from the proceeds of a bond issue.**

**(b) A county may issue and sell bonds for the purpose of raising funds to comply with this chapter.**

**(c) If:**

**(1) a county executive decides to establish a world war memorial; and**

**(2) there is sufficient money in the county's general fund to pay the entire cost of the world war memorial;**

**money from the county's general fund may be appropriated.**

**(d) If there is not sufficient money in a county's general fund, the county auditor shall certify to the county executive, who may authorize and make a loan not exceeding one-half of one percent (0.5%) of the adjusted value of the taxable property of the county, to be determined under IC 36-1-15.**

**(e) It is not necessary to obtain:**

**(1) the authorization of the county council; or**

**(2) the appropriation by the county council;**

**for any money for the payment of the bonds authorized under this section or the interest on the bonds.**

**(f) A county executive may issue bonds in the name of a county to fund or refund a loan or loans as authorized by this chapter.**

**(g) A bond for world war memorials shall be issued in any denomination of not more than one thousand dollars ($1,000) each and in not less than twenty (20) or more than fifty (50) series.**

**(h) Each bond series is to be for an amount determined by the county executive and shall be payable one (1) series each year, beginning on July 1 of the fifth year after the bonds are issued.**

**(i) A bond shall be negotiable as inland bills of exchange and shall bear interest at a rate not exceeding five percent (5%) per annum, payable semiannually on July 1 and January 1 of each year.**

**(j) A bond shall be exempt from taxation for any and all purposes.**

**(k) All proceeds of bonds issued and sold under this chapter by a county, including any premium, shall be kept in a separate and specific fund to be known as the world war memorial fund.**

**(l) Any surplus remaining in a world war memorial fund after**

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**all the demands of the county have been paid and discharged shall be transferred by the county executive to the world war memorial bond funds.**

**(m) A series of bonds issued under this chapter may not be for less than one-fiftieth (1/50) of the total amount of bonds issued.**

**(n) A suit to question the validity of bonds authorized to be issued by this chapter may not be instituted after the date set for the sale of the bonds. All bonds are incontestable for any cause except for excess of constitutional limit.**

**Sec. 5. (a) If a county issues bonds for a world war memorial under this chapter, the county fiscal body, county executive, and any other county official who fixes rates or levies taxes shall yearly tax all real and personal property within the county at a rate on each one hundred dollars ($100) of taxable property to meet the interest and principal on world war memorial bonds as they mature.**

**(b) Taxes levied for world war memorial bonds:**

**(1) shall be collected by the treasurer of a county or other proper officer in the same manner as other taxes are collected and enforced;**

**(2) shall be kept in a separate fund to be known as the world war memorial bond fund;**

**(3) shall be applied to the payment of the bonds issued under this chapter and interest as the bonds mature; and**

**(4) shall be deposited in an interest earning account with one (1) or more of the depositories in the county, with all interest earned becoming a part of the fund.**

**Sec. 6. (a) A county executive establishing a world war memorial shall adopt a design and a plan for the construction of a world war memorial.**

**(b) A county executive:**

**(1) may employ architects and other personnel necessary to design and supervise the building of a world war memorial; and**

**(2) shall not adopt any design or plan for a world war memorial that, together with the cost of real estate and other expenses for the establishment of the memorial, exceeds the amount authorized for the project. However, this limitation may not restrict the right of a county executive to enter into any contract with any city located in the county for the joint construction of a world war memorial.**

**Sec. 7. All changes made in the designs or plans for a world war**

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**memorial are subject to the following:**

**(1) Changes must be agreed upon in writing, in advance, between the county executive and the contractor and architect.**

**(2) Compensation may not be paid for design or plan changes.**

**(3) Changes may not be made that will increase the total cost of the world war memorial.**

**(4) Changes may not affect the obligation of or release any surety or bondsmen on any contract or bond executed or given in connection with the building of the world war memorial. However, the liability shall be extended to embrace and cover the changes.**

**Sec. 8. The architect employed to supervise the building of world war memorial structures:**

**(1) shall, at the time of employment, execute a proper bond in an amount fixed by the county executive and with surety to the approval of the county executive;**

**(2) is liable on the bond for:**

**(A) any failure in faithfully discharging duties;**

**(B) all losses and damages that may be incurred on account of negligence; or**

**(C) violating this chapter; and**

**(3) is entitled to receive compensation as agreed upon in advance.**

**Sec. 9. (a) If a county executive has adopted designs or plans for the construction of world war memorial structures as provided in section 6 of this chapter, the county executive shall:**

**(1) contract with a reliable contractor for all or any part of the construction of the world war memorial structure, as provided in this chapter; and**

**(2) publish for at least three (3) weeks, one (1) time each week, in a newspaper of general circulation published in the county a notice informing the public and contractors:**

**(A) of the nature of the structures to be constructed;**

**(B) that the designs and plans are on file in the office of the county executive; and**

**(C) that sealed proposals for contractors to work on the construction of the world war memorial are due not earlier than thirty (30) days from the first published notice.**

**(b) A county executive shall, by order, impose conditions upon:**

**(1) bidders;**

**(2) contractors;**

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**(3) subcontractors; and**

**(4) materialmen;**

**with regard to bond and surety and guaranteeing the faithful completion of work according to contract.**

**(c) All contracts with builders, architects, or materialmen must reserve to the county executive for good cause shown the right to cancel a contract and to relet work to others. If a contract is canceled, at least ten percent (10%) shall be reserved from payments on estimates on work done in progress until the contracts are completed and the work done, inspected, and accepted by the county executive.**

**(d) A payment, partial or final, may not be construed as a waiver of defective work or materials or as a release for damages on account of defective work or materials.**

**(e) A surety may not be released from any obligation on its bond if the contractor is paid the whole or any part of the percentages required to be reserved from current estimates. A surety may not be released by any final payment made to the contractor.**

**Sec. 10. (a) If a county has appropriated money to be used by the county executive under this chapter, the county executive may enter into a contract with any city located in the county for the joint acquisition of real estate for a world war memorial.**

**(b) Contracts between counties and cities for the joint acquisition of real estate for developing a world war memorial shall be made through the city's board of public works with the approval of the mayor.**

**(c) If a county executive decides to contract with a city for the joint acquisition of real estate and development of a world war memorial, the county executive shall adopt a resolution signifying their desire and send a certified copy of a resolution to the mayor of the city. The mayor shall refer the resolution to the board of public works for action. Within sixty (60) days after the receipt of the resolution, the board of public works shall determine by resolution whether or not the city will join with the county in the execution of any contract for any purpose authorized by this chapter.**

**(d) If a county and city agree to join in the acquisition of real estate to be dedicated for a world war memorial as authorized by this chapter, the county executive shall execute a contract between the county and the city describing the real estate and interests in the real estate to be acquired jointly and the costs for the county and the city. The contract shall be executed in duplicate and shall**

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**be included in the minutes of the proceedings of the county executive and of the board of public works of the city.**

**(e) If a county and city agree to establish a joint world war memorial, then the county executive, acting for the county, and the board of public works, with the approval of the mayor, shall execute a contract between the county and city that must provide the following:**

**(1) For the acquisition of real estate and the construction of a joint world war memorial suitable for the county and city.**

**(2) The respective parts of the total cost of the world war memorial that shall be paid by the county and by the city and the time and manner of the payments.**

**(3) That the acquisition of real estate and the execution of all necessary contracts for the construction of the joint world war memorial shall be made by a board of trustees consisting of five (5) members to be appointed and have the powers and perform the duties as provided in this chapter.**

**(4) That the total costs of the acquisition of the real estate for the joint world war memorial and the construction of the world war memorial may not exceed the amount of money appropriated by the county executive and the common council of the city.**

**(5) That the necessary cost and expenses for the management, maintenance, repairs, and improvement of the memorial shall be paid by the county and city in the same proportion that they contribute to the establishment of the memorial.**

**(6) That the contract may contain any other terms, conditions, and provisions that may be agreed upon between the county and city, not inconsistent with this chapter.**

**(f) The county shall pay its part due under any contract executed by the county with any city within the county under this chapter from:**

**(1) the general funds of the county; or**

**(2) the proceeds of bond issue as provided in this chapter.**

**(g) The county, acting through its county executive, may issue and sell bonds for the purpose of raising funds to pay its part of the cost under any contract executed by the county with any city located within the county under this chapter.**

**(h) The county executive shall issue and sell the necessary bonds and levy and collect the necessary taxes to pay the bonds as they mature, together with interest, all as authorized in this chapter.**

**Sec. 11. (a) If a county enters into a contract with any city for**

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**the establishment of a joint county and city world war memorial, as provided in this chapter, there is established a board of trustees that consists of five (5) members, to be known as "Trustees of the World War Memorial for the County of _____ and the City of _____ ", giving the name of the county and the name of the city.**

**(b) The trustees shall be appointed as follows:**

**(1) Three (3) trustees shall be appointed by the county executive of the county.**

**(2) Two (2) trustees shall be appointed by the mayor of the city.**

**(c) One (1) of the trustees appointed by the mayor shall be appointed for a term of two (2) years and one (1) for a term of three (3) years. Subsequently, the trustees shall be appointed by the mayor for a term of three (3) years. Two (2) of the trustees appointed by the county executive shall be appointed for a term of two (2) years and one (1) for a term of three (3) years. Subsequently, the trustees shall be appointed by the county executive for a term of three (3) years.**

**(d) The trustees shall be selected without regard to their political affiliations. Not more than three (3) trustees may be of the same political party. The mayor may not appoint more than one (1) trustee from any political party. The county executive may not appoint more than two (2) trustees from any political party.**

**(e) The board of trustees must be persons of high standing and character and serve without compensation but may receive reimbursement for any reasonable expenses necessarily incurred by them in the performance of their duties.**

**(f) The mayor or county executive may, for just cause, based upon written charges specifically alleging the misconduct, remove any member appointed by the mayor or county executive, after notice to the trustee board and a public hearing.**

**(g) In case of vacancy caused by removal or otherwise, the mayor or the county executive making the original appointment shall appoint a qualified person to fill the unexpired term.**

**(h) Each trustee shall do the following:**

**(1) Execute a bond to the county and city in the sum of five thousand dollars ($5,000), conditioned for the faithful performance of duties as a trustee, with sureties to be fixed and approved by the judge of the circuit court.**

**(2) Take an oath that the trustee will support the Constitution of the United States and the Constitution of the State of**

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**Indiana and will faithfully discharge all of the duties as a trustee. The oath shall be endorsed on the bond, and the bond and oath shall be filed with the clerk of the circuit court.**

**(i) If a joint county and city world war memorial is established, the board of trustees shall have all the powers and perform all the duties in relation to the acquisition of the ground and the construction of the joint county and city world war memorial as provided in this chapter to be done and performed by the county executive in relation to a county world war memorial.**

**(j) If a joint county and city world war memorial is established, all money appropriated by the county and the city shall be disbursed upon estimates submitted by the board of trustees and certified to the proper officers of the county and city as provided for in the contract between the county and city.**

**(k) A board of trustees may not be established if a county contracts with a city located in the county to jointly acquire real estate and interests in the real estate to be dedicated and added to an existing war memorial operated by the state.**

**Sec. 12. The county executive shall:**

**(1) provide a fund as is necessary for the:**

**(A) management;**

**(B) maintenance;**

**(C) repair; and**

**(D) improvement;**

**of any county world war memorial;**

**(2) pay its part of the cost of:**

**(A) management;**

**(B) maintenance;**

**(C) repair; and**

**(D) improvement;**

**of any joint county and city world war memorial, as determined by contract; and**

**(3) raise money for the fund by taxation in the manner as provided by law for all other county expenses.**

**Sec. 13. (a) If a county decides to join a city located in the county to acquire real estate to be dedicated, set apart, and added to any real estate that may be designated for use or dedicated and set apart by the state as a world war memorial and other public purposes, as provided in this chapter, the county, through its county executive, shall execute proper deeds, grants, or contracts with the state to convey the real estate to the state for world war 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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**(b) Before a county executive may purchase real property or interests in real property, by the county, jointly by the county and a city located in the county, by the county executive or board of trustees, as provided in section 11 of this chapter, or by the county executive acting jointly with the board of public works of any city located in the county, the county executive must:**

**(1) have the real property appraised at its true cash value by at least three (3) disinterested freeholders of the county; and**

**(2) may not pay more than the appraised value for any real property and interests in real property.**

**(c) If an owner refuses to sell real property at the appraised value, the property must be acquired by condemnation. If a county acts alone, an attorney representing the county shall conduct all the legal proceedings necessary in the purchase or condemnation of real property. The legal department of a city and an attorney representing the county, if the county and city act jointly under this chapter, shall conduct all the necessary legal proceedings, without additional compensation, for the purchase or condemnation of real property.**

**(d) If a county acquires real property for any of the purposes provided for by this chapter or joins with a city located in the county in the acquisition of real property for any of the purposes provided for in this chapter, the county, acting by and through its county executive, or the county, by and through its county executive acting jointly with any city located in the county, by and through its board of public works, with the approval of the mayor, may sell the buildings and improvements on the real property.**

**(e) The net rent or proceeds of the sale of the building and improvements on the real property at a war memorial, if the real property was acquired by the county, shall be added to and become a part of the county world war memorial fund. If the real property was acquired by the county and any city located in the county jointly, the rent and proceeds of sale shall be added to the county world war memorial fund and the city world war memorial fund in the same proportions that the city and county contributed to the acquisition of the real property, buildings, and improvements, or the county.**

**(f) The county and a city located in the county acting jointly, as provided in this chapter, may convey any real property acquired to the state. The contract with the state must provide for the rent of buildings and improvements on real property, until necessary to remove the buildings and improvements, and for the sale of the**

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**buildings and improvements if the real property is needed by the board of trustees for world war memorial and other public purposes. The contract must provide how the net rent or proceeds will be applied.**

**(g) If a county institutes proceedings to condemn any real property or interests in real property or other property under this chapter, the suit must be brought:**

**(1) in the name of the county;**

**(2) by an attorney representing the county; and**

**(3) at the direction of the county executive.**

**(h) If the joint condemnation of real property under this chapter is by a county and by a city located in the county, the suit must be brought in the name of the county, as provided in this section, and in the name of the city by its legal department, without additional compensation, at the direction of the board of public works. The county, or the county and the city jointly, may:**

**(1) join in one (1) action naming as defendants the owners and all persons interested in one (1) or more tracts of real property to be condemned; or**

**(2) institute proceedings to condemn separate tracts of real property.**

**Sec. 17. (a) A county executive, instead of making a loan or loans as provided in section 4 of this chapter, may make a loan for a period of not more than ten (10) years for any of the purposes authorized by this chapter.**

**(b) A loan issued under this section must be at a rate of interest not exceeding six percent (6%) per annum, payable semiannually. The loan must be evidenced by the bonds of the county, which shall be payable at their maturity and not later than ten (10) years after the date of issue.**

**(c) A bond issued under this section is exempt from taxation for all purposes.**

**(d) If a bond issued under this section is issued for a longer period than five (5) years:**

**(1) at least one-fiftieth (1/50) of the total issue of the bonds must mature each year after the fifth year; and**

**(2) the balance of the bond must mature and be paid or refunded not later than ten (10) years after the date of issue.**

**(e) A county executive may refund a loan issued under this chapter with another bond issue in accordance with this chapter.**

**(f) A county executive may name the date when the first series of refunding bonds is due. However, the first of the series may not**

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**be for a longer period than five (5) years from the date of issue.**

**Sec. 18. In the establishment and maintenance of a county world war memorial, a county executive or a board of trustees of a joint county and city world war memorial has all the powers and duties conferred upon the Indiana War Memorials Commission under IC 10-18-1, in so far as the powers and duties are not inconsistent with this chapter. However, a county executive or board may not employ a secretary.**

**Sec. 19. (a) If a county executive desires to carry out this chapter, the county executive must adopt a declaratory resolution in substance as follows:**

**"Be it resolved, by the county executive of _____ County, that said county should proceed alone, or jointly with the city of _____ located in such county, to carry out the purposes of IC 10-18-2.".**

**(b) The resolution shall be recorded in the proceedings of the county executive. Notice of the adoption of the declaratory resolution shall be given by the county executive by the publication of the resolution in full by two (2) insertions published at least a week apart in accordance with IC 5-3-1-4.**

**(c) The county executive may:**

**(1) appropriate money;**

**(2) make loans;**

**(3) issue bonds;**

**(4) levy taxes; and**

**(5) do everything that may be necessary to carry out this chapter.**

**If any bonds are issued under this chapter by a county and the bonds have to be refunded, it is not necessary for the county executive to adopt a declaratory resolution.**

**(d) The rights and powers of this chapter vested in any county executive may not be exhausted by being exercised one (1) or more times, but are continuing rights and powers.**

**(e) If there is a second or other subsequent exercise of power under this chapter by any county, it is not necessary for the county executive to adopt a declaratory resolution. Any county acting a second or subsequent time may proceed to carry out this chapter without any appropriation by the county fiscal body and without being required to comply with any other law relating to appropriations and budgets except for section 2 of this chapter.**

**Sec. 20. A political subdivision (as defined in IC 36-1-2-13) or municipal corporation (as defined in IC 36-1-2-10) may erect or**

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**cause to be erected a memorial to the armed forces of World War II under the same conditions that a memorial to the armed forces of World War I may be built.**

**Sec. 21. A suit to enjoin the enforcement of this chapter or to prevent the levy or collection of taxes under this chapter may not be commenced.**

**Sec. 22. All property that is:**

**(1) part of a county world war memorial;**

**(2) part of a joint county and city world war memorial;**

**(3) used in connection with a world war memorial; or**

**(4) acquired by a county or jointly by a county and a city located in the county for any purpose authorized by this chapter;**

**is exempt from taxation for all purposes.**

**Chapter 3. City and County War Memorials**

**Sec. 1. (a) Counties and cities may provide and maintain a suitable memorial to commemorate the:**

**(1) courage, valor, and sacrifice of the members of the armed forces who served the United States in World War I or World War II; and**

**(2) faithful, loyal, and self-sacrificing service rendered by others to our country in those wars.**

**(b) A proceeding for the establishment and maintenance of memorials initiated under the provisions of another law may be continued and completed under this chapter without compliance with sections 2 through 5 of this chapter if the board of commissioners of the county or common council of the city has:**

**(1) determined to proceed with the memorial; and**

**(2) published notice of the determination.**

**(c) Before proceeding under this chapter, the board of commissioners or common council shall:**

**(1) by resolution, declare its intention to establish and maintain a memorial; and**

**(2) appoint a board of trustees in accordance with section 6 of this chapter.**

**Sec. 2. (a) The board of commissioners of a county or the common council of a city shall, on petition of at least one hundred (100) adult citizens of the county or city, appoint a committee to be known as the memorial committee. The appointments may not be made until after notice of the filing of the petition has been published for at least two (2) weeks. Publication must occur once each week in a newspaper of general circulation in the county or**

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**city.**

**(b) The committee must have at least five (5) but not more than fifteen (15) members. Each committee member must be a citizen of the county or city in which the memorial is proposed. The members must be appointed based solely upon their fitness, and the committee must include representatives of educational, benevolent, labor, and other interests.**

**(c) The members of the committee serve without compensation. However, the board of commissioners or common council may compensate members for necessary expenses in the performance of their duty, including compensation of expert advisers. The board of commissioners or common council may make an appropriation in advance to compensate members for necessary expenses.**

**(d) The committee shall make a careful study of the subject of a suitable memorial in the county or city and report its conclusions to the board of commissioners or common council. The report must include:**

**(1) the kind of memorial regarded by the committee as appropriate;**

**(2) the estimated cost of erection and maintenance;**

**(3) the method of control; and**

**(4) any other matter the committee considers proper.**

**The committee shall make the report within six (6) months after appointment, unless a longer time is given by the board of commissioners or common council. A committee that fails to report within the time allowed is immediately regarded as dissolved, and the board of commissioners or common council shall appoint a new committee. A new committee appointed under this subsection is governed by the same rule regarding the filing of a report and dissolution.**

**(e) A vacancy in the committee shall be filled by the board of commissioners or common council.**

**(f) A county or city in which a memorial committee has been appointed may not erect or provide for the erection of a memorial until the committee has made its report.**

**Sec. 3. (a) Public notice must be provided in the manner set forth under subsection (b) if a petition signed by:**

**(1) at least five hundred (500) citizens and taxpayers of a county; or**

**(2) at least two hundred (200) citizens and taxpayers of a city;**

**requests the establishment and maintenance within the county or city of a memorial for the soldiers and sailors of World War I. The**

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**petition must be addressed to the board of commissioners of the county or the common council of the city and filed in the office of the auditor of the county or clerk of the city.**

**(b) The auditor or clerk shall:**

**(1) publish a notice that includes a copy of the petition or a summary of the petition in a newspaper of general circulation printed and published in the county or city;**

**(2) post a notice that includes a copy of the petition or a summary of the petition in at least ten (10) public places in the county; and**

**(3) post a notice that includes a copy of the petition or a summary of the petition at the door of the county courthouse.**

**Notice under this subsection must also include the day the petition will be presented to the board. The day of the hearing must be fixed by the auditor or clerk at least thirty (30) days but not more than forty (40) days after the day of the filing of the petition. Notice of the petition signed by the auditor or clerk must be published for three (3) consecutive weeks and posted for at least twenty (20) days before the day designated by the auditor or clerk for the hearing.**

**Sec. 4. A petition filed under section 3 of this chapter must set forth the character and kind of a memorial proposed to be established or constructed and the probable cost of the memorial to the county or city.**

**Sec. 5. (a) On the day designated by the auditor or clerk for a hearing under section 3 of this chapter, the petitioners may make proof of the publication and posting of the notice of the hearing and present the petition to the board of commissioners or common council. However, if on or before the day of the hearing a written remonstrance is filed with the board of commissioners or common council, the board of commissioners or common council shall fix a new hearing date at least thirty (30) days but less than forty (40) days after the original hearing date. A written remonstrance must:**

**(1) be signed by citizens and taxpayers of the county or city;**

**(2) be equal in number to the signers of the petition; and**

**(3) ask that the memorial not be established or protest against the kind of memorial proposed and provide reasons for the protest. Before the new hearing date, additional names of citizens and taxpayers may be added to or withdrawn from the petition and remonstrance. A person who signs the petition may not be counted on a remonstrance against it. On or after the first day designated, a taxpayer may be added to a petition and remonstrance for hearing.**

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**(b) If a remonstrance is not filed, the board of commissioners or common council may grant the petition and order the establishment of a memorial, subject to the conditions of this chapter. If a proper remonstrance is filed on the first day designated for the hearing, the board of commissioners or common council may grant the petition on or after the second day of the hearing as fixed by the board of commissioners, unless there is a greater number of qualified remonstrators against the memorial than petitioners for the memorial at that time. If this occurs, the petition shall be dismissed at the cost of the petitioners.**

**(c) A taxpayer of the county aggrieved by the action of the board may appeal its decision to the circuit court of the county within ten (10) days in the same manner as other appeals are taken from the action of the board. The cause must be tried de novo.**

**Sec. 6. (a) Upon ordering the establishment of a memorial, a board of trustees must be appointed under this section for the establishment, maintenance, management, and control of the memorial.**

**(b) The board of commissioners of a county or common council of a city shall name five (5) trustees, not more than three (3) of whom may be members of the same political party. The appointees constitute a board for the establishment, maintenance, management, and control of the memorial. The trustees shall serve as follows:**

**(1) One (1) of the trustees named by the board of commissioners or common council serves until the first Monday of the following January.**

**(2) One (1) trustee serves until the first Monday of the second January following the trustee's appointment.**

**(3) One (1) trustee serves until the first Monday of the third January following the trustee's appointment.**

**(4) Two (2) trustees serve until the first Monday of the fourth January following the appointment of the trustees.**

**On the expiration of the term of a trustee, a successor shall be appointed under this section to serve a term of four (4) years. Each subsequent trustee serves a term of four (4) years.**

**(c) The board of trustees shall elect a president, vice president, secretary, and treasurer. Elections must occur annually on the second Monday in January of each year or as soon after that day as possible. A trustee serves without compensation, except that a trustee is allowed all necessary expenses incurred in the performance of the trustee's duties.**

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**(d) Bond for the faithful and honest performance of a trustee's duties is required. The form and amount of the bond is fixed by the board of commissioners or common council. If a surety bond is furnished by a trustee, the expense of the bond shall be borne by the county or city.**

**Sec. 7. (a) As soon as selected, a trustee shall be notified of the appointment by the auditor or city clerk. The auditor or clerk shall fix a date for the trustees to meet for the purpose of electing officers and adopting suitable rules for the government of the board.**

**(b) The board of trustees shall select a proper site for the memorial. A county memorial must be located at or near the county seat of the county and must have plans and specifications drawn for the establishment of the memorial. The plans and specifications must provide for a memorial of the kind and character ordered established and constructed by the board of commissioners or common council.**

**Sec. 8. (a) The cost of establishing and constructing a memorial and the expense of maintaining the memorial shall be derived from revenue generated by the memorial. If this revenue is not sufficient, the costs shall be borne by the county or city as provided in subsections (b) and (c).**

**(b) For the purpose of raising money to pay for the establishment of a memorial, the bonds of the county or city may be issued, not to exceed the amount of:**

**(1) the contract price;**

**(2) expenses incurred and damages allowed prior to the awarding of the contract;**

**(3) a sum sufficient to pay the per diem of the engineer, architect, and superintendent during the construction of the memorial; and**

**(4) other estimated costs necessary for the memorial.**

**The bonds must be in denominations of at least fifty dollars ($50) each, payable not more than twenty (20) years after the date of issue.**

**(c) The bonds shall be sold at not less than face value. The proceeds shall be kept as a separate and specific fund to be used by the county or city to pay for construction of the memorial and all proper expenses incident to construction. A payment may not be made for more than eighty percent (80%) of the engineer's estimate of work done by the contractor. The whole amount of the contract may not be paid until the memorial is fully approved by**

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**the board of commissioners or common council and the board of trustees and determined to be completed and satisfactory.**

**Sec. 9. For the purpose of raising money to:**

**(1) meet the bonds and interest on the bonds; or**

**(2) establish or erect a memorial without the issuance of bonds;**

**the county or city authorities shall annually, at the time the general tax levy is made, levy a special tax on the taxable property of the county or city, subject to this chapter. Funds may be raised in yearly amounts until a sufficient amount has accrued to enable the board or common council to proceed with the erection or establishment of the memorial.**

**Sec. 10. (a) A county or city may not issue bonds or any other evidence of indebtedness payable by taxation for the construction of a memorial if the total issue of the bonds exceeds two percent (2%) of the adjusted value of the taxable property of the county or city in which the memorial is located as determined under IC 36-1-15.**

**(b) Bonds or obligations issued in violation of this section are void.**

**(c) Bonds issued under section 8 of this chapter are exempt from taxation.**

**Sec. 11. (a) A surplus remaining from the sale of bonds for the establishment of a memorial must remain as a separate fund for the maintenance, repair, improvement, or extension of the memorial.**

**(b) Each year the board of county commissioners and the county council or the common council shall provide a fund necessary for the management, maintenance, repair, improvement, and extension of the memorial. Money for the fund shall be raised by taxation in the manner provided by law for other county or city expenses.**

**Sec. 12. (a) If a city desires to erect or establish a memorial and the common council of the city:**

**(1) adopts a resolution declaring the desire;**

**(2) pledges the city to proceed promptly to erect the memorial in or near the city; and**

**(3) files a certified copy of the resolution with the board of county commissioners before the board has made an order granting a petition for a county memorial;**

**the taxable property of the city is exempt from the taxation authorized in this chapter for the erection, establishment, management, maintenance, repair, improvement, and extension of**

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**a county memorial. However, if the city, within one (1) year from the date of the order, has not in good faith begun the erection or establishment of a memorial that costs as much or more than the amount that would be derived from taxation of the taxable property of the city for the erection or establishment of the county memorial, then the exemption fails, and the property of the city shall be taxed for the county memorial in the same manner as other property of the county is taxed.**

**(b) If a person, an association, or a corporation establishes or erects in a city a suitable memorial for the permanent use of all people of the city as provided in section 15 of this chapter, and the cost of the memorial is equal to or more than the amount that would be derived from taxation of the property of the city for the erection or establishment of a county memorial, then the taxable property of the city is exempt from the taxation authorized in this chapter for the erection, establishment, management, maintenance, repair, improvement, and extension of a county memorial. However, the exemption fails unless the donor files with the board of county commissioners of the county in which a city is located a certificate signed by the donor declaring the intention to immediately begin the establishment or erection of the memorial. The signed certificate must be filed with the board of county commissioners before the board has issued an order granting a petition for a county memorial.**

**(c) A corporation, instead of filing the certificate described in subsection (b), shall file with the board a certified copy of a resolution of its board of directors declaring the intention to immediately begin the establishment or erection of the memorial. The resolution must declare that the title to the memorial and the land upon which it is located are held by a board of trustees composed of five (5) members. The board of trustees and its successors are appointed by each donor. If there is a failure to make an appointment, the city council of the city shall have appointive power.**

**(d) The donors shall create an efficient organization among the people of the city to manage, maintain, repair, and improve the memorial under the powers and restrictions described in section 15 of this chapter. The organization consists of six (6) citizens of the city. Members of the organization:**

**(1) serve in a manner and for a term as lawfully provided by the donors;**

**(2) act in conjunction with the board of trustees as a board of**

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**managers; and**

**(3) have full charge and supervision of the establishment and erection of the memorial and its management, maintenance, repair, and improvement.**

**If the cost of management, maintenance, repair, and improvement exceeds the income derived from the memorial, the costs must be provided by voluntary contributions, donations, or endowments. The board of managers shall organize and adopt rules and bylaws for the conduct of its business as are usually adopted by similar bodies.**

**(e) If the memorial building and ground cease to be used for this purpose, the trustees shall reconvey the title to the donors, their heirs, successors, or assigns.**

**Sec. 13. The board of trustees have:**

**(1) full charge and supervision of the construction of the memorial adopted; and**

**(2) authority to employ a superintendent, an engineer, or an architect.**

**Each person employed must be qualified and experienced and shall give bond for the faithful performance of the person's duties. The form and amount of the bond shall be fixed by the board of county commissioners or common council.**

**Sec. 14. If the erection or establishment of a memorial is governed by another statute, the procedure for erection, establishment, maintenance, control, and management prescribed by the other statute shall be followed instead of the procedure prescribed by this chapter.**

**Sec. 15. (a) If the memorial established is a hall, coliseum, or building of a similar nature, the hall, coliseum, or building must be used for public purposes of all kinds, but especially for the purpose of perpetuating and keeping those principles alive for which World War I was fought.**

**(b) Space must be provided for memorial tablets, works of art, relics, souvenirs, war records, and things that are:**

**(1) connected with or growing out of the war; and**

**(2) appropriate in the building in the opinion of the board of trustees.**

**Institutes, exhibits, shows, and entertainment of all kinds may be held in the building in the discretion of the board of trustees.**

**(c) The trustees may let the building for hire and fix a charge for letting the building for hire.**

**(d) A preference may not be shown to a church, political party,**

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**or class of society. However, this provision may not be construed to require or permit the use of the building by an organization or person to promulgate doctrines inimical to the government of the United States or Indiana.**

**(e) The memorial may not be:**

**(1) located, in whole or in part:**

**(A) upon land; or**

**(B) within land;**

**(2) connected to land; or**

**(3) used in connection with a land enclosure or other structure:**

**for which an admission fee is charged or that is used or controlled by a person or an organization other than the trustees in charge of the memorial.**

**Sec. 16. (a) The trustees shall make an annual report under oath to the board of county commissioners or common council. The annual report must include the activities of the trustees and of the receipts and expenditures of the memorial. The trustees shall prepare an annual budget and estimate for the board of commissioners and county council or common council so that adequate appropriation of funds may be made for the proper maintenance, repair, improvement, and extension of the memorial. A report must be made at other times if required by the board of commissioners or common council.**

**(b) All claims for expenditures incident to the maintenance of the memorial must be in the form used for the payment of other claims by the county or city. The claims must be:**

**(1) approved by the president of the board of trustees of the memorial; and**

**(2) allowed by the board of commissioners or common council in the same manner as other claims.**

**(c) All revenue from a memorial shall be accounted for by the board of trustees and delivered to the county treasurer or city fiscal officer on the first Monday of January and July of each year.**

**Sec. 17. This chapter does not prevent a gift or bequest by deed, will, or otherwise of property to a county or city for a memorial of the kind described in this chapter. A county and city may accept a bequest and gift. Property given to the county or city in this manner may be used exclusively or in conjunction with other donated property or county or city funds for a memorial. If a gift or bequest is made to a county or city, proper recognition of the gift or bequest shall be shown in connection with the memorial.**

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**Sec. 18. (a) The governor may appoint a commission known as the memorial art commission.**

**(b) The commission must consist of not more than seven (7) qualified persons who serve without pay. However, members are to be paid necessary expenses as certified by the governor to the auditor of state.**

**(c) The commission shall consider the artistic qualities of a plan for a proposed memorial.**

**(d) A memorial consisting of a building, monument, statue, tablet, picture, arch, or work of art of any kind may not be erected without first:**

**(1) submitting the plans to the memorial art commission; and**

**(2) securing criticism and advice from the commission with respect to the memorial.**

**If a state art commission is established by law, it is ex officio the memorial art commission.**

**Sec. 19. A bid must be received and a contract awarded for the memorial in the same manner as provided by law for a county or city building. Land for a memorial may be acquired under the power of eminent domain in the same manner as other land is acquired by a county or city for a public building.**

**Sec. 20. This chapter does not authorize the establishment of more than one (1) memorial at the expense of the county.**

**Sec. 21. (a) A trustee of a memorial may be removed and the position declared vacant by the board, common council, or judge appointing the trustee upon a showing that the trustee is incompetent, dishonest, or not performing the duties required by:**

**(1) law; or**

**(2) the governing rules of the board of trustees.**

**(b) At any time after a memorial building has been:**

**(1) erected and used for public purposes described in section 15 of this chapter; and**

**(2) fully paid for and all bonds or other indebtedness issued for the construction of the memorial has been retired;**

**the board of county commissioners or common council may by a two-thirds (2/3) vote of the board of commissioners or common council abolish and terminate the existence of the memorial board of trustees. The board of county commissioners or common council must have a signed petition requesting abolition and termination by all members of the board of trustees and the consent of the circuit court judge of the judicial circuit in which the county or city is situated. The judge's consent must be included on the signed**

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**petition. The board of county commissioners or common council shall fix a time not less than thirty (30) days or more than ninety (90) days from the date of the vote when the termination becomes effective.**

**(c) If the board of trustees has been abolished and terminated, the county auditor or city clerk shall notify the secretary of the board of trustees in writing of the time for the termination of the board of trustees.**

**(d) The board of trustees shall make a full and final report of its activities in the same manner as other reports required by this chapter. The report must be completed on or before the day fixed in the notice for termination.**

**(e) On and after the date fixed for the abolition and termination of the board of trustees, the custody, control, and management of the memorial shall be exercised by the officers, board, common council, or committee of the county or city that manages and controls other county or city buildings. The officers, board, common council, or committee of the county or city that manages and controls other county or city buildings shall perpetuate the memorial features of the building.**

**Chapter 4. City War Memorials**

**Sec. 1. As used in this chapter, "board of public works" refers to the following:**

**(1) The board of public works and safety established in a city under IC 36.**

**(2) The board of public works in a city that has established a separate board of public works and a separate board of public safety under IC 36.**

**The term includes the department of public works in a city in which a department of public works has been established under IC 36.**

**Sec. 2. (a) A city, acting through its board of public works, with the approval of its mayor, when money has been appropriated for that purpose by an ordinance adopted and approved as provided in section 22 of this chapter, may do the following:**

**(1) Acquire, by purchase, donation, or condemnation, suitable interests in real property located in the city.**

**(2) Do the following on the real property described in subdivision (1):**

**(A) Erect and maintain upon the real property suitable structures to commemorate the bravery, courage, valor, and sacrifice of the soldiers, sailors, and marines of the**

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**United States and of all others who rendered faithful, loyal, heroic, and self-sacrificing service at home and overseas in World War I.**

**(B) Provide a place or places of meeting and headquarters for the following:**

**(i) Organizations of soldiers, sailors, and marines or patriotic societies or associations.**

**(ii) The keeping of records, archives, documents, flags, mementoes, and relics.**

**(iii) Other public meetings and public purposes.**

**(iv) The teaching of a true understanding and appreciation of the duties, benefits, and privileges of American citizenship to inspire patriotism and respect for the law to the end that peace may prevail, good will be promoted, justice be administered and established, public order maintained, and liberty and freedom under the law be perpetuated.**

**(b) In addition to the power given under subsection (a), a city may do the following:**

**(1) Acquire, by purchase, donation, or condemnation, any interest in real property to be dedicated by the city and added to any real property that is dedicated by the state for World War memorial and other public purposes by proper contract, deed or grant. The real property acquired shall be conveyed by the city to the state for World War memorial and other public purposes, as provided in the contract, deed, or grant.**

**(2) Join with the county in which the city is located to acquire by purchase, donation, or condemnation interests in real property to be dedicated by the city and the county jointly and added to any real property that may have been or may be designated for use, dedicated, or set apart by the state for World War memorial and other public purposes by proper contract, deed or grant. The real property acquired shall be conveyed by the city and the county jointly to the state for World War memorial and other public purposes, as provided in the contract, deed, or grant.**

**(3) Join with the county in which the city is located to:**

**(A) acquire by purchase, donation, or condemnation of interests in real property;**

**(B) construct and maintain on the real property a joint city and county World War memorial; and**

**(C) use the real property for other public purposes as**

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**provided in this chapter.**

**Sec. 3. (a) The legislative body of a city may, upon recommendation of the mayor and city controller, if applicable, by ordinance adopted and approved as provided in section 22 of this chapter, appropriate for the use of the board of public works of the city money of the city for World War memorial and other public purposes.**

**(b) Any money and the total of all money appropriated under this chapter may not exceed six-tenths of one percent (0.6%) of the adjusted value of the taxable property of the city as determined under IC 36-1-15.**

**(c) The board of public works, with the approval of the mayor, may use the funds so appropriated for any of the purposes described in section 2 of this chapter.**

**Sec. 4. (a) The board of public works of a city, in the acquisition of real property as authorized by this chapter, shall acquire the real property under the statutes applicable to the city for acquisition of real property by donation, purchase, or condemnation.**

**(b) Except as provided in this chapter, the board of public works, in the construction of a memorial structure authorized by this chapter, shall act under the statutes related to the letting of contracts for public work applicable to the city.**

**Sec. 5. (a) A city may appropriate money for use of the board of public works of the city for any of the purposes provided in this chapter, either out of the general funds of the city or from the proceeds of a bond issue for those purposes.**

**(b) A city may sell bonds for the purpose of raising funds to comply with this chapter.**

**(c) Except as provided in this chapter, the appropriation of money and the sale of bonds by a city is governed by the law relating to the appropriation of money and the sale of bonds by the city for other city purposes.**

**(d) The legislative body of a city may, by ordinance adopted and approved as provided in section 22 of this chapter, do any of the following:**

**(1) Authorize the city controller, if applicable, and the mayor, in the name of the city, to make permanent loans of money for any of the purposes of this chapter of any amount not more than six-tenths of one percent (0.6%) of the adjusted value of taxable property of the city as determined under IC 36-1-15.**

**(2) Authorize the city controller, if applicable, and mayor of**

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**the city to issue bonds for the purpose of funding or refunding loans made by the city under this chapter. Except as provided in this chapter, any loans must be made and governed by the law concerning permanent loans by cities. Any bonds must satisfy all of the following:**

**(A) The bonds may be issued in any denomination of not more than one thousand dollars ($1,000) each and in not less than twenty (20) or more than fifty (50) series. Each series must be for the amount as provided by the ordinance.**

**(B) The bonds must be payable one (1) series each year, beginning on July 1 of the fifth year after the issue of the bonds.**

**(C) The bonds must be negotiable as inland bills of exchange.**

**(D) The bonds must bear interest at the rate of not more than six percent (6%) a year, payable semiannually on July 1 and January 1 of each year.**

**(3) Authorize the city controller, if applicable, and mayor, in advertising for the sale of bonds, to ask for competitive bids on the bonds on any series of not less than twenty (20) nor more than fifty (50). The city controller, if applicable, and mayor may accept the bid that, in their judgment, is the most advantageous bid to the city.**

**(e) Bonds issued under this chapter are exempt from taxation for all purposes.**

**(f) A series of bonds issued under this chapter may not be for less than two percent (2%) of the total amount of bonds issued.**

**(g) The proceeds of bonds sold under this chapter by the city, including any premium on the bonds, must be kept as a separate and specific fund, to be known as the World War memorial fund. Money in the fund may be used only for any of the purposes described in section 2 of this chapter.**

**(h) The city legislative body may, by ordinance, transfer to the World War memorial bond fund any surplus finally remaining in the World War memorial fund, after all the demands on the city for money in the World War memorial fund have been paid and discharged.**

**(i) A suit to question the validity of any bond issued under this chapter may not be instituted after the date set for the sale of the bonds. All bonds, beginning on the date set for the sale of the bonds, are incontestable for any cause.**

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**Sec. 6. (a) To raise money to pay the bonds and the interest on the bonds issued under this chapter, the legislative body of the city and all other officials, whether city or state, shall levy each year, in addition to all other taxes the city may levy, a tax on all property, real or personal, within the city, in the manner and at a rate on each one hundred dollars ($100) of taxable property in the city as to meet the principal of the bonds as they severally mature and interest accruing on the bonds. The legislative body of the city and the fiscal officer of the city shall certify the taxes levied each year to the auditor of the county in which the city is located or other proper officer not later than the first Monday of September in each year or at the time of the certification of the city's annual tax levy.**

**(b) Taxes levied and certified under this section shall be collected and enforced in the same manner as other taxes are collected and enforced. As the taxes are collected, the taxes shall be:**

**(1) kept in a separate fund to be known as the "World War Memorial bond fund"; and**

**(2) applied to the payment of the bonds issued under this chapter and interest accruing on the bonds as they severally mature, and for no other purpose.**

**All money collected for the payment of the bonds and the interest accruing on the bonds shall be deposited at interest with one (1) or more of the depositories as other public funds of the city. All interest collected becomes a part of the fund.**

**(c) In a city in which there has been established a sinking fund and a board of sinking fund commissioners:**

**(1) the World War Memorial bond fund shall be under the care, custody, control, and jurisdiction of the board of sinking fund commissioners; and**

**(2) all taxes authorized and required to be levied and collected under this section to pay the bonds as they mature and interest accruing on the bonds shall be used and applied by the board of sinking fund commissioners to pay the bonds as they mature with interest on the bonds.**

**Sec. 7. (a) The board of public works of the city shall select designs, plans, and all necessary specifications for the erection of the World War memorial. The board of public works shall publish notice:**

**(1) in at least:**

**(A) three (3) newspapers of general circulation, printed and published in the English language in Indiana, at least**

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**one (1) of which must be published in the city; and**

**(B) seven (7) other newspapers or publications published outside Indiana;**

**selected by the board of public works; and**

**(2) that, not less than four (4) months and not more than eight (8) months after the date of publication of the notice, the board of public works will receive and examine designs, plans, and specifications for the World War memorial structures submitted to the board by competing architects or artisans skilled in that work.**

**(b) Each architect or artisan competing must submit all the following:**

**(1) Full and careful estimates of the cost of construction of the World War memorial structures.**

**(2) A sealed proposal of the compensation the architect or artisan will require if the architect's or artisan's plan is adopted.**

**(3) A separate statement of the compensation the architect or artisan will require to superintend construction of the memorial structures.**

**(c) The board of public works may not adopt a design, plan, or specification that will cost more than the sum of the following:**

**(1) The amount appropriated for the memorial structures.**

**(2) The amount of any donations, devises, or bequests the city has received at the time the contract is awarded.**

**(d) To insure adequate competition, the board of public works may offer premiums of not more than fifteen thousand dollars ($15,000) for the best design, plans, or specifications for the World War memorial. The amount of any premium must be divided and awarded as first, second, and third premiums in the amounts and under the rules the board adopts.**

**(e) The board of public works may:**

**(1) reject any plans, designs, and specifications submitted if the board considers them unsuitable; and**

**(2) readvertise in the same manner as provided in this section for additional designs, plans, and specifications.**

**If the board of public works considers none of the designs, plans, and specifications suitable, the board may not award the premiums. Any premium awarded to the architect who becomes the supervising architect in building the World War memorial shall be considered fully paid by the commission or percentage agreed upon as specified in this chapter.**

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**(f) In the selection of designs, plans, and specifications, the board of public works shall call for the assistance of all the following:**

**(1) The city's civil engineer.**

**(2) At least one (1) competent architect:**

**(A) of known skill and ability in the architect's profession; and**

**(B) who did not submit a design, a plan, or specifications for competition.**

**(3) One (1) contractor in good standing in the contractor's respective vocation.**

**(4) Other disinterested expert assistants as the board considers wise.**

**(g) The board of public works shall give the designs, plans, and specifications that have been submitted a thorough, critical examination and direct the experts called under subsection (f) to thoroughly examine the designs and specifications and carefully test the estimates submitted.**

**(h) If the board of public works finds:**

**(1) the specifications and estimates to be correct;**

**(2) that the designs, plans, and specifications, or any of them, can be constructed within the limits described in subsection (c); and**

**(3) that the designs, plans, and specifications are suitable in regard to permanence and appearance, adapted to all the purposes and aims for the World War memorial, and in keeping with the dignity of the city;**

**the board of public works may select the most meritorious of the designs, plans, and specifications and shall notify the successful architect of the selection. The board of public works shall return the rejected designs, plans, and specifications to the respective authors.**

**Sec. 8. (a) Subject to subsections (b) and (c), any changes made in the designs, plans, and specifications in the progress of the work:**

**(1) must be agreed upon in advance between the board of public works and the contractor and architect; and**

**(2) must have the cost of the changes fixed by contract in writing.**

**If changes made do not comply with subdivisions (1) and (2), the person making the changes is not entitled to any compensation for the changes.**

**(b) A change may not be made that will increase the total cost**

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**of the World War memorial as prescribed in this chapter.**

**(c) Any changes do not affect the obligation of or release any surety on any contract or bond executed or given in connection with the building of the World War memorial structures, but the liability of the surety is extended so as to cover the change.**

**Sec. 9. (a) The architect who is selected as supervising architect in the building of the World War memorial structures is liable on the architect's bond for any of the following:**

**(1) Failure in faithfully discharging the architect's duties.**

**(2) All losses and damages that are incurred on account of the architect:**

**(A) violating this chapter; or**

**(B) neglecting the architect's duties.**

**(b) The architect is entitled to the compensation agreed upon in advance.**

**Sec. 10. (a) After the board of public works has adopted the necessary designs, plans, and specifications for construction of the World War memorial structures as provided in this chapter, the board of public works shall award contracts for all or any part of the World War memorial structures to competent and reliable contractors as provided in this section.**

**(b) The board of public works shall publish for at least three (3) weeks, once each week, in a newspaper of general circulation, printed and published in the English language in the city, a notice:**

**(1) informing the public and contractors of the general nature of the structures to be constructed and of the fact that designs, plans, drawings, and specifications are on file in the office of the board of public works; and**

**(2) calling for sealed proposals for the work on a day not earlier than thirty (30) days from the first of such publications.**

**(c) The board of public works shall, by order, impose conditions upon bidders, contractors, subcontractors, and materialmen with regard to bond and surety, guaranteeing the good faith and responsibility of the bidders, contractors, subcontractors, and materialmen and insuring the faithful completion of the work, according to contract, or for any other purpose.**

**(d) The board of public works shall reserve ten percent (10%) from payments or estimates on work in progress until the contract is completed and the work done is inspected and accepted by the board. All contracts with contractors, subcontractors, architects, or materialmen must reserve:**

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**(1) to the board of public works, for good cause shown, the right to cancel the contract and to award the work to others; and**

**(2) at least ten percent (10%) from payments or estimates on work in progress until the contract is completed and the work done is inspected and accepted by the board.**

**(e) Payment by the board of public works, partial or final, may not be construed as a waiver of defective work or materials or as a release for damages on account of the defective work or materials. A surety may not be released from any obligation on the surety's bond if a contractor should be paid the whole or any part of the percentage required to be reserved from current estimates. A surety may not be released by any final payment made to a contractor.**

**Sec. 11. (a) If the board of public works of a city has been authorized by an ordinance of the city's legislative body, passed and approved under section 22 of this chapter, appropriating money to be used by the board of public works under this chapter, the board may, with the approval of the mayor of the city, enter into a contract with the county in which the city is located, acting through the board of commissioners of the county, providing for the acquisition jointly by the city and the county by purchase, donation, or condemnation of interests in real property to be added to real property designated for use by the state for World War memorial and other public purposes.**

**(b) The board of public works, with the approval of the mayor, may join with the county, acting through its board of commissioners, by an appropriate contract, deed, or grant, to convey to the state the real property acquired jointly by the city and the county for World War memorial and other public purposes, under the terms and conditions stated in the contract, deed, or grant.**

**(c) The board of public works of a city may contract with the county in which the city is located, acting through its board of commissioners, providing for the acquisition by purchase, donation, or condemnation of interests in real property and the construction of a World War memorial suitable for the city and county and suitable for other public purposes. If the city, through its board of public works and mayor, wants to contract under this chapter with the county in which the city is located for any of the purposes authorized by this chapter, the board of public works must adopt a resolution stating that proposal. A certified copy of**

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**the resolution must be delivered to the board of commissioners of the county. The board of commissioners of the county, not later than sixty (60) days after the receipt of the resolution, shall determine by order or resolution whether the county will join with the city in the execution of a contract for a purpose authorized by this chapter.**

**(d) If the city and county determine to join in the acquisition of interests in real property to be added to any real property designated at any time for use by the state for World War memorial and other public purposes as authorized by law, then the board of public works, acting for the city with the approval of the mayor, shall execute a contract on behalf of the city with the county, acting through its board of commissioners. The contract must describe the real property interests to be acquired jointly by the city and the county and the part of the acquisition cost to be paid by the city and the part of the acquisition cost to be paid by the county. The contract may contain other provisions that the city and the county agree upon and that are not inconsistent with this chapter. The contract must be executed in duplicate and be recorded in the minutes of the proceedings of the board of public works of the city and of the board of county commissioners of the county.**

**(e) If the county and city determine to establish a joint World War memorial, then the board of public works, acting for the city with the approval of the mayor, shall execute a contract on behalf of the city with the county. The contract must provide as follows:**

**(1) For the acquisition of real property interests and the construction on the real property of a joint World War memorial suitable for the county and city.**

**(2) For the definite and respective parts of the total cost of the World War memorial that will be paid by the county and by the city and the time and manner of the payments.**

**(3) That the acquisition of the real property and the execution of all necessary contracts for the construction of the joint World War memorial shall be made by a board of trustees, consisting of five (5) members, to be appointed and have the powers and perform the duties as provided in this chapter.**

**(4) That the total cost of the acquisition of the real property for the joint World War memorial and the construction of the memorial may not exceed the sum of the following:**

**(A) The amount appropriated for the memorial by the city and by the board of commissioners of the county.**

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**(B) Any amounts donated, contributed, or received by the city and by the county for the purpose of the World War memorial.**

**(5) That the necessary cost and expenses for the management, maintenance, repairs, and improvement of the World War memorial shall be paid by the county and city in the same proportion that they contribute to the establishment of the memorial.**

**(6) Any other provisions that may be agreed upon between the county and the city consistent with this chapter.**

**(f) The city shall pay for its part due under any contract executed with the county under this chapter either from the city's general funds or from the proceeds of bonds sold under this chapter.**

**(g) The legislative body of the city may authorize by ordinance the sale of bonds of the city for the purpose of raising funds to pay the city's part of the cost under a contract that it executes with the county under this chapter.**

**(h) The sale of bonds shall comply with a contract executed by a city with the county in which the city is located for any purpose authorized by this chapter, and the levy of taxes to pay the bonds, with interest accruing on the bonds, is governed by this chapter. The legislative body of the city and other proper officers shall sell the necessary bonds and levy and collect the necessary taxes to pay the bonds as they mature and the interest accruing on the bonds as provided in this chapter.**

**Sec. 12. (a) Except as provided in subsection (f), if a city enters into a contract with the county in which it is located to establish a joint city and county World War memorial, there is established a board of trustees that consists of five (5) members, named "Trustees of the World War Memorial for the County _____ and the city of _____", giving the name of the county and the name of the city. The mayor of the city shall appoint two (2) trustees, and the board of commissioners of the county shall appoint three (3) trustees. The trustees shall be appointed by the mayor for a term of three (3) years. The trustees shall be appointed by the board of commissioners for a term of three (3) years.**

**(b) The trustees shall be selected without regard to their political affiliations, but not more than three (3) trustees may be members of the same political party. The mayor may not appoint more than one (1) trustee from any political party, and the board**

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**of commissioners may not appoint more than two (2) trustees from any political party. The trustees must be persons of high standing and character. The trustees shall serve without compensation but may be reimbursed for any reasonable expenses necessarily incurred by them in the performance of their duties.**

**(c) The judge of the circuit court may, for just cause, based upon written charges:**

**(1) specifying the alleged misconduct; and**

**(2) filed by the mayor of the city or the board of commissioners;**

**remove any member of the board of trustees, after notice to the member and a public hearing. In case of a vacancy caused by removal or otherwise, the mayor or board of commissioners making the original appointment shall appoint some qualified individual to fill the unexpired term.**

**(d) Each trustee shall execute a bond to the county and city in the sum of five thousand dollars ($5,000), conditioned for the faithful performance of the trustee's duties as trustee, with surety approved by the judge of the circuit court. Each of the trustees shall take and subscribe an oath that the trustee will:**

**(1) support the Constitution of the United States and the Constitution of the State of Indiana; and**

**(2) faithfully discharge all of the duties as trustee.**

**The oath must be endorsed on the bond, and the bond and oath must be filed with the circuit court clerk.**

**(e) If a joint county and city World War memorial is established under this chapter, the following apply:**

**(1) The board of trustees established by this chapter for that purpose has all the powers and may perform all the duties in relation to the acquisition of the real property and the construction of the joint county and city World War memorial as is conferred upon a board of commissioners erecting a county World War memorial.**

**(2) All money appropriated by the city and the county for the World War memorial shall be disbursed upon estimates submitted by the board of trustees and certified to the proper officers of the city and the proper officers of the county for the respective proportions as provided in the contract between the city and county. Upon these certifications, the proper city and county officers shall draw warrants to pay the amounts certified.**

**(f) A board of trustees may not be established under this section**

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**if the city enters into a contract with the county in which it is located to join the county in acquiring interests in real property to be dedicated by the city and the county and added to real property that may be designated by the state for World War memorial and other public purposes.**

**Sec. 13. (a) The board of public works of a city, acting for the city or acting jointly with the board of commissioners of the county in which the city is located, may proceed under IC 32-24 and has all powers of eminent domain granted in this chapter or any other statute to acquire interests in real property by purchase or condemnation for any of the purposes authorized by this chapter.**

**(b) Before the board of public works may purchase an interest in real property, either by the city or jointly by the city and the county in which it is located:**

**(1) the board of public works;**

**(2) the board of trustees, as provided in section 12 of this chapter; or**

**(3) the board of public works acting jointly with the board of commissioners of the county in which the city is located;**

**must have the real property appraised at its true cash value by at least three (3) disinterested freeholders of the city and may not pay more than the appraised value for any interest in real property. If an owner refuses to sell the owner's interest in real property at the appraised value, the interest in real property must be acquired by condemnation. The legal department of the city shall conduct all necessary proceedings for the purchase or condemnation of an interest in real property by the city and county jointly, for any purpose under this chapter, without additional compensation.**

**(c) If a city institutes proceedings to condemn an interest in real property under this chapter, the suit must be brought in the name of the city by the legal department of the city, without additional compensation, at the direction of the board of public works. If there is a joint condemnation of an interest in real property by a city and the county in which it is located, the suit must be brought in the name of the city as provided in this section and in the name of the county, by an attorney representing the county, at the direction of the board of county commissioners of the county. The city or the city and county jointly may:**

**(1) join in one (1) action as defendants the owners and all persons interested in one (1) or more interests in real property to be condemned; or**

**(2) institute proceedings to condemn separate interests in real**

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**property.**

**Sec. 14. If a city decides to acquire or to join with the county in which it is located in the acquisition of interests in real property as provided in this chapter to be added to real property designated by the state for World War memorial and other public purposes, as provided in this chapter, the city, through its board of public works, with the approval of the mayor, may execute proper deeds, grants, or contracts with the state through the state's proper officers having the custody and control of the state World War memorial, by which the real property acquired by the city or by the city and the county jointly is conveyed to the state for World War memorial and other public purposes, as authorized by this chapter. The deed, grant, or contract must provide for the use by the city or by the city and county jointly of the memorial grounds and structures and that the grounds and structures shall be a city World War memorial to the extent of the money appropriated and used by the city in the acquisition of the grounds and structures.**

**Sec. 15. The board of public works of a city may grant the use of any structure or any part of a structure constructed by the city, with or without rent or charge, to any organization of soldiers, sailors, marines, and others as a place or places of their meetings and headquarters, for the time and upon the conditions as the board of public works may determine. The board of public works may also grant the use of the structure for any other lawful public purpose not inconsistent with this chapter for which the structure may be suitable, either with or without rent or charge, as the board of public works determines.**

**Sec. 16. A city may receive donations, gifts, devises, and bequests for use by the board of public works for the purposes of this chapter. Any money received by the city may, without appropriation by the city's legislative body, be used for the purposes for which the money was donated, as provided in this chapter.**

**Sec. 17. (a) If a city acquires real property for any of the purposes provided for in this chapter or joins with the county in which the city is located in the acquisition of real property for any of the purposes provided for by this chapter:**

**(1) the city, through its board of public works with the approval of the mayor; or**

**(2) the city, through its board of public works with the approval of the mayor, acting jointly with the board of commissioners of the county in which the city is located;**

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**may grant the use of any real property or buildings and improvements on the real property to any organization of soldiers, sailors, or marines of the United States and others with or without rent or charge, upon the conditions as may be determined.**

**(b) The city, or the city and county, acting as provided in this section, may sell the buildings and improvements on any real property acquired under this chapter.**

**(c) The net rent or proceeds of the sale of the buildings and improvements, after deducting an amount sufficient to pay for the maintenance and repair of the buildings and improvements, must be deposited as follows:**

**(1) In the city World War memorial fund if the World War memorial was acquired by the city.**

**(2) In the city World War memorial fund and in the county World War memorial fund if the World War memorial was acquired by the city and county jointly. The money shall be deposited in the respective funds in the same proportion that the city and county contributed to the acquisition of the World War memorial.**

**(d) The city, or the city and county acting as provided in this chapter, may convey any real property acquired under this chapter to the state and provide in the contract with the state as to the rent of the buildings and improvements on the real property until necessary to remove the buildings and improvements and for the sale of the buildings and improvements if the real estate is needed by a board of trustees established under this chapter for World War memorial and other public purposes. The contract must provide how the net rent or proceeds must be applied.**

**Sec. 18. (a) The legislative body of a city may, upon the recommendation of the mayor and city controller, if applicable, of the city, instead of selling bonds as provided in section 5 of this chapter, sell bonds:**

**(1) with a maturity of not more than ten (10) years;**

**(2) for any of the purposes authorized by this chapter;**

**(3) at a rate of interest not more than six percent (6%) a year, payable semiannually; and**

**(4) payable at their maturity, but not later than ten (10) years after the date of the issuance of the bonds.**

**If the bonds are issued for a period longer than five (5) years, at least two percent (2%) of the total issue of the bonds must mature each year after the fifth year, and the balance must mature and be paid or refunded not later than ten (10) years after the date of**

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**issuance.**

**(b) Bonds issued under this section, the taxes to pay the bonds as they mature, and interest accruing on the bonds must be levied in accordance with sections 5 and 6 of this chapter.**

**(c) The city's legislative body may refund bonds sold under this section with other bond issues in accordance with section 5 and other provisions of this chapter relating to the sale of bonds. The city's legislative body may name the date when the first series of refunding bonds is due. However, the due date of the first series due may not be more than five (5) years from the date of issue.**

**Sec. 19. In the establishment and maintenance of a World War memorial, a city's board of public works or the board of trustees of a joint county and city World War memorial has all the powers and duties conferred upon the Indiana war memorials commission under IC 10-18-1 to the extent the powers and duties conferred in IC 10-18-1 are not inconsistent with this chapter. However, this chapter does not authorize a city's board of public works or a board of trustees of a joint county and city World War memorial to employ a secretary.**

**Sec. 20. A person may not bring suit to enjoin the enforcement of this chapter or to prevent the levy or collection of taxes under this chapter.**

**Sec. 21. All property:**

**(1) constituting a city World War memorial;**

**(2) constituting a joint county and city World War memorial; or**

**(3) used or acquired in connection with a city or a joint county and city World War memorial;**

**for any purpose authorized by this chapter is exempt from taxation for all purposes.**

**Sec. 22. (a) If a city legislative body wants to implement this chapter, the legislative body must adopt an ordinance that must be in substance as follows:**

**"Be it resolved by _____ (name of the city's legislative body) that the city should proceed (or jointly with _____ County, in which it is located) to carry out the purposes of IC 10-18-4."**

**The ordinance must be submitted to the mayor of the city for approval. If the ordinance is approved by the mayor, the city clerk shall give notice of the adoption of the ordinance by the publication of the ordinance in full by two (2) insertions published at least a week apart under IC 5-3-1-4.**

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**(b) The city may appropriate money, issue bonds, levy taxes, and do everything necessary to implement this chapter.**

**(c) If a city issues bonds under this chapter and the bonds must be refunded, the city's legislative body is not required to adopt an ordinance for that purpose.**

**(d) A city's rights and powers under this chapter are not exhausted by being exercised one (1) or more times, but are continuing rights and powers. A subsequent exercise of power under this chapter by a city does not require the city's legislative body to adopt an ordinance. A city that wants to act a subsequent time to implement this chapter may proceed, acting through its board of public works, with the approval of its mayor, when money has been appropriated for the action by an ordinance passed by the city's legislative body and approved by the mayor, without complying with any other law relating to appropriations and budgets except for section 3 of this chapter.**

**(e) A taxpayer aggrieved by an action under this section may appeal the decision to the circuit court of the county within ten (10) days in the same manner as other appeals are taken from an action of the board. The cause of action shall be tried de novo.**

**Chapter 5. Township Memorials**

**Sec. 1. A township trustee may receive as public property a monument or memorial built:**

**(1) in the township;**

**(2) in honor of the township's soldiers or marines; and**

**(3) by the people with public donations;**

**if the people of the township want to give the monument or memorial to the township.**

**Sec. 2. The township trustee shall care for and repair a monument or memorial described in section 1 of this chapter with township money.**

**Chapter 6. Veterans Associations**

**Sec. 1. A veterans association established under this chapter must meet the following requirements:**

**(1) The association must be formed by at least three (3) individuals who:**

**(A) served in the military or naval forces of the United States during any war or campaign; and**

**(B) are residents of Indiana.**

**(2) The association must have written articles of association that comply with the requirements under this chapter.**

**(3) The association must be formed for any of the following**

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**purposes:**

**(A) To acquire, own, maintain, and administer homes, assembly halls, or schools.**

**(B) To provide care, protection, education, and general welfare for indigent and helpless soldiers, sailors, marines, or nurses who served in the military or naval forces of the United States and their widows, orphans, half-orphans, and other soldiers, sailors, or marines.**

**(4) The association must be formed for charitable and educational purposes and operated as a nonprofit association.**

**Sec. 2. The articles of association must specify the following:**

**(1) The corporate name of the veterans association.**

**(2) The object of the association, with the proposed plan of doing business.**

**(3) The city or town and county of the principal place of business of the association.**

**(4) The term of existence of the association.**

**(5) The names of the association's directors or trustees who are to serve for the first year and until the directors' or trustees' successors take office.**

**Sec. 3. (a) The articles of association must be filed with the secretary of state, and a copy must be filed with the county recorder of the county where the veterans association's principal place of business is located.**

**(b) After the articles of association are filed with the secretary of state and county recorder, the veterans association is a body politic and corporate, with the following powers:**

**(1) To sue and be sued in the veterans association's corporate name.**

**(2) To acquire property, real and personal, by gift, devise, bequest, and purchase.**

**(3) To use, lease, or dispose of personal or real property that furthers the purposes of the association.**

**(4) To borrow money and to issue notes, bonds, or other usual forms of securities.**

**(5) To secure the payment of the veterans association's obligations by mortgages or deeds of trust upon the veterans association's real or personal property.**

**Sec. 4. A veterans association established under this chapter must include the following provisions in the association's bylaws:**

**(1) The election or appointment of the veterans association's officers.**

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**(2) The admission of veterans association members or other persons to the association's homes, assembly halls, or schools.**

**(3) The expulsion of members and other individuals when it is in the best interest and welfare of the veterans association's homes, assembly halls, and schools.**

**Sec. 5. If allowed by the veterans association's bylaws, an association established under this chapter may employ teachers or attendants.**

**Chapter 7. Memorial Corporations**

**Sec. 1. At least six (6) residents of Indiana may voluntarily associate themselves into a memorial corporation for the following purposes:**

**(1) To perpetuate the memory of soldiers and sailors.**

**(2) To hold meetings and conduct ceremonies.**

**(3) To decorate, beautify, maintain, protect, improve, enlarge, and enhance the conveniences of graves, cemeteries, and places for keeping the bodies of deceased persons.**

**Sec. 2. A memorial corporation established under this chapter has the following powers:**

**(1) To hold meetings, conduct ceremonies, and decorate graves and burial places.**

**(2) To erect and pay the expenses for monuments and memorials.**

**(3) To receive and hold donations, gifts, devises and bequests, and funds produced by taxation and real and personal property.**

**(4) To purchase, hold, lease, mortgage, hypothecate, and sell real estate and personal property.**

**(5) To take real or personal property by will.**

**(6) To take or hold real or personal property in trust and manage the property as set forth in the instrument creating the trust, in a manner that is not inconsistent with the uses provided in this chapter.**

**(7) To invest the funds belonging to the corporation and loan and invest the money owned or held by the corporation.**

**(8) To sue and be sued in all matters necessary to carry out the provisions of this chapter.**

**Sec. 3. (a) The officers of a memorial corporation must include the following:**

**(1) President.**

**(2) Vice president.**

**(3) Secretary.**

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**(4) Treasurer.**

**(5) Three (3) trustees.**

**(b) All officers serve without pay except the secretary, whose compensation shall be fixed by a majority of the trustees.**

**(c) The offices of secretary and treasurer may be held by the same person.**

**(d) The term of each officer is for one (1) year and until the officer's successor is elected and qualified.**

**(e) The treasurer shall give bond in a sum double the amount of all money and securities that may come into the possession of the treasurer. The amount of the bond must be approved by the trustees.**

**(f) Each officer must be elected by a majority vote cast by the owners of the stock. A vote may not be cast by proxy or by an agent of the owner. Elections shall be held at 2 p.m. on the first Tuesday of April of each year at the office of the secretary. However, an election may be held at another convenient place if the election is designated in a notice signed by not less than two (2) trustees and published at least one (1) week before the election in the weekly newspaper printed and published nearest to the place of the election.**

**(g) A special election may be held for all vacant offices if a notice is signed by all the trustees and the notice is published at least one (1) week before the election in a weekly newspaper printed and published nearest to the place of the election. The notice must specify the time and place of the election and all the officer vacancies that can be filled.**

**(h) The books of the memorial corporation shall be kept at the office of the secretary.**

**Sec. 4. All property owned or held by the memorial corporation constitutes a permanent fund to be owned, held, used, and operated solely for the purposes set forth in sections 1 and 2 of this chapter and not for the gain or for the personal benefit of any person, corporation, or association.**

**Sec. 5. (a) A memorial corporation organized under this chapter may hold and manage funds, money, or property in trust for any person or for any purpose expressed in the terms of the trust. However, the trust must be for some of the purposes or objects set forth in sections 1 and 2 of this chapter.**

**(b) A person competent to make a will may create a trust under this section.**

**Sec. 6. The money, property, or income owned or held by a**

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**memorial corporation organized under this chapter may not be owned, held, or used to promote the interest or teachings of a specific church, sect, school, or creed. However, the memorial corporation may not discriminate against an individual or organization because of religious beliefs.**

**Sec. 7. (a) The stock of a memorial corporation consists of one (1) share for each five dollars ($5) of the permanent fund belonging to the corporation. The secretary of the memorial corporation shall issue to any person paying money into, or in any manner augmenting, the permanent fund of the corporation a certificate of stock for each five dollars ($5) in money or property in value. Each stock certificate must be signed by the president and attested by the secretary.**

**(b) Every share of stock that is issued is entitled to one (1) vote in the election of officers. However, the vote must be cast by the owner of the stock in person and not by an agent or a proxy.**

**(c) Stock in a memorial corporation may be assigned by the owner or transferred by will. If the owner of any share of the stock dies without having disposed of the stock by a will, the stock held by the deceased owner is canceled. Canceled stock is referred to as "dead stock", and all other stock is referred to as "active stock", and only the owners of active stock may participate in election of officers of the memorial corporation.**

**Sec. 8. The board of trustees of a memorial corporation shall do the following:**

**(1) Conduct the prudential affairs of the memorial corporation.**

**(2) Vote on the loans, investments, purchases, sales, and the policy and manner of conducting the affairs of the corporation.**

**(3) Keep all the money loaned, invested, or in some manner active and bring into the treasury funds to carry out the spirit and letter of this chapter.**

**Sec. 9. (a) The existence of a memorial corporation organized under this chapter is perpetual.**

**(b) The permanent fund of a memorial corporation is perpetual and may not be reduced for any purpose. The income from the investment of a memorial corporation's permanent fund may be used only for purposes allowed in this chapter.**

**(c) The stock and property of a memorial corporation is nontaxable.**

**Sec. 10. The officers and trustees of a memorial corporation**

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**may adopt bylaws for the guidance and conduct of the memorial corporation's affairs as the officers and trustees consider proper. However, the bylaws may not conflict with this chapter.**

**Sec. 11. If at least six (6) persons desire to create a memorial corporation under this chapter, each person shall pay to the permanent fund of the corporation at least five dollars ($5) and sign articles of incorporation that contain the name of the corporation, the place where the corporation's business will be conducted, and the names of the individuals who will be the initial officers until the first regular election after the organization of the memorial corporation. The articles of incorporation may be in substance as follows:**

**"We, the undersigned, residents of the state of Indiana, hereby associate ourselves together for the purpose of forming a memorial corporation under the provisions of IC 10-18-7. We have each paid in the sum of five dollars ($5) (or the sum agreed upon). The business of the corporation shall be conducted at the town (or city) of _____ in the county of _____ and state of Indiana, and the officers to hold and to conduct the affairs of the corporation until the next regular election, as provided by IC 10-18-7, shall be: _____, president; _____, vice president; _____, secretary; _____, treasurer; and _____, _____, and _____, trustees, (filling all blanks to suit the application). The name of the corporation shall be The _____ Memorial Association of _____, Indiana.**

**In witness whereof, we hereunto subscribe our names this _____ day of _____ (month) in _____ (year).**

**Names Names"**

**Sec. 12. If:**

**(1) section 11 of this chapter is fully complied with;**

**(2) the articles provided for in section 11 of this chapter are signed; and**

**(3) the money is paid to the treasurer;**

**the articles of incorporation shall be filed with the secretary of state, along with a fee of one dollar ($1). The secretary of state shall record the articles in the secretary of state's office and return to the secretary of the corporation a certified copy of the articles. The certificate must contain the date of the filing. The memorial corporation is considered to be in full force and existence from the time the articles of incorporation are filed.**

**Chapter 8. Local Appropriations to Veterans Organizations**

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**Sec. 1. (a) The respective authorities of counties, townships, cities, and towns may appropriate annually to one (1) post, garrison, or camp of each of the following organizations in the respective counties, townships, cities, or towns a sum of not more than five hundred dollars ($500) to any post, garrison, or camp to aid in defraying the expenses of Memorial Day:**

**(1) Veterans of Foreign Wars of the United States.**
**(2) United Spanish War Veterans.**
**(3) Disabled American Veterans of the World War.**
**(4) The American Legion.**
**(5) The Army and Navy Union of the United States of America.**
**(6) Marine Corps League.**
**(7) Veterans of World War I, Inc.**
**(8) American Veterans of World War II.**
**(9) Catholic War Veterans.**
**(10) Jewish War Veterans.**
**(11) American Ex-Prisoners of War.**
**(12) American Veterans of World War II, Korea and Vietnam (AMVETS).**
**(13) American War Mothers.**
**(14) Blinded Veterans Association.**
**(15) Congressional Medal of Honor Society of the United States of America.**
**(16) Gold Star Wives of America, Inc.**
**(17) Legion of Valor of the U.S.A., Inc.**
**(18) Military Order of the Purple Heart of the U.S.A., Inc.**
**(19) Non Commissioned Officers Association (NCOA).**
**(20) Paralyzed Veterans of America.**
**(21) Pearl Harbor Survivors Association, Inc.**
**(22) Polish Legion of American Veterans, USA.**
**(23) Regular Veterans Association.**
**(24) The Retired Enlisted Association.**
**(25) U.S. Submarine Veterans of World War II.**
**(26) Vietnam Veterans of America, Inc.**
**(27) Women's Army Corps Veterans Association.**

**(b) However, in a county in which there is a county memorial day society, county veterans' council, or any other county memorial day association, the county council may annually appropriate to one (1) society, council, or association, instead of the appropriations to the various organizations listed in subsection (a), a sum of not more than the total amounts to which the**

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**organizations listed in subsection (a) would be collectively entitled, to aid in defraying the expenses of Memorial Day.**

**Sec. 2. The counties, townships, cities, and towns may appropriate annually money to be allocated to an appropriate nonprofit veterans organization for the development, establishment, or maintenance of a veterans memorial located within the county of the county, town, city, or township allocating the funds.**

SECTION 10. IC 3-10-8-4.5, AS AMENDED BY P.L.204-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4.5. Whenever the election division receives a notice under section 4 of this chapter, the election division shall notify the following offices and agencies that a special election will be conducted within all or part of Indiana:

(1) Each agency serving persons with disabilities and designated as a voter registration site under IC 3-7-16.

(2) Armed forces recruitment offices in accordance with procedures established under IC 3-7-17.

(3) Each agency designated as a voter registration site and subject to IC 3-7-18.

(4) The alcohol and tobacco commission for purposes of enforcing IC 7.1-5-10-1.

(5) The bureau of motor vehicles for voter registration purposes under IC 9-24-2.5.

(6) The adjutant general for purposes of enforcing ~~IC 10-2-4-16.~~ **IC 10-16-7-17.**

(7) The division of family and children for voter registration purposes under IC 12-14-1.5, IC 12-14-25, and IC 12-15-1.5.

(8) The state department of health for voter registration purposes under IC 16-35-1.6.

(9) The Federal Voting Assistance Program of the United States Department of Defense, for notification of absent uniformed services voters and overseas voters.

SECTION 11. IC 4-6-9.1-1, AS ADDED BY P.L.124-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Sections 1 through 7 of this chapter apply to the period during which an emergency is declared and the twenty-four (24) hours before the declaration by the governor under ~~IC 10-4-1-7 or IC 10-4-1-7.1.~~ **IC 10-14-3-12 or IC 10-14-3-13.**

(b) The definitions in ~~IC 10-4-1-3~~ **IC 10-14-3** apply to this chapter.

SECTION 12. IC 4-6-9.1-7, AS ADDED BY P.L.124-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2003]: Sec. 7. This chapter preempts the power of local governments to regulate pricing of commodities under a declaration of emergency:

(1) under ~~IC 10-4-1-7;~~ **IC 10-14-3-12;**

(2) under ~~IC 10-4-1-7.1;~~ **IC 10-14-3-13;** or

(3) by a local government.

SECTION 13. IC 4-13-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. ~~The provisions of~~ This chapter ~~shall in no way~~ **may not be construed to** restrict the powers of the state board of accounts as prescribed by IC 5-11-1 ~~and shall in no way~~ **or** restrict the powers and functions of the ~~Indiana~~ state police **department** as prescribed by ~~IC 10-1-1; nor shall the provisions of~~ **IC 10-11-2**. This chapter, except IC 4-13-1-4(1) and ~~(3),~~ **IC 4-13-1-4(3), does not** apply to the state universities and Ivy Tech State College.

SECTION 14. IC 4-13-1.4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, "state agency" means any of the following:

(1) A state agency (as defined in IC 4-13-1-1).

(2) Any other authority, board, branch, commission, committee, department, division, or other instrumentality of the executive branch of state government, including the following:

(A) A state educational institution (as defined in IC 20-12-0.5-1).

(B) A license branch operated or administered under IC 9-16.

(C) The state police department created by ~~IC 10-1-1-1.~~ **IC 10-11-2-4.**

SECTION 15. IC 4-15-2-3.8, AS AMENDED BY P.L.215-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3.8. "State service" means public service by:

(1) employees and officers, including the incumbent directors, of the county offices of family and children; and

(2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability, aging, and rehabilitative services, Fort Wayne State Developmental Center, Muscatatuck State Developmental Center, division of mental health and addiction, Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Central State Hospital,

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Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of correction, Westville Correctional Facility, Plainfield Juvenile Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of fire and building services, state emergency management agency (excluding a county emergency management organization and any other local emergency management organization created under ~~IC 10-4-1),~~ **IC 10-14-3),** civil rights commission, criminal justice planning agency, department of workforce development, Indiana historical bureau, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, department of labor, Indiana protection and advocacy services commission, commission on public records, Indiana horse racing commission, and state personnel department.

SECTION 16. IC 4-20.5-6-2, AS AMENDED BY P.L.123-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This section does not apply to enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29.~~ **IC 10-11-2-28.**

(b) The department shall maintain, equip, and operate the following:

(1) The state capitol building.

(2) The office buildings and other property owned or leased by the state for the use of an agency.

SECTION 17. IC 4-20.5-6-5, AS AMENDED BY P.L.123-2002, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Except for enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29,~~ **IC 10-11-2-28,** the commissioner is the custodian of state buildings and grounds.

SECTION 18. IC 4-20.5-6-7, AS AMENDED BY P.L.123-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The department may adopt rules under IC 4-22-2 to govern the protection and custody of state property, except

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for enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29.~~ **IC 10-11-2-28.**

SECTION 19. IC 4-20.5-6-8, AS AMENDED BY P.L.123-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) This section does not apply to enforcement matters that are the responsibility of the state police department under ~~IC 10-1-1-29.~~ **IC 10-11-2-28.**

(b) The commissioner may regulate:

(1) the traffic and parking of motor vehicles, bicycles, or other vehicles; and

(2) the traffic of pedestrians;

on the streets, roads, paths, and grounds of real property controlled by the state through the department in and around the state capitol, office buildings, parking garages, and adjoining state controlled property.

(c) Rules adopted under subsection (b) may include the following:

(1) Provisions governing the registration, speed, weight, operation, parking, times, places, and use of motor vehicles, bicycles, and other vehicles.

(2) Provisions governing the traffic of pedestrians.

(3) Provisions prescribing the assessment and collection of civil penalties for the violation of rules adopted by the commissioner. Penalties may include the following:

(A) The imposition of reasonable charges.

(B) The removal and impounding (at the expense of the violator) of vehicles that are operated or parked in violation of rules adopted by the commissioner.

(C) The denial of permission to operate a vehicle on the property in and around the state capitol building, office buildings, parking garages, and adjoining state controlled property.

(d) Rules adopted under this section must include provisions for an administrative appeal when a civil penalty is imposed under the rules. A person aggrieved by a final disposition of an appeal by the department may appeal the disposition to a court of jurisdiction. The attorney general may enforce a civil penalty imposed under this section by filing an appropriate action in a court of jurisdiction.

(e) This section does not limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys, or ways.

SECTION 20. IC 5-2-12-7, AS AMENDED BY P.L.116-2002, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Not more than fourteen (14) days before an

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Indiana offender who is required to register under this chapter is scheduled to be released from a correctional facility, transferred to a community transition or community corrections program, transferred to the jurisdiction of a sentencing court or probation office for a term of probation after being confined in a facility, released from any other penal facility (as defined in IC 35-41-1-21), released from a secure private facility (as defined in IC 31-9-2-115), or released from a juvenile detention facility, an official of the facility shall do the following:

(1) Orally inform the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender was orally informed or, if the offender refuses to sign the statement, certify that the offender was orally informed of the duty to register.

(2) Deliver a registration form advising the offender of the offender's duty to register under this chapter and require the offender to sign a written statement that the offender received the written notice or, if the offender refuses to sign the statement, certify that the offender was given the written notice of the duty to register.

(3) Obtain the address where the offender expects to reside after the offender's release.

(4) Inform in writing on a form or in the form prescribed or approved by the institute the sheriff having jurisdiction in the county or the police chief having jurisdiction in the consolidated city where the offender expects to reside of the offender's name, date of release or transfer, new address, and the offense or delinquent act committed by the offender.

(b) Not more than three (3) days after an offender who is required to register under this chapter is released or transferred as described in subsection (a), an official of the facility shall transmit to the state police the following:

(1) The offender's fingerprints, photograph, and identification factors.

(2) The address where the offender expects to reside after the offender's release.

(3) The complete criminal history data (as defined in ~~IC 5-2-5-1)~~ **IC 10-13-3-5)** or, if the offender committed a delinquent act, juvenile history data (as defined in ~~IC 5-2-5.1-5)~~ **IC 10-13-4-4)** of the offender.

(4) Information regarding the offender's past treatment for mental disorders.

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(5) Information as to whether the offender has been determined to be a sexually violent predator.

(c) This subsection applies if an offender is placed on probation or in a community corrections program without confining the offender in a penal facility. The probation office serving the court in which the sex and violent offender is sentenced shall perform the duties required under subsections (a) and (b).

SECTION 21. IC 5-10-0.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The prohibitions of Article 11, Section 12 of the Constitution of the State of Indiana do not apply to:

(1) the public employees' retirement fund (IC 5-10.3);

(2) the Indiana state teachers' retirement fund (IC 21-6.1);

(3) the Indiana state police pre-1987 benefit system ~~(IC 10-1-2.2);~~ **(IC 10-12-3);**

(4) the Indiana state police 1987 benefit system ~~(IC 10-1-2.3);~~ **(IC 10-12-4);** or

(5) any other public employee retirement fund administered by the board of trustees of the Indiana public employees' retirement fund.

(b) Investments of the funds listed in subsection (a) are subject to the following limitations and regulations:

(1) Investments of the public employees' retirement fund and any other public employee retirement fund administered by the board of trustees of the Indiana public employees' retirement fund are subject to IC 5-10.3-5-3, including P.L.37-1996.

(2) Investments of the Indiana state teachers' retirement fund are subject to IC 21-6.1-3-9, including P.L.37-1996.

(3) Investments of the Indiana state police benefit system are subject to ~~IC 10-1-2-2.~~ **IC 10-12-2-2.**

SECTION 22. IC 5-10-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Each retirement plan for employees of the state or of a political subdivision shall report annually on September 1 to the public employees' retirement fund the information from the preceding fiscal year necessary for the actuary of the fund to perform an actuarial valuation of each plan. Where the director and actuary of the fund consider it appropriate, the actuary may combine one (1) retirement plan with another or with the public employees' retirement fund for the purposes of the actuarial valuation. The retirement plans covered by this chapter are the following:

(1) The state excise police and conservation enforcement officers' retirement plan established under IC 5-10-5.5.

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(2) The "trust fund" and "pension trust" of the state police department established under ~~IC 10-1-2.~~ **IC 10-12-2.**
(3) Each of the police pension funds established or covered under IC 19-1-18, IC 19-1-30, IC 19-1-25-4, or IC 36-8.
(4) Each of the firemen's pension funds established or covered under IC 19-1-37, IC 18-1-12, IC 19-1-44, or IC 36-8.
(5) Each of the retirement funds for utility employees authorized under IC 19-3-22 or IC 36-9 or established under IC 19-3-31.
(6) Each county police force pension trust and trust fund authorized under IC 17-3-14 or IC 36-8.
(7) The Indiana judges' retirement fund established under IC 33-13-8.
(8) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.
(9) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).
(10) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
(11) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.
(12) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.
(13) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.
(14) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.
(15) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.
(16) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.
(17) The pension benefit paid for the national guard by the state as established under ~~IC 10-2-4.~~ **IC 10-16-7.**
(18) The pension fund allowed employees of the Wabash Valley interstate commission as authorized under IC 13-5-1-3.
(19) Each system of pensions and retirement provided by a unit under IC 36-1-3.

SECTION 23. IC 5-10-1.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The retirement

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plans covered by this chapter are:

(1) The state excise police and conservation officers' retirement plan, established under IC 5-10-5.5.

(2) The public employees' retirement fund, established under IC 5-10.3-2.

(3) The trust fund and pension trust of the department of state police, established under ~~IC 10-1-2.~~ **IC 10-12-2.**

(4) The Indiana state teachers' retirement fund, established under IC 21-6.1-2.

(5) The Indiana judges' retirement fund, established under IC 33-13-8.

(6) The police officers' and firefighters' pension and disability fund established under IC 36-8-8-4.

(b) As used in this chapter:

"Board" means the board of trustees of a retirement plan covered by this chapter.

SECTION 24. IC 5-14-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including ~~his~~ **the person's** name, age, and address.

(2) Information concerning any charges on which the arrest or summons is based.

(3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the:

(A) time and location of the arrest or the issuance of the summons;

(B) investigating or arresting officer (other than an undercover officer or agent); and

(C) investigating or arresting law enforcement agency.

(b) If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

(1) Information that identifies the person including ~~his~~ **the person's** name, age, and address.

(2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose order the person is being held.

(3) The time and date that the person was received and the time and date of ~~his~~ **the person's** discharge or transfer.

(4) The amount of the person's bail or bond, if it has been fixed.

(c) An agency shall maintain a daily log or record that lists

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suspected crimes, accidents, or complaints, and the following information shall be made available for inspection and copying:

(1) The time, substance, and location of all complaints or requests for assistance received by the agency.

(2) The time and nature of the agency's response to all complaints or requests for assistance.

(3) If the incident involves an alleged crime or infraction:

(A) the time, date, and location of occurrence;

(B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4;

(C) the factual circumstances surrounding the incident; and

(D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency.

(d) This chapter does not affect IC 5-2-4, ~~IC 5-2-5,~~ **IC 10-13-3,** or IC 5-11-1-9.

SECTION 25. IC 5-26-1-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. As used in IC 5-26-6, "committee" refers to the state agency public safety committee established by IC 5-26-6-1.**

SECTION 26. IC 5-26-1-1.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.4. As used in this IC 5-26-6, "communications division" refers to the communications division of the state police department.**

SECTION 27. IC 5-26-1-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.6. As used in IC 5-26-6, "department" refers to the state police department established by IC 10-11-2-4.**

SECTION 28. IC 5-26-1-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.8. As used in IC 5-26-6, "FCC" refers to the Federal Communications Commission.**

SECTION 29. IC 5-26-1-3, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in ~~this article,~~ **IC 5-26-2,** "member" refers to a member of the integrated public safety commission.

SECTION 30. IC 5-26-1-4.3 IS ADDED TO THE INDIANA CODE

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AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.3. As used in IC 5-26-6, "state public safety agency" means a state entity eligible to hold an authorization in a public safety radio service as set forth in 47 CFR 90 et seq.**

SECTION 31. IC 5-26-1-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 4.6. As used in IC 5-26-6, "superintendent" refers to the superintendent of the state police department appointed under IC 10-11-2-6.**

SECTION 32. IC 5-26-1-6, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. **(a) Except as provided in subsection (b),** as used in this article, "user agency" means a public safety agency or other entity that enters into an agreement with the commission to use the system.

**(b)** ~~Sec. 6.~~ As used in ~~this chapter,~~ **IC 5-26-6,** "user agency" means a state public safety agency that uses the system.

SECTION 33. IC 5-26-3-5, AS ADDED BY P.L.117-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), a public safety agency or other entity may join the system with the approval of the commission.

(b) A state public safety agency may join the system if the agency is approved by the state agency public safety committee under ~~IC 10-1-10~~ **IC 5-26-6** and the commission.

SECTION 34. IC 5-26-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

**Chapter 6. State Agency Public Safety Committee**

**Sec. 1. The state agency public safety committee is established.**

**Sec. 2. A state public safety agency that has or wants to have a voice or data wireless communications network must join the system when technically and economically feasible.**

**Sec. 3. The communications division is responsible for the following with regard to state public safety agencies and state owned assets unless otherwise directed by the superintendent:**

**(1) Maintenance of the main wide area transmitter sites and interconnecting links.**

**(2) Management of FCC licensing.**

**(3) Frequency planning.**

**(4) Appropriate radio program software.**

**(5) Code plugs.**

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**(6) System keys.**

**(7) Assignment and control of individual identification numbers and talkgroup numbers.**

**Sec. 4. The committee shall publish its policies within a standardized operations procedures manual approved by the superintendent.**

**Sec. 5. The committee shall develop criteria for determining whether a state public safety agency may use the system.**

**Sec. 6. (a) The committee consists of ten (10) members appointed by the superintendent. Each of the following user agencies shall be represented by one (1) committee member:**

**(1) State police department.**

**(2) Indiana department of transportation.**

**(3) State emergency management agency.**

**(4) Department of natural resources.**

**(5) Alcohol and tobacco commission.**

**(6) Department of state revenue.**

**(7) Department of environmental management.**

**(8) Military department of the state of Indiana.**

**(9) Department of correction.**

**(10) Indiana department of administration.**

**(b) A director of an agency described in subsection (a)(2) through (a)(10) shall recommend a person to the superintendent to serve as a committee member.**

**(c) The superintendent shall fill any vacancies on the committee.**

**(d) A committee member serves until the earlier of the following:**

**(1) The member is removed by the superintendent.**

**(2) The date the member ceases to be employed by the agency the member represents on the committee.**

**Sec. 7. (a) Six (6) members of the committee constitute a quorum.**

**(b) An affirmative vote of at least six (6) members of the committee is required for the committee to take action.**

**Sec. 8. The department may enter into and administer contracts for the committee.**

**Sec. 9. The committee's powers include the following:**

**(1) Ensuring that federal and state communications requirements are followed.**

**(2) Providing system planning, including mutual aid planning and compatibility planning in coordination with the integrated public safety commission established under**

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**IC 5-26-2-1.**

**(3) Subject to IC 5-26-3-5, determining whether a state public safety agency may become a system user.**

**(4) Providing assistance to local public safety agencies in making equipment purchases.**

**(5) Exercising any power necessary to carry out this chapter.**

**Sec. 10. A chairperson and vice chairperson of the committee shall be selected by the superintendent.**

**Sec. 11. A member of the committee who is not a state employee is not entitled to:**

**(1) the minimum salary per diem provided by IC 4-10-11-2.1(b); and**

**(2) reimbursement for:**

**(A) traveling expenses as provided under IC 4-13-1-4; and**

**(B) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.**

**Sec. 12. A member of the committee who is a state employee is entitled to:**

**(1) reimbursement for traveling expenses as provided under IC 4-13-1-4; and**

**(2) other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.**

SECTION 35. IC 6-1.1-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. Tangible property is exempt from property taxation if it is owned by a corporation which is organized and operated under ~~IC 10-7-12~~ **IC 10-18-7** for the purpose of perpetuating the memory of soldiers and sailors.

SECTION 36. IC 6-1.1-10-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. This chapter does not contain all of the property tax exemption provisions. The property taxation exemption provisions include but are not limited to the following sections:

| | |
|---|---|
| IC 4-20.5-14-3 | IC 20-14-7-3 |
| IC 4-20.5-19 | IC 20-14-9-15 |
| IC 5-1-4-26 | IC 20-14-10-14 |
| IC 6-1.1-10-5 | IC 21-5-11-14 |
| IC 8-10-1-27 | IC 21-5-12-10 |
| IC 8-23-7-31 | IC 23-7-7-3 |

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| | |
|---|---|
| IC 8-15-2-12 | IC 23-14-70-23 |
| IC 8-21-9-31 | IC 36-1-10-18 |
| ~~IC 10-7-1-20~~ | |
| **IC 10-18-2-22** | IC 36-7-14-37 |
| ~~IC 10-7-2-32~~ | |
| **IC 10-18-1-36** | IC 36-7-15.1-25 |
| ~~IC 10-7-5-12~~ | |
| **IC 10-18-3-12** | IC 36-7-18-25 |
| ~~IC 10-7-6-21~~ | |
| **IC 10-18-4-21** | IC 36-9-4-52 |
| ~~IC 10-7-12-9~~ | |
| **IC 10-18-7-9** | IC 36-9-11-10 |
| IC 14-33-20-27 | IC 36-9-11.1-11 |
| IC 15-1.5-6-4 | IC 36-9-13-36 |
| IC 16-22-6-34 | IC 36-9-13-37 |
| IC 20-12-6-11 | IC 36-9-30-31 |
| IC 20-12-7-5 | IC 36-10-8-18 |
| IC 20-12-8-5 | IC 36-10-9-18 |

SECTION 37. IC 6-6-2.5-70 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 70. (a) The department may conduct inspections for and enforce the laws concerning coloration of diesel fuel violations, sulfur content violations, marker violations, and shipping paper violations at any place where taxable fuel is or may be loaded in transport vehicles, produced, or stored. These places may include, but are not limited to:

(1) a terminal;

(2) a fuel storage facility that is not a terminal;

(3) a retail fuel facility; or

(4) a designated inspection site (defined as any state highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the commissioner).

(b) Inspections to determine violations under this chapter and enforcement of this chapter may be conducted by the state police department, agents of the department, Indiana state police motor carrier inspectors (in addition to their duties defined under ~~IC 10-1-1-25),~~ **IC 10-11-2-26),** and any other law enforcement officer through procedures established by the department. Agents of the department have the same power and authority provided to authorized personnel under IC 16-44-2-11 and IC 16-44-2-12.

(c) The department may determine and approve all equipment used to test dyes, markers, and the chemical composition of fuel inspected under this chapter.

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SECTION 38. IC 9-18-45-3, AS ADDED BY P.L.178-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The fees for a safety first license plate are as follows:

(1) The appropriate fee under IC 9-29-5-38(a).

(2) An annual fee of twenty-five dollars ($25).

(b) The annual fee referred to in subsection (a)(2) shall be collected by the bureau.

(c) The annual fee described in subsection (a)(2) shall be deposited in the funds established under ~~IC 10-9-3-1.~~ **IC 10-15-3-1.**

SECTION 39. IC 9-20-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The Indiana department of transportation or an agency or a political subdivision authorized by this article to grant permits to operate tractor-mobile home rigs or permits for transporting heavy or oversize vehicles, loads, or other objects not conforming to this article may issue emergency permits to operate in or through Indiana without regard to IC 9-20-14-2 to a person during the period that the following conditions exist:

(1) A state of disaster emergency has been declared by the governor under ~~IC 10-4-1-7.~~ **IC 10-14-3-12.**

(2) A state of emergency has been declared by the federal government for an area outside Indiana.

(3) The granting of emergency permits reasonably can be expected to provide relief of the conditions causing the declaration of the state of emergency.

(b) The Indiana department of transportation, an agency, or a political subdivision shall regulate movements by emergency permits to avoid undue hazards.

SECTION 40. IC 12-10-17-12, AS AMENDED BY P.L.134-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) The division shall register an individual who provides the following:

(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

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(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for two (2) years. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division and any organization designated under section 11 of this chapter shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c). The division may charge a fee for shipping, handling, and copying expenses.

SECTION 41. IC 12-17.2-2-1.5, AS AMENDED BY P.L.278-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) The division shall require all child care centers or child care homes to submit a report containing the names and birth dates of all children who are enrolled in the child care center or child care home within three (3) months from the date the child care center or child care home accepts its first child, upon receiving the consent of the child's parent, guardian, or custodian as required under subsection (b). The division shall require all child care centers and child care homes that receive written consent as described under subsection (b) to submit a monthly report of the name and birth date of each additional child who has been enrolled in or withdrawn from the child care center or child care home during the preceding thirty (30) days.

(b) The division shall require all child care centers or child care

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homes to request whether the child's parent, guardian, or custodian desires the center or home to include the child's name and birth date in the reports described under subsection (a) before enrolling the child in the center or home. No child's name or birth date may be included on the report required under subsection (a) without the signed consent of the child's parent, guardian, or custodian. The consent form must be in the following form:

"I give my permission for _____ (name of day care center or home) to report the name and birth date of my child or children to the division of family and children pursuant to IC 12-17.2-2-1.5.

Name of child _____

Birth date _____

Signature of parent, guardian, or custodian

_____

Date _____"

(c) The division shall submit a monthly report of the information provided under subsection (a) to the Indiana clearinghouse on missing children established under ~~IC 10-1-7.~~ **IC 10-13-5.**

(d) The division shall require that a person who transports children who are in the care of the child care center on a public highway (as defined in IC 9-25-2-4) within or outside Indiana in a vehicle designed and constructed for the accommodation of more than ten (10) passengers must comply with the same requirements set forth in IC 20-9.1-5-6.6 for a public elementary or secondary school or a preschool operated by a school corporation.

SECTION 42. IC 14-9-8-28, AS AMENDED BY P.L.206-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. (a) The natural resources commission shall categorize salaries of enforcement officers within each rank based upon the rank held and the number of years of service in the department through the tenth year. The salary ranges that the commission assigns to each rank shall be divided into a base salary and ten (10) increments above the base salary with:

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

(2) the highest salary in the rank paid to a person with at least ten (10) years of service in the department.

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

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

(d) The salaries for law enforcement officers of the law enforcement division of the department must be equal to the salaries of police employees of the state police department under ~~IC 10-1-1-4.5,~~ **IC 10-11-2-13,** based upon years of service in the department and rank held.

(e) The money needed to fund the salaries resulting from the matrix prescribed by this section shall come from the appropriation from the professional and technical equity fund.

(f) The requirement of subsection (d) does not affect:

(1) any rights or liabilities accrued; or

(2) any proceedings begun;

on or before June 30, 1999. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior civil law and procedure as if the requirement of subsection (d) had not been enacted.

SECTION 43. IC 16-18-2-7, AS AMENDED BY P.L.17-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) "Advanced life support", for purposes of IC 16-31, means care that is given:

(1) at the scene of:

(A) an accident;

(B) an act of terrorism (as defined in IC 35-41-1-26.5), if the governor has declared a disaster emergency under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to the act of terrorism; or

(C) an illness;

(2) during transport; or

(3) at a hospital;

by a paramedic or an advanced emergency medical technician and that is more advanced than the care usually provided by an emergency medical technician.

(b) The term may include any of the following:

(1) Defibrillation.

(2) Endotracheal intubation.

(3) Parenteral injections of appropriate medications, including administration of epinephrine through an auto-injector.

(4) Electrocardiogram interpretation.

(5) Emergency management of trauma and illness.

SECTION 44. IC 16-18-2-96, AS AMENDED BY P.L.52-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by

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IC 16-19-13.

(b) "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

(c) "Director", for purposes of IC 16-31, refers to the director of the state emergency management agency established under ~~IC 10-8-2-1.~~ **IC 10-14-2-1.**

(d) "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

SECTION 45. IC 16-25-6-2, AS ADDED BY P.L.256-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A person who owns or operates a hospice program shall apply, not more than three (3) business days after the date that an employee or a volunteer begins to provide hospice services, for a copy of the employee's or volunteer's limited criminal history from the Indiana central repository for criminal history information under ~~IC 5-2-5.~~ **IC 10-13-3.**

(b) A hospice program may not employ an individual or allow a volunteer to provide hospice services for more than three (3) business days without applying for that individual's or volunteer's limited criminal history as required by subsection (a).

SECTION 46. IC 16-25-6-3, AS ADDED BY P.L.256-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b), a person who owns or operates a hospice program may not employ an individual or allow a volunteer to provide hospice services if that individual's or volunteer's limited criminal history indicates that the individual or volunteer has:

(1) been convicted of rape (IC 35-42-4-1);

(2) been convicted of criminal deviate conduct (IC 35-42-4-2);

(3) been convicted of exploitation of an endangered adult (IC 35-46-1-12);

(4) had a judgment entered against the individual for failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13); or

(5) been convicted of theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the individual's employment application date.

(b) A hospice program may not employ an individual or allow a volunteer to provide hospice services for more than twenty-one (21) calendar days without receipt of that individual's or volunteer's limited

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criminal history required by section 2 of this chapter, unless the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** is solely responsible for failing to provide the individual's or volunteer's limited criminal history to the hospice program within the time required under this subsection.

SECTION 47. IC 16-25-6-4, AS ADDED BY P.L.256-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A person who owns or operates a hospice program is responsible for the payment of fees under ~~IC 5-2-5-7~~ **IC 10-13-3-30** and other fees required under section 2 of this chapter.

(b) This subsection does not apply to a hospice program volunteer. A hospice program may require an individual who applies to the hospice program for employment to provide hospice services:

(1) to pay the fees described in subsection (a) to the hospice program at the time the individual submits an application for employment; or

(2) to reimburse the hospice program for the payment of the fees described in subsection (a).

SECTION 48. IC 16-27-2-4 IS AMENDED TO READ AS FOLLOWS: Sec. 4. (a) A person who operates a home health agency shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's limited criminal history from the Indiana central repository for criminal history information under ~~IC 5-2-5.~~ **IC 10-13-3.**

(b) A home health agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than three (3) business days without applying for that person's limited criminal history as required by subsection (a).

SECTION 49. IC 16-27-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's limited criminal history indicates that the person has been convicted of any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Exploitation of an endangered adult (IC 35-46-1-12).

(4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(5) Theft (IC 35-43-4), if the conviction for theft occurred less

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than ten (10) years before the person's employment application date.

(b) A home health agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of that person's limited criminal history required by section 4 of this chapter, unless the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** is solely responsible for failing to provide the person's limited criminal history to the home health agency within the time required under this subsection.

SECTION 50. IC 16-27-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A person who operates a home health agency is responsible for the payment of fees under ~~IC 5-2-5-7~~ **IC 10-13-3-30** and other fees required under section 4 of this chapter.

(b) A home health agency may require a person who applies to the home health agency for employment to provide services in a patient's or client's temporary or permanent residence:

(1) to pay the cost of fees described in subsection (a) to the home health agency at the time the person submits an application for employment; or

(2) to reimburse the home health agency for the cost of fees described in subsection (a).

SECTION 51. IC 16-28-13-4, AS AMENDED BY P.L.108-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Except as provided in subsection (b), a person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

shall apply within three (3) business days from the date a person is employed as a nurse aide or other unlicensed employee for a copy of the person's state nurse aide registry report from the state department and a limited criminal history from the Indiana central repository for criminal history information under ~~IC 5-2-5~~ **IC 10-13-3** or another source allowed by law.

(b) A health care facility is not required to apply for the state nurse aide registry report and limited criminal history required by subsection (a) if the health care facility contracts to use the services of a nurse aide or other unlicensed employee who is employed by an entity in the business of contracting to provide nurse aides or other unlicensed

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employees to health care facilities.

SECTION 52. IC 16-28-13-6, AS AMENDED BY P.L.108-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A person who:

(1) operates or administers a health care facility; or

(2) operates an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility;

is responsible for the payment of fees under ~~IC 5-2-5-7~~ **IC 10-13-3-30** and other fees required to process a state nurse aide registry report and a limited criminal history under section 4 of this chapter.

(b) A health care facility or an entity in the business of contracting to provide nurse aides or other unlicensed employees for a health care facility may require a person who applies to the health care facility or entity for employment as a nurse aide or other unlicensed employee:

(1) to pay the cost of fees described in subsection (a) to the health care facility or entity at the time the person submits an application for employment; or

(2) to reimburse the health care facility or entity for the cost of fees described in subsection (a).

SECTION 53. IC 16-31-6-4, AS ADDED BY P.L.156-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This section does not apply to an act or omission that was a result of gross negligence or willful or intentional misconduct.

(b) An act or omission of a paramedic, an advanced emergency medical technician, an emergency medical technician, or a person with equivalent certification from another state that is performed or made while providing advanced life support or basic life support to a patient or trauma victim does not impose liability upon the paramedic, the advanced emergency medical technician, the emergency medical technician, the person with equivalent certification from another state, a hospital, a provider organization, a governmental entity, or an employee or other staff of a hospital, provider organization, or governmental entity if the advanced life support or basic life support is provided in good faith:

(1) in connection with a disaster emergency declared by the governor under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and

(2) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster

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emergency declaration of the governor.

SECTION 54. IC 16-37-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The employee in charge of the division of the state department administering the system of vital statistics shall be known as the state registrar and shall do the following:

(1) Keep the files and records pertaining to vital statistics.

(2) Perform the duties prescribed by the state department.

(3) Perform the duties required under ~~IC 10-1-7-8.~~ **IC 10-13-5-11.**

(4) Administer the putative father registry established by IC 31-19-5-2.

(5) Maintain records of paternity determinations as provided by IC 31-14-9.

SECTION 55. IC 16-37-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) Except as provided in subsection (c), a local health officer shall provide a certification of birth, death, or stillbirth registration upon request by any person only if:

(1) the health officer is satisfied that the applicant has a direct interest in the matter;

(2) the health officer determines that the certificate is necessary for the determination of personal or property rights or for compliance with state or federal law; and

(3) the applicant for a birth certificate presents at least one (1) form of identification.

However, the local health officer must issue a certificate of an applicant's own birth registration.

(b) A local health officer's decision whether or not to issue a certified copy of a birth certificate is subject to review by a court.

(c) A local health officer may not issue a copy of a birth certificate of a missing child to which a notice has been attached under ~~IC 10-1-7-8~~ **IC 10-13-5-11** without the authorization of the Indiana clearinghouse for information on missing children.

SECTION 56. IC 20-5-2-7, AS AMENDED BY P.L.272-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A school corporation, including a school township, shall adopt a policy concerning criminal history information for individuals who:

(1) apply for:

(A) employment with the school corporation; or

(B) employment with an entity with which the school corporation contracts for services;

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(2) seek to enter into a contract to provide services to the school corporation; or

(3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;

if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a school township, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section may require any of the following:

(1) The school corporation, including a school township, may request limited criminal history information concerning each applicant for noncertificated employment or certificated employment from a local or state law enforcement agency before or not later than three (3) months after the applicant's employment by the school corporation.

(2) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation to request under ~~IC 5-2-5~~ **IC 10-13-3** limited criminal history information or a national criminal history background check concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation may require the individual to provide a set of fingerprints and pay any fees required for a national criminal history background check.

(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in ~~IC 5-2-5-1(1))~~ **IC 10-13-3-11)** to the school corporation.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under ~~IC 5-2-5;~~ **IC 10-13-3;**

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in ~~IC 5-2-5-1(6))~~ **IC 10-13-3-7)** that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated



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employment may be required at the time the individual applies to answer questions concerning the individual's limited criminal history. The failure to answer honestly questions asked under this subdivision is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in subdivision (4)(A) and (4)(B). The school corporation either may require that the individual or the contractor comply with the procedures described in subdivision (4)(C) or (5). Failure to comply with subdivisions (4) and (5), as required by the school corporation, is grounds for termination of the contract.

(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible for all costs associated with obtaining the limited criminal history.

(d) Information obtained under this section must be used in accordance with ~~IC 5-2-5-6.~~ **IC 10-13-3-29.**

SECTION 57. IC 20-6.1-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7.1. (a) As used in this section, "applicant" refers to an applicant for:

(1) a new license;

(2) a renewal license; or

(3) a substitute teacher certificate;

issued by the board.

(b) As used in this section, "limited criminal history" has the meaning set forth in ~~IC 5-2-5-1(1).~~ **IC 10-13-3-11.**

(c) As used in this section, "disposition" has the meaning set forth in ~~IC 5-2-5-1(6).~~ **IC 10-13-3-7.**

(d) An applicant must do the following:

(1) Submit a request to the Indiana central repository for limited criminal history information under ~~IC 5-2-5.~~ **IC 10-13-3.**

(2) Obtain a copy of the limited criminal history for the applicant from the repository's records.

(3) Submit to the board the limited criminal history for the applicant.

(4) Submit to the board a document verifying a disposition that does not appear on the limited criminal history for the applicant.

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(e) The board may deny the issuance of a license or certificate to an applicant who is convicted of an offense for which the individual's license may be revoked or suspended under this chapter.

(f) The board must use the information obtained under this section in accordance with ~~IC 5-2-5-6.~~ **IC 10-13-3-29.**

(g) An applicant is responsible for all costs associated with meeting the requirements of this section.

SECTION 58. IC 20-8.1-3-17.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.1. (a) Each public school shall and each private school may require a student who initially enrolls in the school after July 1, 1988, to provide:

(1) the name and address of the school the student last attended, if any; and

(2) a certified copy of the student's birth certificate or other reliable proof of the student's date of birth.

(b) If the document described in subsection (a)(2):

(1) is not provided to the school within thirty (30) days of the student's enrollment; or

(2) appears to be inaccurate or fraudulent;

the school shall notify the Indiana clearinghouse for information on missing children under ~~IC 10-1-7~~ **IC 10-13-5** and determine if the child has been reported missing.

(c) If a student initially enrolls in a school after July 1, 1988, the school shall, within fourteen (14) days of enrollment, request the student's records from the last school the student attended, if any.

(d) A school in Indiana receiving a request for records shall promptly send the records to the requesting school. However, if a request is received for records to which a notice has been attached under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal), the school:

(1) shall immediately notify the Indiana clearinghouse for information on missing children;

(2) may not send the school records without the authorization of the clearinghouse; and

(3) may not inform the requesting school that a notice under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal) has been attached to the records.

SECTION 59. IC 20-10.1-22.4-3, AS ADDED BY P.L.254-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) As used in this section, "juvenile justice agency" has the meaning set forth in ~~IC 5-2-5.1-6.~~ **IC 10-13-4-5.**

(b) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights

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and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent, guardian, or custodian, under the following conditions:

(1) The disclosure or reporting of education records is to a state or local juvenile justice agency.

(2) The disclosure or reporting relates to the ability of the juvenile justice system to serve, before adjudication, the student whose records are being released.

(3) The juvenile justice agency receiving the information certifies, in writing, to the entity providing the information that the agency or individual receiving the information has agreed not to disclose it to a third party, other than another juvenile justice agency, without the consent of the child's parent, guardian, or custodian.

(c) For purposes of subsection (b)(2), a disclosure or reporting of education records concerning a child who has been adjudicated as a delinquent child shall be treated as related to the ability of the juvenile justice system to serve the child before adjudication if the juvenile justice agency seeking the information provides sufficient information to enable the keeper of the education records to determine that the juvenile justice agency seeks the information in order to identify and intervene with the child as a juvenile at risk of delinquency rather than to obtain information solely related to supervision of the child as an adjudicated delinquent child.

SECTION 60. IC 20-10.1-30-1, AS ADDED BY P.L.127-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "department of veterans' affairs" refers to the Indiana department of veterans' affairs established by ~~IC 10-5-1-3.~~ **IC 10-17-1-2.**

SECTION 61. IC 22-15-5-13, AS ADDED BY P.L.119-2002, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) A temporary elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator

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construction, maintenance, or service and repair.

(4) A temporary mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(5) An affirmation under penalty of perjury made by both the individual who would receive the temporary license and the licensed elevator contractor that all information provided to the department is true to the best of their knowledge and belief.

(b) A temporary elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (a).

(c) A temporary elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit **the following:**

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) A temporary mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

(d) An emergency elevator mechanic license may be issued by the department upon receipt of the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators due to a disaster (as defined in ~~IC 10-4-1-3).~~ **IC 10-14-3-1).**

(2) An application on the form that the department provides.

(3) A certification by the licensed elevator contractor that the individual to receive the temporary license possesses sufficient documented experience and education to perform elevator construction, maintenance, or service and repair.

(4) An emergency mechanic license fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

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(5) An affirmation by both the individual that would receive the temporary license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

(e) An emergency elevator mechanic license is valid for sixty (60) days after the date of issuance and is valid only for work performed for the licensed elevator contractor that has made the certifications under subsection (d).

(f) An emergency elevator mechanic license issued under this section may be renewed for two (2) subsequent sixty (60) day periods. To renew the license, the license holder must submit the following:

(1) A certification by a licensed elevator contractor that the contractor is unable to secure, despite the contractor's best efforts, licensed elevator mechanics to perform construction, maintenance, or service and repair of elevators.

(2) An application on the form that the department provides.

(3) An emergency mechanic license renewal fee established under IC 22-12-6-6. The license fee is nonrefundable and must be paid each time an applicant submits an application.

(4) An affirmation by both the individual who would receive the emergency license and the licensed elevator contractor under penalty for perjury that all information provided to the department is true to the best of their knowledge and belief.

SECTION 62. IC 23-2-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) This chapter shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this chapter under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this chapter. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

(1) shall employ a chief deputy, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this chapter; and

(2) shall fix their compensation with the approval of the budget agency.

The chief deputy, other deputies, the senior investigator, and the senior accountant, once employed under this chapter, may be dismissed only

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for cause by the secretary of state upon ten (10) days notice in writing stating the reasons for dismissal. Within fifteen (15) days after dismissal, the chief deputy, other deputies, the senior investigator, and the senior accountant may appeal to the state personnel board. The state personnel board shall hold a hearing, and if it finds that the appealing party was dismissed for a political, social, religious, or racial reason, the appealing party shall be reinstated to the appealing party's position without loss of pay. In all other cases, if the decision is favorable to the appealing party, the secretary of state shall follow the findings and recommendations of the board, which may include reinstatement and payment of salary or wages lost. The hearing and any subsequent proceedings or appeals shall be governed by the provisions of IC 4-15-2 and IC 4-21.5.

(c) Fees and funds of whatever character accruing from the administration of this chapter shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of state in the general fund of the state. Expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, costs of investigations recovered under sections 16(d) and 17.1(c) of this chapter shall be deposited with the treasurer of state to be deposited by the treasurer of state in a separate account to be known as the securities division enforcement account. The funds in the account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter. The funds in the account do not revert to the general fund at the end of any fiscal year.

(d) In connection with the administration and enforcement of the provisions of this chapter, the attorney general shall render all necessary assistance to the securities commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the securities commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office.

(e) Neither the secretary of state, the securities commissioner, nor an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection

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with the performance of their respective duties under this chapter.

(f) The commissioner, subject to the approval of the secretary of state, may adopt rules, orders, and forms necessary to carry out this chapter, including rules and forms concerning registration statements, applications, reports, and the definitions of any terms if the definitions are consistent with this chapter. The commissioner may by rule or order allow for exemptions from registration requirements under sections 3 and 8 of this chapter if the exemptions are consistent with the public interest and this chapter.

(g) The provisions of this chapter delegating and granting power to the secretary of state, the securities division, and the securities commissioner shall be liberally construed to the end that:

(1) the practice or commission of fraud may be prohibited and prevented;

(2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and

(3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

It is the intent and purpose of this chapter to delegate and grant to and vest in the secretary of state, the securities division, and the securities commissioner full and complete power to carry into effect and accomplish the purpose of this chapter and to charge them with full and complete responsibility for its effective administration.

(h) It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the securities commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this chapter and in a civil proceeding or action arising under this chapter. If evidence concerning violations of this chapter or a rule or order under this chapter is referred to a prosecuting attorney, the prosecuting attorney shall within ninety (90) days file with the securities commissioner a written statement concerning an action taken or, if no action has been taken, the reasons no action has been taken.

(i) The securities commissioner shall take, prescribe, and file the oath of office prescribed by law. The securities commissioner, senior investigator, and each deputy are police officers of the state and shall have all the powers and duties of police officers in making arrests for violations of this chapter, or in serving any process, notice, or order connected with the enforcement of this chapter by whatever officer or authority or court issued. The securities commissioner, the deputy

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commissioners for enforcement, and the investigators comprise the enforcement department of the division and are considered a criminal justice agency for purposes of IC 5-2-4 and ~~IC 5-2-5.~~ **IC 10-13-3.**

(j) The securities commissioner and each employee of the securities division shall be reimbursed for necessary hotel and travel expenses when required to travel on official duty. Hotel and travel reimbursements shall be paid in accordance with the travel regulations prescribed by the budget agency.

(k) It is unlawful for the secretary of state, the securities commissioner, or the securities division's employees to use for personal benefit information that is filed with or obtained by the securities division and that is not made public. No provision of this chapter authorizes the secretary of state, the securities commissioner, or the employees of the securities division to disclose information except among themselves, or when necessary or appropriate, in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from a privilege that exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the secretary of state, the securities commissioner, or the securities division or its employees.

(l) The commissioner may honor requests from interested persons for interpretative opinions and from interested persons for determinations that the commissioner will not institute enforcement proceedings against specified persons for specified activities. A determination not to institute enforcement proceedings must be consistent with this chapter. The commissioner shall charge a fee of one hundred dollars ($100) for an interpretative opinion or determination.

SECTION 63. IC 24-5-14-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. A caller may not use an automatic dialing-announcing device to make a telephone call to the following:

(1) A hospital (as defined in IC 16-18-2-179(b)).

(2) An ambulatory outpatient surgical center (as defined in IC 16-18-2-14).

(3) A health facility (as defined in IC 16-18-2-167).

(4) An emergency medical services facility (as defined in IC 16-18-2-111).

(5) A business providing emergency ambulance services (as defined in IC 16-18-2-107).

(6) A state institution (as defined in IC 12-7-2-184).

(7) A private mental health institution licensed under IC 12-25.

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(8) A residential facility (as defined in IC 12-7-2-165).

(9) A law enforcement agency (as defined in ~~IC 5-2-5-1).~~ **IC 10-13-3-10).**

(10) A fire department (as defined in IC 36-8-17-2).

SECTION 64. IC 25-1-8-1, AS AMENDED BY P.L.162-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Mining board (IC 22-10-1.5-2).

(14) Indiana state board of nursing (IC 25-23-1).

(15) Indiana optometry board (IC 25-24).

(16) Indiana board of pharmacy (IC 25-26).

(17) Indiana plumbing commission (IC 25-28.5-1-3).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2-1).

(22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).

(23) Department of insurance (IC 27-1).

(24) State police department ~~(IC 10-1-1-1),~~ **(IC 10-11-2-4)** for purposes of certifying polygraph examiners under IC 25-30-2.

(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(26) Private detectives licensing board (IC 25-30-1-5.1).

(27) Occupational therapy committee (IC 25-23.5-2-1).

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(28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(30) State board of registration for land surveyors (IC 25-21.5-2-1).
(31) Physician assistant committee (IC 25-27.5).
(32) Indiana athletic trainers board (IC 25-5.1-2-1).
(33) Board of podiatric medicine (IC 25-29-2-1).
(34) Indiana dietitians certification board (IC 25-14.5-2-1).
(35) Indiana physical therapy committee (IC 25-27).
(36) Manufactured home installer licensing board (IC 25-23.7).
(37) Any other occupational or professional agency created after June 30, 1981.

SECTION 65. IC 25-22.5-1-2, AS AMENDED BY P.L.255-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) This article, as it relates to the unlawful or unauthorized practice of medicine or osteopathic medicine, does not apply to any of the following:

(1) A student in training in a medical school approved by the board, or while performing duties as an intern or a resident in a hospital under the supervision of the hospital's staff or in a program approved by the medical school.
(2) A person who renders service in case of emergency where no fee or other consideration is contemplated, charged, or received.
(3) A paramedic (as defined in IC 16-18-2-266), an advanced emergency medical technician (as defined in IC 16-18-2-6), an emergency medical technician (as defined in IC 16-18-2-112), or a person with equivalent certification from another state who renders advanced life support (as defined in IC 16-18-2-7) or basic life support (as defined in IC 16-18-2-33.5):
(A) during a disaster emergency declared by the governor under ~~IC 10-4-1-7~~ **IC 10-14-3-12** in response to an act that the governor in good faith believes to be an act of terrorism (as defined in IC 35-41-1-26.5); and
(B) in accordance with the rules adopted by the Indiana emergency medical services commission or the disaster emergency declaration of the governor.
(4) Commissioned medical officers or medical service officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the United States Department of Veterans Affairs in the discharge of their official



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duties in Indiana.

(5) An individual who is not a licensee who resides in another state or country and is authorized to practice medicine or osteopathic medicine there, who is called in for consultation by an individual licensed to practice medicine or osteopathic medicine in Indiana.

(6) A person administering a domestic or family remedy to a member of the person's family.

(7) A member of a church practicing the religious tenets of the church if the member does not make a medical diagnosis, prescribe or administer drugs or medicines, perform surgical or physical operations, or assume the title of or profess to be a physician.

(8) A school corporation and a school employee who acts under IC 34-30-14 (or IC 34-4-16.5-3.5 before its repeal).

(9) A chiropractor practicing the chiropractor's profession under IC 25-10 or to an employee of a chiropractor acting under the direction and supervision of the chiropractor under IC 25-10-1-13.

(10) A dental hygienist practicing the dental hygienist's profession under IC 25-13.

(11) A dentist practicing the dentist's profession under IC 25-14.

(12) A hearing aid dealer practicing the hearing aid dealer's profession under IC 25-20.

(13) A nurse practicing the nurse's profession under IC 25-23. However, a registered nurse may administer anesthesia if the registered nurse acts under the direction of and in the immediate presence of a physician and holds a certificate of completion of a course in anesthesia approved by the American Association of Nurse Anesthetists or a course approved by the board.

(14) An optometrist practicing the optometrist's profession under IC 25-24.

(15) A pharmacist practicing the pharmacist's profession under IC 25-26.

(16) A physical therapist practicing the physical therapist's profession under IC 25-27.

(17) A podiatrist practicing the podiatrist's profession under IC 25-29.

(18) A psychologist practicing the psychologist's profession under IC 25-33.

(19) A speech-language pathologist or audiologist practicing the pathologist's or audiologist's profession under IC 25-35.6.

(20) An employee of a physician or group of physicians who

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performs an act, a duty, or a function that is customarily within the specific area of practice of the employing physician or group of physicians, if the act, duty, or function is performed under the direction and supervision of the employing physician or a physician of the employing group within whose area of practice the act, duty, or function falls. An employee may not make a diagnosis or prescribe a treatment and must report the results of an examination of a patient conducted by the employee to the employing physician or the physician of the employing group under whose supervision the employee is working. An employee may not administer medication without the specific order of the employing physician or a physician of the employing group. Unless an employee is licensed or registered to independently practice in a profession described in subdivisions (9) through (18), nothing in this subsection grants the employee independent practitioner status or the authority to perform patient services in an independent practice in a profession.

(21) A hospital licensed under IC 16-21 or IC 12-25.

(22) A health care organization whose members, shareholders, or partners are individuals, partnerships, corporations, facilities, or institutions licensed or legally authorized by this state to provide health care or professional services as:

(A) a physician;
(B) a psychiatric hospital;
(C) a hospital;
(D) a health maintenance organization or limited service health maintenance organization;
(E) a health facility;
(F) a dentist;
(G) a registered or licensed practical nurse;
(H) a midwife;
(I) an optometrist;
(J) a podiatrist;
(K) a chiropractor;
(L) a physical therapist; or
(M) a psychologist.

(23) A physician assistant practicing the physician assistant's profession under IC 25-27.5.

(24) A physician providing medical treatment under IC 25-22.5-1-2.1.

(25) An attendant who provides care services as defined in IC 16-27-1-0.5.

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(26) A personal services attendant providing authorized attendant care services under IC 12-10-17.

(b) A person described in subsection (a)(9) through (a)(18) is not excluded from the application of this article if:

(1) the person performs an act that an Indiana statute does not authorize the person to perform; and

(2) the act qualifies in whole or in part as the practice of medicine or osteopathic medicine.

(c) An employment or other contractual relationship between an entity described in subsection (a)(21) through (a)(22) and a licensed physician does not constitute the unlawful practice of medicine under this article if the entity does not direct or control independent medical acts, decisions, or judgment of the licensed physician. However, if the direction or control is done by the entity under IC 34-30-15 (or IC 34-4-12.6 before its repeal), the entity is excluded from the application of this article as it relates to the unlawful practice of medicine or osteopathic medicine.

(d) This subsection does not apply to a prescription or drug order for a legend drug that is filled or refilled in a pharmacy owned or operated by a hospital licensed under IC 16-21. A physician licensed in Indiana who permits or authorizes a person to fill or refill a prescription or drug order for a legend drug except as authorized in IC 16-42-19-11 through IC 16-42-19-19 is subject to disciplinary action under IC 25-1-9. A person who violates this subsection commits the unlawful practice of medicine under this chapter.

(e) A person described in subsection (a)(8) shall not be authorized to dispense contraceptives or birth control devices.

SECTION 66. IC 25-25-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) This section applies to:

(1) any veteran described in ~~IC 10-5-12-1~~ **IC 10-17-5-2** or ~~IC 10-5-13-1,~~ **IC 10-17-5-1;** or

(2) any other veteran to whom this chapter applies because of the provisions of any other statute;

who holds an honorable discharge from such service issued by the proper authorities. Such a person shall be entitled to a license to vend, hawk, and peddle goods, wares, fruits, and merchandise in any county, city, or town ~~within this state~~ **in Indiana** without the payment of any fee ~~therefor.~~ **for the license.** Upon the presentation of ~~his~~ **the person's** certificate and papers of discharge, properly executed, to the auditor of any county ~~in this state,~~ and proving ~~his~~ **the person's** identity as the person named in ~~his~~ **the person's** certificate of honorable discharge,

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the auditor shall issue to ~~such ex-soldier~~ **the former soldier** or sailor a **free** license to vend, hawk, and peddle goods, wares, fruits, and merchandise ~~within~~ **in** the county and in all cities and towns ~~therein situate, which license shall be free, and no~~ **in the county. A** fee ~~shall~~ **may not** be charged to the holder of ~~such~~ **the** license by ~~such~~ **the** auditor, ~~nor~~ by the authorities of any city or town in ~~such~~ **the** county, ~~nor~~ **or** by any other officer. ~~but such~~ **The** license shall be full and complete authority to vend, hawk, and peddle ~~as aforesaid,~~ without the payment of any sum of money.

(b) A person who acquires a license under this section is subject to all county, city, or town regulations and ordinances concerning vendors, hawkers, or peddlers, except for those provisions requiring payment of money for obtaining a license.

SECTION 67. IC 25-30-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

"Department" means the state police department established under ~~IC 10-1-1-1.~~ **IC 10-11-2-4.**

"Polygraph examiner" means a person who is solely or partly engaged in the business of establishing the truth or falsity of any statement or representation, by means of a polygraph instrument.

"Polygraph instrument" means a device that permanently and simultaneously records, at a minimum, an individual's cardiovascular and respiratory patterns and galvanic skin responses in order to determine truthfulness.

SECTION 68. IC 25-36.5-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) The definitions set forth in ~~IC 5-2-5-1~~ **IC 10-13-3** apply throughout this section.

(b) The department shall under ~~IC 5-2-5-5(b)~~ **IC 10-13-3-27(b)** request and obtain the release of a limited criminal history from the state police department on each person who applies to the department under this chapter for the issuance of either of the following:

(1) A timber buyer registration certificate.

(2) A timber buyer agent's license.

SECTION 69. IC 27-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. Any incorporation, association or society organized to insure lives, which provides for the payment of policy claims, or the accumulation of reserve or emergency funds, and the expenses of the management and prosecution of the business by payments to be made either at periods named in the contract or upon assessments as required, by persons holding similar contracts, and wherein the insured's liability to contribute to the

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payment of policy claims accrued or to accrue is not limited to a fixed sum, shall be deemed to be engaged in the business of life insurance upon the assessment plan, and shall be subject only to the provisions of this chapter. However, nothing contained in this chapter shall be construed as applicable to any association of religious or secret societies, or to any class of mechanics, express, telegraph or railroad employees, or veterans described in ~~IC 10-5-12-1 or IC 10-5-13-1,~~ **IC 10-17-5-2 or IC 10-17-5-1** formed for the mutual benefit of the members thereof and their families exclusively, or to any secret or fraternal societies, lodges or councils that may be organized, or that are now organized and doing business in this state, which conduct their business and secure members on the lodge system exclusively, having ritualistic work and ceremonies in their societies, lodges or councils, and which are under the supervision of the grand or supreme body, nor to any association organized solely for benevolent purposes and not for profit.

SECTION 70. IC 27-8-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26. Nothing contained in sections one through twenty-five of this chapter shall be construed to apply to secret or fraternal societies, lodges or councils that are now organized, or that may hereafter be organized, which conduct their business and secure members on the lodge system, exclusively, having ritualistic work and ceremonies in their societies, lodges or councils, and which are under the supervision of a grand or supreme body, nor to any association organized solely for benevolent purposes and not for profit; nor to any association of religious or secret societies, nor to any class of mechanics, express, telegraph or railroad employees or veterans described in ~~IC 10-5-12-1 or IC 10-5-13-1~~ **IC 10-17-5-2 or IC 10-17-5-1** or any existing societies now doing business and formed for the mutual benefit of the members thereof and their families exclusively.

SECTION 71. IC 31-14-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A noncustodial parent who misses visitation as the result of participation in an activity of:

(1) the Indiana National Guard; or

(2) a reserve component of the armed forces of the United States;

may make up the lost visitation as provided in ~~IC 10-2-4-23.~~ **IC 10-16-7-22.**

SECTION 72. IC 31-17-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. A noncustodial parent who misses visitation as the result of participation in an activity

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of:

(1) the Indiana National Guard; or

(2) a reserve component of the armed forces of the United States;

may make up the lost visitation as provided in ~~IC 10-2-4-23.~~ **IC 10-16-7-22.**

SECTION 73. IC 31-34-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. A child is a child in need of services if before the child becomes eighteen (18) years of age:

(1) the child is a missing child (as defined in ~~IC 10-1-7-2);~~ **IC 10-13-5-4);** and

(2) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

SECTION 74. IC 31-34-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A child may be taken into custody by:

(1) a law enforcement officer;

(2) a probation officer; or

(3) a caseworker;

acting with probable cause to believe the child is a child in need of services because the child is a missing child (as defined in ~~IC 10-1-7-2).~~ **IC 10-13-5-4).**

SECTION 75. IC 31-34-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. If a child in need of services is a missing child and is taken into custody under a court order, the person taking the child into custody shall do the following:

(1) Take the child to a place designated in the order.

(2) Give notice to the following that the child has been taken into custody:

(A) The child's legal custodian.

(B) The clearinghouse for information on missing children established by ~~IC 10-1-7.~~ **IC 10-13-5.**

SECTION 76. IC 31-34-2.5-2, AS AMENDED BY P.L.217-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the local child protection service that the provider has taken custody of the child.

(b) The local child protection service shall:

(1) assume the care, control, and custody of the child immediately after receiving notice under subsection (a); and

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(2) not later than forty-eight (48) hours after the local child protection service has taken custody of the child, contact the Indiana clearinghouse for information on missing children established by ~~IC 10-1-7-3~~ **IC 10-13-5-5** to determine if the child has been reported missing.

SECTION 77. IC 31-36-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. Upon completion of the report required by section 1 of this chapter, the law enforcement agency shall immediately forward the contents of the report to:

(1) all law enforcement agencies that have jurisdiction of the location in which the missing child lives and all law enforcement agencies that have jurisdiction of the location in which the missing child was last seen;

(2) all law enforcement agencies to which the person who provided notification requests the report be sent, if the law enforcement agency determines that the request is reasonable in light of the information contained in the report;

(3) all law enforcement agencies that request a copy of the report;

(4) the Indiana clearinghouse for information on missing children established by ~~IC 10-1-7;~~ **IC 10-13-5;**

(5) the Indiana data and communication system (IDACS); and

(6) the National Crime Information Center's Missing Person File.

SECTION 78. IC 31-36-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) A state or local governmental agency or a public or private organization maintaining a record of the fingerprints of a child shall release a copy of that record to a law enforcement agency if:

(1) the child is a missing child (as defined in ~~IC 10-1-7-2);~~ **IC 10-13-5-4);**

(2) a parent or guardian of the child provides written consent for the release of the record; and

(3) the law enforcement agency requests a copy of the record.

(b) Except as provided in IC 31-39-5, a record of the fingerprints of a child taken and retained by a state or local governmental agency shall be destroyed when the child becomes eighteen (18) years of age.

SECTION 79. IC 33-4-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person shall be excused from acting as a juror if the person:

(1) is over sixty-five (65) years of age;

(2) is a member in active service of the armed forces of the United States;

(3) is an elected or appointed official of the executive, legislative,

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or judicial branches of government of:

(A) the United States;

(B) Indiana; or

(C) a unit of local government;

who is actively engaged in the performance of the person's official duties;

(4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;

(5) is an honorary military staff officer appointed by the governor under ~~IC 10-2-1-5;~~ **IC 10-16-2-5;**

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under ~~IC 10-2-8;~~ **IC 10-16-8;**

(7) is a veterinarian licensed under IC 15-5-1.1;

(8) is serving as a member of the board of school commissioners of the city of Indianapolis under IC 20-3-11-2;

(9) is a dentist licensed under IC 25-14-1;

(10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or

(11) would serve as a juror during a criminal trial and the person is:

(A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or

(B) the spouse or child of a person described in clause (A);

and desires to be excused for that reason.

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) The person is under a sentence imposed for an offense.

(5) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(6) The person has had rights revoked by reason of a felony

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conviction and the rights have not been restored.

(c) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(d) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(e) The same petit jurors may be used in civil cases and in criminal cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

SECTION 80. IC 33-19-9-4, AS AMENDED BY P.L.183-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) The treasurer of state shall semiannually distribute one million two hundred eighty-eight thousand dollars ($1,288,000) of the amounts transferred to the state fund under section 3 of this chapter as follows:

(1) Fourteen and ninety-eight hundredths percent (14.98%) shall be deposited into the alcohol and drug countermeasures fund established under IC 9-27-2-11.

(2) Eight and forty-two hundredths percent (8.42%) shall be deposited into the drug interdiction fund established under ~~IC 10-1-8-2.~~ **IC 10-11-7.**

(3) Four and sixty-eight hundredths percent (4.68%) shall be deposited into the drug prosecution fund established under IC 33-14-8-5.

(4) Five and sixty-two hundredths percent (5.62%) shall be deposited into the corrections drug abuse fund established under IC 11-8-2-11.

(5) Twenty-two and forty-seven hundredths percent (22.47%) shall be deposited into the state drug free communities fund established by IC 5-2-10-2.

(6) Seven and ninety-eight hundredths percent (7.98%) shall be distributed to the Indiana department of transportation for use under IC 8-23-2-15.

(7) Twenty and thirty-two hundredths percent (20.32%) shall be deposited in the family violence and victim assistance fund established by IC 12-18-5-2.

(8) Fifteen and fifty-three hundredths percent (15.53%) shall be deposited in the Indiana safe schools fund established by

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IC 5-2-10.1.

(b) The treasurer of state shall semiannually distribute the amount remaining after the distributions in subsection (a) to the judicial technology and automation project fund established by IC 33-2.1-7-10.

SECTION 81. IC 34-6-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. "Armory", for purposes of IC 34-30-8, means an armory constructed and operated under ~~IC 10-2-2.~~ **IC 10-16-3 or IC 10-16-4.**

SECTION 82. IC 34-29-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. Statutes outside IC 34 providing immunity from civil arrest include the following:

(1) ~~IC 10-2-4-5~~ **IC 10-16-7-8** (Members of the national guard not subject to arrest on civil process while on duty).

(2) IC 35-37-5 (Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings).

SECTION 83. IC 34-30-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 35. ~~IC 10-1-2.5-4~~ **IC 10-13-2-6** (Concerning officials who furnish reports, information, or statistics to the criminal justice data division).

SECTION 84. IC 34-30-2-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 36. ~~IC 10-2-4-4~~ **IC 10-16-7-7** (Concerning members of the national guard).

SECTION 85. IC 34-30-2-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37. ~~IC 10-4-1-8~~ **IC 10-14-3-15** (Concerning the state, political subdivisions, and emergency management workers for injury, death, or property damage).

SECTION 86. IC 34-30-2-37.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 37.2. ~~IC 10-4-1-11~~ **IC 10-14-3-18** (Concerning employees of a political subdivision rendering aid in another political subdivision or out of state).

SECTION 87. IC 34-30-2-38 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38. ~~IC 10-4-1-18(c)~~ **IC 10-14-3-25(e)** (Concerning persons owning or controlling real estate or other premises used to shelter persons during an attack, emergency, disaster, or drill).

SECTION 88. IC 34-30-2-38.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 38.3. ~~IC 10-4-3-1~~ **IC 10-14-7-1** (Concerning officers and employees of a state that is a party to the interstate earthquake emergency compact, and persons rendering aid under the compact).

SECTION 89. IC 34-30-2-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 39. ~~IC 10-7-2-1~~

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**IC 10-18-1-1** (Concerning members of the Indiana war memorials commission).

SECTION 90. IC 34-30-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If a person or entity, other than a person or entity listed in subdivisions (1) through (10), enters into a written agreement to use space in an armory for a function, the following persons and entities are not liable for civil damages for any property damage or bodily injury resulting from the serving of food or beverages at the function held at the armory:

(1) The state.

(2) The Indiana army national guard.

(3) The Indiana air national guard.

(4) The army national guard of the United States.

(5) The air national guard of the United States.

(6) The adjutant general appointed under ~~IC 10-2-2-4.~~ **IC 10-16-2-6.**

(7) The assistant adjutants general appointed under ~~IC 10-2-2-5.~~ **IC 10-16-2-7.**

(8) The officers and enlisted members of the Indiana army national guard and the Indiana air national guard.

(9) The state armory board appointed under ~~IC 10-2-2-9~~ **IC 10-10-16-3-1** and the members of that board.

(10) The local armory board appointed under ~~IC 10-2-2-24~~ **IC 10-16-4-1** for the armory and the members of that board.

SECTION 91. IC 35-38-2-2.3, AS AMENDED BY P.L.76-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.

(4) Support the person's dependents and meet other family responsibilities.

(5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.

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(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
(7) Pay a fine authorized by IC 35-50.
(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.
(13) Perform uncompensated work that benefits the community.
(14) Satisfy other conditions reasonably related to the person's rehabilitation.
(15) Undergo home detention under IC 35-38-2.5.
(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:
(A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b)(8); or
(B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b)(9)(A).
(17) Refrain from any direct or indirect contact with an individual.
(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in ~~IC 10-1-7-2).~~ **IC 10-13-5-4).**
(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the

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court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

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(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 92. IC 35-38-5-5, AS AMENDED BY P.L.10-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) This section does not apply to a request to a law enforcement agency for the release or inspection of a limited criminal history to a noncriminal justice organization or individual whenever the subject of the request is described in ~~IC 5-2-5-5(a)(8) or IC 5-2-5-5(a)(12).~~ **IC 10-13-3-27(a)(8) or IC 10-13-3-27(a)(12).**

(b) A person may petition the state police department to limit access to ~~his~~ **the person's** limited criminal history to criminal justice agencies if more than fifteen (15) years have elapsed since the date the person was discharged from probation, imprisonment, or parole (whichever is later) for the last conviction for a crime.

(c) When a petition is filed under subsection (b), the state police department shall not release limited criminal history to noncriminal justice agencies under ~~IC 5-2-5-5.~~ **IC 10-13-5-27.**

SECTION 93. IC 35-38-7-5, AS ADDED BY P.L.49-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. A person who was convicted of and sentenced for an offense may file a written petition with the court that sentenced the petitioner for the offense to require the forensic DNA testing and analysis of any evidence that:

(1) is:

(A) in the possession or control of a court or the state; or

(B) otherwise contained in the Indiana DNA data base established under ~~IC 10-1-9;~~ **IC 10-13-6;**

(2) is related to the investigation or prosecution that resulted in the person's conviction; and

(3) may contain biological evidence.

SECTION 94. IC 35-38-7-12, AS ADDED BY P.L.49-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2003]: Sec. 12. If the court orders DNA testing and analysis under this chapter, the court shall select a laboratory that meets the quality assurance and proficiency testing standards applicable to laboratories conducting forensic DNA analysis under ~~IC 10-1-9.~~ **IC 10-13-6.**

SECTION 95. IC 35-38-7-18, AS ADDED BY P.L.49-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. If the results of the postconviction DNA testing and analysis are not favorable to the person who was convicted of the offense, the court:

(1) shall dismiss the person's petition; and

(2) may make any further orders that the court determines to be appropriate, including any of the following:

(A) An order providing for notification of the parole board or a probation department.

(B) An order requesting that the petitioner's sample be added to the Indiana data base established under ~~IC 10-1-9.~~ **IC 10-13-6.**

SECTION 96. IC 35-44-2-2, AS AMENDED BY P.L.123-2002, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

(1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;

(2) there has been or there will be tampering with a consumer product introduced into commerce; or

(3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

(c) A person who:

(1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;

(2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;

(3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false; or

(4) gives a false report concerning a missing child (as defined in

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~~IC 10-1-7-2)~~ **IC 10-13-5-4)** or gives false information in the official investigation of a missing child knowing the report or information to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.

SECTION 97. IC 35-47-2.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. If a buyer or transferee is denied the right to purchase a handgun under this chapter because of erroneous criminal history information, the buyer or transferee may exercise the right of access to and review and correction of criminal history information under ~~IC 5-2-5-8.~~ **IC 10-13-3-31.**

SECTION 98. IC 35-47-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. The legislative body of a unit may adopt an emergency ordinance under this chapter if:

(1) a disaster (as defined in ~~IC 10-4-1-3)~~ **IC 10-14-3-1)** has occurred or is likely to occur in the unit; and

(2) a local disaster emergency has been declared in the unit under ~~IC 10-4-1-23.~~ **IC 10-14-3-29.**

SECTION 99. IC 36-1-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) An agreement under this section must provide for the following:

(1) Its duration.

(2) Its purpose.

(3) The manner of financing, staffing, and supplying the joint undertaking and of establishing and maintaining a budget therefor.

(4) The methods that may be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon partial or complete termination.

(5) Administration through:

(A) a separate legal entity, the nature, organization, composition, and powers of which must be provided; or

(B) a joint board composed of representatives of the entities that are parties to the agreement, and on which all parties to the agreement must be represented.

(6) The manner of acquiring, holding, and disposing of real and personal property used in the joint undertaking, whenever a joint board is created under subdivision (5)(B).

In addition, such an agreement may provide for any other appropriate matters.

(b) A separate legal entity or joint board established by an

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agreement under this section has only the powers delegated to it by the agreement. The agreement may not provide for members, directors, or trustees of the separate legal entity or joint board to make appointments (either individually or jointly) to fill vacancies on the separate legal entity or joint board.

(c) Subsection (a)(6) does not apply to an emergency management assistance compact under ~~IC 10-4-2.5.~~ **IC 10-14-5.**

SECTION 100. IC 36-1-7-7, AS AMENDED BY P.L.1-1999, SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Except as provided in subsection (c), if an agreement under section 3 of this chapter concerns the provision of law enforcement or firefighting services, the following provisions apply:

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

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

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

(c) This subsection applies to a law enforcement officer that visits another state after a request for assistance from another state under the emergency management compact is made under ~~IC 10-4-2.5.~~ **IC 10-14-5.** A law enforcement officer that visits another state does not have the power of arrest unless the law enforcement officer is specifically authorized to exercise the power by the receiving state.

SECTION 101. IC 36-2-7-10, AS AMENDED BY P.L.2-2002, SECTION 107, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003] : Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by

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the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 ½) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars ($2) per page that is larger than eight and one-half (8 ½) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8),

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(b)(9), and (b)(10) shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) ~~IC 10-5-4-3.~~ **IC 10-17-2-3.**

(E) ~~IC 10-5-7-1(a).~~ **IC 10-17-3-2.**

(F) IC 12-14-13.

(G) IC 12-14-16.

(g) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 102. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 5-2-5; IC 5-2-5.1; IC 10-1; IC 10-2; 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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SENATE MOTION

Mr. President: I move that Senator Bowser be added as second author and Senator Landske be added as coauthor of Senate Bill 257.

KENLEY

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 257, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 257 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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