February 13, 2004

ENGROSSED
SENATE BILL No. 106

DIGEST OF SB 106 (Updated February 11, 2004 11:29 am - DI 107)

Citations Affected: Numerous provisions throughout the Indiana code.

Synopsis: Technical corrections. Corrects a number of technical problems in the Indiana Code and in noncode provisions.

Effective: July 1, 2003 (retroactive); upon passage; July 1, 2004.

Kenley, Bowser, Landske, Smith S
(HOUSE SPONSORS — KUZMAN, FOLEY)

January 6, 2004, read first time and referred to Committee on Judiciary.
January 15, 2004, amended, reported favorably — Do Pass.
January 20, 2004, read second time, ordered engrossed.
January 21, 2004, engrossed.
January 22, 2004, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Judiciary.
February 12, 2004, amended, reported — Do Pass.

C o p y

February 13, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

C o p y

ENGROSSED
SENATE BILL No. 106

A BILL FOR AN ACT to amend the Indiana Code concerning technical corrections.

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

SECTION 1. IC 3-7-26-2, AS AMENDED BY P.L.209-2003, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The election division shall develop and maintain a statewide voter registration file.

(b) ~~Subject to section 20 of this chapter,~~ Not later than January 1, 2004, the election division shall maintain the statewide voter registration file so that the file is accessible by the election division and county voter registration offices through a secure connection over the Internet.

(c) The statewide voter registration file must comply with the standards and requirements described in 42 U.S.C. 15483.

SECTION 2. IC 3-7-26-8, AS AMENDED BY P.L.209-2003, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Until a county has the capability to transmit the information over the Internet as required under subsection (b), the information required by section 7 of this chapter shall be provided on magnetic media or other machine readable form to the

election division.

(b) ~~Subject to section 20 of this chapter,~~ Not later than January 1, 2004, a county voter registration office shall transmit the information required by section 7 of this chapter to the election division over the Internet, in a manner and using a method prescribed by the election division, through a secure connection to the statewide voter registration file.

(c) The commission shall prescribe a format to ensure the standardization and readability of the data provided under subsection (a) or (b).

SECTION 3. IC 3-8-1-2, AS AMENDED BY P.L.66-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The commission, a county election board, or a town election board shall act if a candidate (or a person acting on behalf of a candidate in accordance with state law) has filed any of the following:

(1) A declaration of candidacy under IC 3-8-2 or IC 3-8-5.

(2) A request for ballot placement in a presidential primary under IC 3-8-3.

(3) A petition of nomination or candidate's consent to nomination under IC 3-8-6.

(4) A certificate of nomination under IC 3-8-5, IC 3-8-7, IC 3-10-2-15, or IC 3-10-6-12.

(5) A certificate of candidate selection under IC 3-13-1 or IC 3-13-2.

(6) A declaration of intent to be a write-in candidate under IC 3-8-2-2.5.

(7) A contest to the denial of certification under IC 3-8-6-12.

(b) The commission has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the election division. Except for a filing under the jurisdiction of a town election board, a county election board has jurisdiction to act under this section with regard to any filing described in subsection (a) that was made with the county election board, county voter registration office, or the circuit court clerk. A town election board has jurisdiction to act under this section with regard to any filing that was made with the county election board, the county voter registration office, or the circuit court clerk for nomination or election to a town office.

(c) Except as provided in subsection (e), before the commission or election board acts under this section, a registered voter of the election district that a candidate seeks to represent must file a sworn statement with the election division or election board:

C o p y

(1) questioning the eligibility of a candidate to seek the office; and

(2) setting forth the facts known to the voter concerning this question.

(d) The eligibility of a write-in candidate or a candidate nominated by a convention, petition, or primary may not be challenged under this section if the commission or board determines that all of the following occurred:

(1) The eligibility of the candidate was challenged under this section before the candidate was nominated.

(2) The commission or board conducted a hearing on the affidavit before the nomination.

(3) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.

(e) Before the commission or election board can consider a contest to the denial of a certification under IC 3-8-6-12, a candidate (or a person acting on behalf of a candidate in accordance with state law) must file a sworn statement with the election division or election board:

(1) stating specifically the basis for the contest; and

(2) setting forth the facts known to the candidate supporting the basis for the contest.

(f) Upon the filing of a sworn statement under subsection (c) or (e), the commission or election board shall determine the validity of the questioned:

(1) declaration of candidacy;

(2) declaration of intent to be a write-in candidate;

(3) request for ballot placement under IC 3-8-3;

(4) petition of nomination;

(5) certificate of nomination;

(6) certificate of candidate selection issued under IC 3-13-1-15 or IC 3-13-2-8; or

(7) denial of a certification under ~~IC 36-8-6-12.~~ **IC 3-8-6-12.**

(g) The commission or election board shall deny a filing if the commission or election board determines that the candidate has not complied with the applicable requirements for the candidate set forth in the Constitution of the United States, the Constitution of the State of Indiana, or this title.

SECTION 4. IC 3-10-1-31, AS AMENDED BY P.L.209-2003, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) The inspector of each precinct shall deliver the bags required by section 30(a) and 30(c) of this chapter in good condition, together with poll lists, tally sheets, and other forms, to the circuit court clerk when making returns.

C o p y

(b) Except for unused ballots disposed of under IC 3-11-3-31, the circuit court clerk shall carefully preserve the ballots and other material and keep all seals intact for twenty-two (22) months, as required by 42 U.S.C. 1974, after which they may be destroyed unless:

(1) an order issued under IC 3-12-6-19 or IC 3-12-11-16; or

(2) 42 U.S.C. 1973;

requires the continued preservation of the ballots or other material.

(c) This subsection applies before January 1, 2006. Upon delivery of the poll lists, the ~~the~~ county voter registration office may unseal the envelopes containing the poll lists. For the purposes of:

(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46;

(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

(3) adding the registration of a voter under IC 3-7-48-8; or

(4) recording that a voter subject to IC 3-7-33-4.5 submitted the documentation required under 42 U.S.C. 15843 and IC 3-11-8 or IC 3-11-10;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's voter identification number if the voter's voter identification number is not already included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(d) This subsection applies after December 31, 2005. Upon delivery of the poll lists, the county voter registration office may unseal the envelopes containing the poll lists. For purposes of:

(1) a cancellation of registration conducted under IC 3-7-43 through IC 3-7-46; or

(2) a transfer of registration conducted under IC 3-7-39, IC 3-7-40, or IC 3-7-42;

the county voter registration office may inspect the poll lists and update the registration record of the county. The county voter registration office shall use the poll lists to update the registration record to include the voter's current voter identification number if the voter's voter identification number is not included in the registration record. Upon completion of the inspection, the poll list shall be resealed and preserved with the ballots and other materials for the time period prescribed by subsection (b).

(e) After the expiration of the period described in subsection (b), the

C o p y

ballots may be destroyed in the manner provided by IC 3-11-3-31 or transferred to a state educational institution as provided by IC 3-12-2-12.

SECTION 5. IC 3-11-6.5-3.1, AS ADDED BY P.L.209-2003, SECTION 122, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies to money received under Title II, Subtitle D, Part I of HAVA (42 U.S.C. 15401 through 15408) and deposited in the account established under section 2 of this chapter for those funds.

(b) Except as provided in subsection (c), money deposited in the account must be used to comply with the requirements of Title III of HAVA (42 U.S.C. 15481 through 15502).

(c) As authorized under 42 U.S.C. 15401(b), money deposited in the account may be used for other purposes authorized under Section 101 of HAVA (42 U.S.C. 15301) if the secretary of state, with the approval of the co-directors of the election division, files the certification required by Section 251(b)(2)(B) of HAVA (42 U.S.C. ~~15401(b)(2)(A)).~~ **15401(b)(2)(B)).**

(d) If the secretary of state makes the certification described in subsection (c), the secretary of state, with the approval of the co-directors of the election division, may transfer amounts that do not in total exceed the amount described in Section 251(b)(2)(B) from the Title II account of the fund to the Section 101 account of the fund.

(e) In conformity with Section 254(a)(7) of HAVA (42 U.S.C. 15404), the state shall maintain expenditures by the state for activities funded by the payment of funds described by this section at a level that is not less than the level of those expenditures maintained by the state for the fiscal year ending June 30, 2000.

SECTION 6. IC 3-11-6.5-7.1, AS ADDED BY P.L.209-2003, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.1. (a) This section applies to money received under Section 102 of HAVA (42 U.S.C. 15302) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used for the purposes set forth in Section 102 of HAVA (42 U.S.C. 15302).

(c) As permitted under 42 U.S.C. 15302, a county may apply to receive reimbursement from the fund.

(d) To receive reimbursement or voting systems under this section, a county must file an application with the election division in the form required by the election division. The secretary of state, with the consent of the co-directors of the election division, shall review the

C o p y

application and make a recommendation to the budget committee regarding the application. If a county filed an application under section 3 of this chapter **(repealed)** not later than January 31, 2003, the application may be amended to comply with this chapter or the county may file a new application under this subsection.

(e) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement if the budget agency determines that the county has purchased a voting system to comply with Section 102 of HAVA and is eligible for reimbursement under this section.

(f) The budget agency, after review by the budget committee, shall approve a county's application for disbursement of voting systems to the county if the budget agency determines that the county is entitled to receive voting systems under this section to comply with Section 102 of HAVA.

(g) If a county's application for reimbursement is approved under this section, the secretary of state shall, subject to subsection ~~(j),~~ **(h),** reimburse the county from the fund in an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars ($4,000).

(h) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 7. IC 3-11-6.5-8, AS AMENDED BY P.L.209-2003, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to money received under Section 101 of HAVA (42 U.S.C. 15301) and deposited in the account established under section 2 of this chapter for those funds.

(b) Money deposited in the account must be used in accordance with the requirements applicable under Section 101 of HAVA (42 U.S.C. 15301).

(c) The money may be used with the approval of the co-directors of the election division for the following purposes:

(1) By the secretary of state for any purpose authorized by this title and permitted under 42 U.S.C. 15301.

(2) To reimburse counties for the purchase of new voting systems eligible for reimbursement under section 7.1 of this chapter, to the

C o p y

extent that money received and deposited under section 7.1 of this chapter is insufficient to replace all voting machine systems and punch card voting systems in Indiana.

(3) To reimburse counties for the upgrade or expansion of existing voting systems to comply with HAVA.

(d) As permitted under 42 U.S.C. 15301, a county may apply to receive reimbursement under subsection (c).

(e) To receive reimbursement under this section, a county must make an application to the election division in the form required by the election division. If the county filed an application under section 3 of this chapter **(repealed)** not later than January 31, 2003:

(1) the application may be amended to comply with this chapter; or

(2) the county may file a new application under this section.

The secretary of state with the consent of the co-directors of the election division shall review the application and make a recommendation to the budget committee regarding the application.

(f) The budget agency, after review by the budget committee, shall approve a county's application for reimbursement under this section if the budget agency determines that the application complies with the requirements for reimbursement under subsection (c)(2) or (c)(3).

(g) If a county's application is approved under subsection (c)(2), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund an amount not more than the amount determined by STEP TWO of the following formula:

STEP ONE: Determine the number of precincts in the county that used a voting machine voting system or a punch card voting system at the November 7, 2000, general election that cannot be replaced with funds available under section 7.1 of this chapter.

STEP TWO: Multiply the number determined in STEP ONE by four thousand dollars ($4,000).

(h) If a county's application is approved under subsection (c)(3), the secretary of state with the consent of the co-directors of the election division shall, subject to subsection (i), pay the county from the fund in an amount to be determined by the secretary of state with the consent of the co-directors of the election division.

(i) Payment of money from the fund under this section is subject to the availability of money in the fund and the requirements of this chapter and HAVA.

SECTION 8. IC 3-11-8-15, AS AMENDED BY P.L.209-2003, SECTION 130, IS AMENDED TO READ AS FOLLOWS

C o p y

[EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Persons other than:

(1) members of a precinct election board;

(2) poll clerks and assistant poll clerks;

(3) election sheriffs;

(4) deputy election commissioners;

(5) pollbook holders;

(6) watchers; ~~and~~

(7) minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29; and

(8) an assistant to a precinct election officer appointed under IC 3-6-6-39;

are not permitted in the polls during an election except for the purpose of voting.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 9. IC 3-11-15-13, AS AMENDED BY P.L.209-2003, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.** (a) To be approved by the commission for use in Indiana, a voting system shall meet the following standards:

(1) After December 31, 2005, the voting method used in each polling place must include a voting system that is accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters. A county complies with the standards described in this subdivision if each polling place in the county has at least one (1) voting system equipped for individuals with disabilities that complies with the standards described in this subdivision.

(2) A voting system must meet the Voting System Standards approved by the Federal Election Commission on April 30, 2002.

(b) The commission may adopt rules under IC 4-22-2 to require a voting system to meet standards more recent than standards described in subsection (a)(2). If the commission adopts rules under this

C o p y

subsection, a voting system must meet the standards described in the rules instead of the standards described in subsection (a)(2).

(c) This section expires January 1, 2006.

SECTION 10. IC 3-11-15-13.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.4. (a) This section does not apply to the purchase, lease, or lease-purchase of additional or replacement components of a voting system in use in a county before January 1, 2005.**

(b) The commission shall determine whether a voting system provides a practical and effective means for voters with disabilities to cast ballots in private.

(c) If the commission determines that any voting system meets the criteria described in subsection (b), a county may not purchase, lease, or lease-purchase any other voting system that does not meet the criteria described in subsection (b).

SECTION 11. IC 3-11-15-13.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.6. (a) This section applies only to a voting system purchased with funds made available under Title II of HAVA (42 U.S.C. 15321 through 15472) after December 31, 2006.**

(b) As required by 42 U.S.C. 15481, the voting system must comply with the Voting System Standards for disability access referred to in section 13.3 of this chapter and 42 U.S.C. 15481(a)(3) to be used in an election.

SECTION 12. IC 3-12-3-5, AS AMENDED BY P.L.263-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) If a ballot card is damaged or defective so that it cannot properly be counted by the automatic tabulating machines, then a remake team composed of one (1) person from each of the major political parties of the county shall have the card prepared for processing so as to record accurately the intention of the voter insofar as it can be ascertained.

(b) If the ballot card voting system is designed to allow the counting and tabulation of votes by the precinct election board, the members of the remake team must be members of the precinct election board in which the ballot was cast.

(c) If necessary, a true, duplicate copy shall be made of the damaged ballot card in the presence of witnesses and substituted for the damaged card. Similarly, a duplicate ballot card shall be made of a defective card, not including the uncounted votes.

C o p y

(d) This subsection applies to an absent uniformed services voter permitted to transmit an absentee ballot by fax under IC 3-11-4-6. To facilitate the transmittal and return of the voter's absentee ballot by fax, the county election board may provide the voter with a paper ballot rather than a ballot card. The paper ballot must conform with the requirements for paper ballots set forth in IC 3-10 and IC 3-11. After the voter returns the ballot by fax, a remake team appointed under this section shall prepare a ballot card for processing that accurately records the intention of the voter as indicated on the paper ballot. The ballot card created under this subsection must be marked and counted as a duplicate ballot under sections 6 through 7 of this chapter.

(e) If an automatic tabulating machine fails during the counting and tabulation of votes following the close of the polls, the county election board shall immediately arrange for the repair and proper functioning of the system. The county election board may, by unanimous vote of its entire membership, authorize the counting and tabulation of votes for this election on an automatic tabulating machine approved for use in Indiana by the commission:

(1) until the repair and retesting of the malfunctioning machine; and

(2) whether or not the machine was tested under ~~IC 3-11-13-26.~~ **IC 3-11-13-22.**

SECTION 13. IC 4-3-3-2, AS AMENDED BY P.L.195-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** The surviving spouse of each individual who:

(1) serves as governor; and ~~who~~

(2) is entitled to a retirement benefit under section 1.1 of this chapter;

is entitled to an annual pension.

(b) The pension **to which a governor's surviving spouse is entitled under this section** shall be paid in equal monthly installments by the treasurer of state on warrant of the auditor of state after a claim has been made for the pension to the auditor by:

(1) the surviving spouse; or

(2) a person acting on ~~his~~ behalf **of the surviving spouse.**

(c) The annual pension **to which a governor's surviving spouse is entitled** under this section is equal to the following:

(1) For the surviving spouse of a governor who died before July 1, 1998, the greater of:

(A) the annual retirement benefit received by the surviving spouse during the year beginning July 1, 1998; or

C o p y

(B) ten thousand dollars ($10,000).

(2) For the surviving spouse of a governor who dies after June 30, 1998, the greater of:

(A) fifty percent (50%) of the annual retirement benefit that the governor to whom the surviving spouse was married was receiving or was entitled to receive on the date of the governor's death; or

(B) ten thousand dollars ($10,000).

(d) The surviving spouse of ~~each individual who serves as~~ **a** governor must ~~elect to receive either (1) or (2) above and~~ **make the election required under subsection (c)(1) or (c)(2).** Once **a surviving spouse has received** any **pension** payment ~~has been received~~ **under this section,** the election is irrevocable.

(e) ~~The~~ **A governor's** surviving spouse is entitled to receive the pension **provided under this section** for ~~the remainder of his~~ life unless ~~he~~ **the surviving spouse** remarries.

(f) Notwithstanding any other law to the contrary, the pension **provided** under this section is in addition to any other retirement benefits a **governor's** surviving spouse is entitled to receive.

SECTION 14. IC 4-33-4-22, AS ADDED BY P.L.224-2003, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) The commission may not adopt a rule or resolution limiting the ordinary business hours in which a licensed owner that has implemented flexible scheduling under IC 4-33-6-21 may conduct gambling operations.

(b) This section may not be construed to limit the commission's power to: ~~enforce this article:~~

(1) **enforce this article** under IC 4-33-4-1(a)(6), IC 4-33-4-1(a)(7), or IC 4-33-4-8; or

(2) respond to an emergency, as determined by the commission.

SECTION 15. IC 4-33-5-1, AS AMENDED BY P.L.92-2003, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. An applicant for a license or an ~~operator~~ **operating** agent contract under this article must provide the following information to the commission:

(1) The name, business address, and business telephone number of the applicant.

(2) An identification of the applicant.

(3) The following information for an applicant that is not an individual:

(A) The state of incorporation or registration.

(B) The names of all corporate officers.

C o p y

(C) The identity of the following:

(i) Any person in which the applicant has an equity interest of at least one percent (1%) of all shares. The identification must include the state of incorporation or registration if applicable. However, an applicant that has a pending registration statement filed with the Securities and Exchange Commission is not required to provide information under this item.

(ii) The shareholders or participants of the applicant. An applicant that has a pending registration statement filed with the Securities and Exchange Commission is required to provide only the names of persons holding an interest of more than one percent (1%) of all shares.

(4) An identification of any business, including the state of incorporation or registration if applicable, in which an applicant or the spouse or children of an applicant has an equity interest of more than one percent (1%) of all shares.

(5) If the applicant has been indicted, been convicted, pleaded guilty or nolo contendere, or forfeited bail concerning a criminal offense other than a traffic violation under the laws of any jurisdiction. The applicant must include the following information under this subdivision:

(A) The name and location of the following:

(i) The court.

(ii) The arresting agency.

(iii) The prosecuting agency.

(B) The case number.

(C) The date and type of offense.

(D) The disposition of the case.

(E) The location and length of incarceration.

(6) If the applicant has had a license or certificate issued by a licensing authority in Indiana or any other jurisdiction denied, restricted, suspended, revoked, or not renewed. An applicant must provide the following information under this subdivision:

(A) A statement describing the facts and circumstances concerning the denial, restriction, suspension, revocation, or nonrenewal.

(B) The date each action described in clause (A) was taken.

(C) The reason each action described in clause (A) was taken.

(7) If the applicant has:

(A) filed or had filed against the applicant a proceeding in bankruptcy; or

(B) been involved in a formal process to adjust, defer, suspend,

C o p y

or work out the payment of a debt;
including the date of filing, the name and location of the court, and the case and number of the disposition.
(8) If the applicant has filed or been served with a complaint or notice filed with a public body concerning:
(A) a delinquency in the payment of; or
(B) a dispute over a filing concerning the payment of;
a tax required under federal, state, or local law, including the amount, type of tax, the taxing agency, and times involved.
(9) A statement listing the names and titles of public officials or officers of units of government and relatives of the public officials or officers who directly or indirectly:
(A) have a financial interest in;
(B) have a beneficial interest in;
(C) are the creditors of;
(D) hold a debt instrument issued by; or
(E) have an interest in a contractual or service relationship with;
an applicant.
(10) If an applicant for an operating agent contract or an owner's or a supplier's license has directly or indirectly made a political contribution, loan, donation, or other payment to a candidate or an office holder in Indiana not more than five (5) years before the date the applicant filed the application. An applicant must provide information concerning the amount and method of a payment described in this subdivision.
(11) The name and business telephone number of the attorney who will represent the applicant in matters before the commission.
(12) A description of a proposed or an approved riverboat gaming operation, including the following information:
(A) The type of boat.
(B) The home dock location.
(C) The expected economic benefit to local communities.
(D) The anticipated or actual number of employees.
(E) Any statements from the applicant concerning compliance with federal and state affirmative action guidelines.
(F) Anticipated or actual admissions.
(G) Anticipated or actual adjusted gross gaming receipts.
(13) A description of the product or service to be supplied by the applicant if the applicant has applied for a supplier's license.
(14) The following information from each licensee or ~~operator~~ **operating** agent involved in the ownership or management of gambling operations:

C o p y

(A) An annual balance sheet.
(B) An annual income statement.
(C) A list of the stockholders or other persons having at least a one percent (1%) beneficial interest in the gambling activities of the person who has been issued the owner's license or ~~operator~~ **operating** agent contract.
(D) Any other information the commission considers necessary for the effective administration of this article.

SECTION 16. IC 4-33-13-1.5, AS AMENDED BY P.L.224-2003, SECTION 46, AND AS AMENDED BY P.L.92-2003, SECTION 54, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. (a) This section applies only to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 *or IC 4-33-6.5.*

(b) A graduated tax is imposed on the adjusted gross receipts received from gambling games authorized under this article as follows:

(1) Fifteen percent (15%) of the first twenty-five million dollars ($25,000,000) of adjusted gross receipts received during the period beginning July 1 of each year and ending June 30 of the following year.
(2) Twenty percent (20%) of the adjusted gross receipts in excess of twenty-five million dollars ($25,000,000) but not exceeding fifty million dollars ($50,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.
(3) Twenty-five percent (25%) of the adjusted gross receipts in excess of fifty million dollars ($50,000,000) but not exceeding seventy-five million dollars ($75,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.
(4) Thirty percent (30%) of the adjusted gross receipts in excess of seventy-five million dollars ($75,000,000) but not exceeding one hundred fifty million dollars ($150,000,000) received during the period beginning July 1 of each year and ending June 30 of the following year.
(5) Thirty-five percent (35%) of all adjusted gross receipts in excess of one hundred fifty million dollars ($150,000,000).

~~*The tax rates imposed under this section apply to adjusted gross receipts received beginning the date flexible scheduling is implemented under IC 4-33-6-21.*~~

(c) The licensed owner *or operating agent* shall remit the tax imposed by this chapter to the department before the close of the business day following the day the wagers are made.

C o p y

(d) The department may require payment under this section to be made by electronic funds transfer (as defined in IC 4-8.1-2-7(f)).

(e) If the department requires taxes to be remitted under this chapter through electronic funds transfer, the department may allow the licensed owner *or operating agent* to file a monthly report to reconcile the amounts remitted to the department.

(f) The department may allow taxes remitted under this section to be reported on the same form used for taxes paid under IC 4-33-12.

(g) If a riverboat implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year, the tax rate imposed on the adjusted gross receipts received while the riverboat implements flexible scheduling shall be computed as if the riverboat had engaged in flexible scheduling during the entire period beginning July 1 of each year and ending June 30 of the following year.

(h) If a riverboat:

(1) implements flexible scheduling during any part of a period beginning July 1 of each year and ending June 30 of the following year; and

(2) before the end of that period ceases to operate the riverboat with flexible scheduling;

the riverboat shall continue to pay a wagering tax at the tax rates imposed under subsection (b) until the end of that period as if the riverboat had not ceased to conduct flexible scheduling.

SECTION 17. IC 4-33-13-5, AS AMENDED BY P.L.224-2003, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

C o p y

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the property tax replacement fund. In each state fiscal year beginning after June 30, 2003, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the property tax replacement fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter as follows:

(1) Thirty-seven and one half percent (37.5%) shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(2) Thirty-seven and one-half percent (37.5%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b). However, at any time the balance in that fund exceeds twenty million dollars ($20,000,000), the amount described in this subdivision shall be paid to the property tax replacement fund established under IC 6-1.1-21.

(3) Five percent (5%) shall be paid to the historic hotel preservation commission established under IC 36-7-11.5.

(4) Ten percent (10%) shall be paid in equal amounts to each town that:

(A) is located in the county in which the riverboat docks; and

(B) contains a historic hotel.

The town council shall appropriate a part of the money received by the town under this subdivision to the budget of the town's tourism commission.

(5) Ten percent (10%) shall be paid to the county treasurer of the county in which the riverboat is docked. The county treasurer shall distribute the money received under this subdivision as follows:

Copy

(A) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty percent (20%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Sixty percent (60%) shall be retained by the county where the riverboat is docked for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body shall provide for the distribution of part or all of the money received under this clause to the following under a formula established by the county fiscal body:

(i) A town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(ii) A town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).

(c) For each city and county receiving money under subsection (a)(2)(A) or (a)(2)(C), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or

C o p y

county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the property tax replacement fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the property tax replacement fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars ($250,000,000):

(1) Surplus lottery revenues under IC 4-30-17-3.

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32-10-6.

(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the property tax replacement fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the property tax replacement fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of 2003 and each year thereafter, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision

C o p y

does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5);

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas or debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of 2003 and each year thereafter, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the property tax replacement fund. The amount of the supplemental distribution is equal to the difference between the entity's base year revenue (as determined under IC 4-33-12-6) and the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6.

(h) This ~~section~~ **subsection** applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (d) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be paid in equal amounts to the consolidated city and the county.

SECTION 18. IC 5-2-9-8, AS AMENDED BY P.L.133-2002, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C o p y

UPON PASSAGE]: Sec. 8. A law enforcement agency that receives a copy of a protective order, no contact order, or workplace violence restraining order shall enter the information received into the Indiana data and communication system (IDACS) computer under ~~IC 5-2-5-12~~ **IC 10-13-3-35** upon receiving a copy of the order.

SECTION 19. IC 5-10.3-5-5, AS AMENDED BY P.L.72-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The custodians must be banks or trust companies that are domiciled in the United States and approved by the Indiana department of financial institutions under IC 28-1-2-39 to:

(1) act in a fiduciary capacity; and

(2) manage custodial accounts;

in Indiana.

(b) The board is authorized to accept safekeeping receipts for securities held by the custodians. Each custodian must have a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last published report of condition for the bank or trust company and have physical custody of such securities. The state board of accounts is authorized to rely on safekeeping receipts from the custodian. The custodian may be authorized by the agreement to:

(1) hold securities and other investments in the name of the fund, in the name of a nominee of the custodian, or in bearer form;

(2) collect and receive income, interest, proceeds of sale, maturities, redemptions, and all other receipts from the securities and other investments;

(3) deposit all ~~these~~ **the** receipts **collected and received under subdivision (2)** in a custodian account or checking account as instructed by the board; ~~and~~

(4) reinvest ~~these~~ **the** receipts **collected and received under subdivision (2)** as directed by the board;

~~(3)~~ **(5)** maintain accounting records and prepare reports which are required by the board and the state board of accounts; and

~~(4)~~ **(6)** perform other services for the board as are customary and appropriate for custodians.

(c) The custodian is responsible for all securities held in the name of its nominee for the fund.

SECTION 20. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.1-2003, SECTION 22, AND AS AMENDED BY P.L.245-2003, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than

C o p y

inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment or new research and development equipment, or both, for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment or new research and development equipment, or both, that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment or new research and development equipment, or both, and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment or new research and development equipment, or both, is reasonable for equipment of that type.

C o p y

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment or new research and development equipment, or both.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment or new research and development equipment, or both.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), an owner of new manufacturing equipment or new research and development equipment, or both, whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment or new research and development equipment, or both, in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

C o p y

(2) the percentage prescribed in the *appropriate* table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%

C o p y

7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%

C o p y

7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or

C o p y

disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 21. IC 6-1.1-21-4, AS AMENDED BY P.L.245-2003, SECTION 19, AND AS AMENDED BY P.L.264-2003, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each year the department shall allocate from the property tax replacement fund an amount equal to the sum of:

(1) each county's total eligible property tax replacement amount for that year; plus

(2) the total amount of homestead tax credits that are provided under IC 6-1.1-20.9 and allowed by each county for that year; plus

(3) an amount for each county that has one (1) or more taxing districts that contain all or part of an economic development district that meets the requirements of section 5.5 of this chapter. This amount is the sum of the amounts determined under the following STEPS for all taxing districts in the county that contain all or part of an economic development district:

STEP ONE: Determine that part of the sum of the amounts under section 2(g)(1)(A) and 2(g)(2) of this chapter that is attributable to the taxing district.

STEP TWO: Divide:

(A) that part of the subdivision (1) amount that is attributable to the taxing district; by

(B) the STEP ONE sum.

STEP THREE: Multiply:

(A) the STEP TWO quotient; times

(B) the taxes levied in the taxing district that are allocated to a special fund under IC 6-1.1-39-5.

(b) Except as provided in subsection (e), between March 1 and August 31 of each year, the department shall distribute to each county treasurer from the property tax replacement fund one-half (1/2) of the estimated distribution for that year for the county. Between September 1 and December 15 of that year, the department shall distribute to each county treasurer from the property tax replacement fund the remaining one-half (1/2) of each estimated distribution for that year. The amount of the distribution for each of these periods shall be according to a schedule determined by the property tax replacement fund board under section 10 of this chapter. The estimated distribution for each county may be adjusted from time to time by the department to reflect any changes in the total county tax levy upon which the estimated distribution is based.

C o p y

(c) On or before December 31 of each year or as soon thereafter as possible, the department shall make a final determination of the amount which should be distributed from the property tax replacement fund to each county for that calendar year. This determination shall be known as the final determination of distribution. The department shall distribute to the county treasurer or receive back from the county treasurer any deficit or excess, as the case may be, between the sum of the distributions made for that calendar year based on the estimated distribution and the final determination of distribution. The final determination of distribution shall be based on the auditor's abstract filed with the auditor of state, adjusted for postabstract adjustments included in the December settlement sheet for the year, and such additional information as the department may require.

(d) All distributions provided for in this section shall be made on warrants issued by the auditor of state drawn on the treasurer of state. If the amounts allocated by the department from the property tax replacement fund exceed in the aggregate the balance of money in the fund, then the amount of the deficiency shall be transferred from the state general fund to the property tax replacement fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the payment of that amount. However, any amount transferred under this section from the general fund to the property tax replacement fund shall, as soon as funds are available in the property tax replacement fund, be retransferred from the property tax replacement fund to the state general fund, and the auditor of state shall issue a warrant to the treasurer of state ordering the replacement of that amount.

(e) Except as provided in subsection (i), the department shall not distribute under subsection (b) and section 10 of this chapter the money attributable to the county's property reassessment fund if:

(1) by the date the distribution is scheduled to be made, ~~*(1)*~~ the county auditor has not sent a certified statement required to be sent by that date under IC 6-1.1-17-1 to the department of local government finance; ~~or~~

(2) by the deadline under IC 36-2-9-20, the county auditor has not transmitted data as required under that section; **or**

~~*(2)*~~ **(3)** *the county assessor has not forwarded* **to the department of local government finance** *the duplicate copies of all approved exemption applications required to be forwarded by that date under IC 6-1.1-11-8(a).*

(f) Except as provided in subsection (i), if the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor has not transmitted to the department

C o p y

of local government finance by October 1 of the year in which the distribution is scheduled to be made the data for all townships in the county required to be transmitted under IC 6-1.1-4-25(b), the state board or the department shall not distribute under subsection (b) and section 10 of this chapter a part of the money attributable to the county's property reassessment fund. The portion not distributed is the amount that bears the same proportion to the total potential distribution as the number of townships in the county for which data was not transmitted by ~~*August 1*~~ *October 1* as described in this section bears to the total number of townships in the county.

(g) Money not distributed ~~*under subsection (e)*~~ *for the reasons stated in subsection (e)(1) and (e)(2)* shall be distributed to the county when:

(1) the county auditor sends to the department of local government finance the certified statement required to be sent under IC 6-1.1-17-1; *and*

(2) the county assessor forwards to the department of local government finance the approved exemption applications required to be forwarded under IC 6-1.1-11-8(a);

with respect to which the failure to send *or forward* resulted in the withholding of the distribution under subsection (e).

(h) Money not distributed under subsection (f) shall be distributed to the county when the elected township assessors in the county, the elected township assessors and the county assessor, or the county assessor transmits to the department of local government finance the data required to be transmitted under IC 6-1.1-4-25(b) with respect to which the failure to transmit resulted in the withholding of the distribution under subsection (f).

(i) The restrictions on distributions under subsections (e) and (f) do not apply if the department of local government finance determines that:

(1) the failure of:

(A) a county auditor to send a certified statement; *or*

(B) a county assessor to forward copies of all approved exemption applications;

as described in subsection (e); or

(2) the failure of an official to transmit data as described in subsection (f);

is justified by unusual circumstances.

SECTION 22. IC 6-1.1-24-7, AS AMENDED BY P.L.1-2003, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) When real property is sold under this chapter, the purchaser at the sale shall immediately pay the amount of

C o p y

the bid to the county treasurer. The county treasurer shall apply the payment in the following manner:

(1) first, to the taxes, special assessments, penalties, and costs described in section 5(e) of this chapter;

(2) second, to other delinquent property taxes in the manner provided in IC 6-1.1-23-5(b); and

(3) third, to a separate "tax sale surplus fund".

(b) The:

(1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or

(2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property;

may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(c) If the person described in subsection (b)(1) acquired the property from a delinquent taxpayer after the property was sold at a tax sale under this chapter, the county auditor may not issue a warrant to the person unless the person is named on a tax sale surplus fund disclosure form filed with the county auditor under ~~IC 32-2-8 (repealed).~~ **IC 32-21-8.**

(d) An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is not claimed within the three (3) year period after the date of its receipt.

(e) If an amount applied to taxes under this section is later paid out of the county general fund to the purchaser or the purchaser's successor due to the invalidity of the sale, all the taxes shall be reinstated and recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale.

(f) When a refund is made to any purchaser or purchaser's successor by reason of the invalidity of a sale, the county auditor shall, at the December settlement immediately following the refund, deduct the amount of the refund from the gross collections in the taxing district in which the land lies and shall pay that amount into the county general fund.

SECTION 23. IC 6-1.1-25-4.6, AS AMENDED BY P.L.170-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.6. (a) After the expiration of the redemption period specified in section 4 of this chapter but not later than six (6)

C o p y

months after the expiration of the period of redemption:

(1) the purchaser, the purchaser's assignee, the county, or the purchaser of the certificate of sale under IC 6-1.1-24 may; or

(2) in a county where the county auditor and county treasurer have an agreement under section 4.7 of this chapter, the county auditor shall, upon the request of the purchaser or the purchaser's assignee;

file a verified petition in the same court and under the same cause number in which the judgment of sale was entered asking the court to direct the county auditor to issue a tax deed if the real property is not redeemed from the sale. Notice of the filing of this petition shall be given to the same parties and in the same manner as provided in section 4.5 of this chapter, except that, if notice is given by publication, only one (1) publication is required. The notice required by this section is considered sufficient if the notice is sent to the address required by section ~~4.5(d)~~ **4.5(e)** of this chapter. Any person owning or having an interest in the tract or real property may file a written objection to the petition with the court not later than thirty (30) days after the date the petition was filed. If a written objection is timely filed, the court shall conduct a hearing on the objection.

(b) Not later than sixty-one (61) days after the petition is filed under subsection (a), the court shall enter an order directing the county auditor (on the production of the certificate of sale and a copy of the order) to issue to the petitioner a tax deed if the court finds that the following conditions exist:

(1) The time of redemption has expired.

(2) The tract or real property has not been redeemed from the sale before the expiration of the period of redemption specified in section 4 of this chapter.

(3) Except with respect to a petition for the issuance of a tax deed under a sale of the certificate of sale on the property under IC 6-1.1-24-6.1, all taxes and special assessments, penalties, and costs have been paid.

(4) The notices required by this section and section 4.5 of this chapter have been given.

(5) The petitioner has complied with all the provisions of law entitling the petitioner to a deed.

The county auditor shall execute deeds issued under this subsection in the name of the state under the county auditor's name. If a certificate of sale is lost before the execution of a deed, the county auditor shall issue a replacement certificate if the county auditor is satisfied that the original certificate existed.

(c) Upon application by the grantee of a valid tax deed in the same

C o p y

court and under the same cause number in which the judgment of sale was entered, the court shall enter an order to place the grantee of a valid tax deed in possession of the real estate. The court may enter any orders and grant any relief that is necessary or desirable to place or maintain the grantee of a valid tax deed in possession of the real estate.

(d) Except as provided in subsections (e) and (f), if the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure of the petitioner under subsection (a) to fulfill the requirements of this section, the court shall order the return of the purchase price minus a penalty of twenty-five percent (25%) of the amount of the purchase price. Penalties paid under this subsection shall be deposited in the county general fund.

(e) Notwithstanding subsection (d), in all cases in which:

(1) the petitioner under subsection (a) has made a bona fide attempt to comply with the statutory requirements under subsection (b) for the issuance of the tax deed but has failed to comply with these requirements; and

(2) the court refuses to enter an order directing the county auditor to execute and deliver the tax deed because of the failure to comply with these requirements;

the county auditor shall not execute the deed but shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, the purchaser's successors or assignees, or the purchaser of the certificate of sale under IC 6-1.1-24. The tract or item of real property, if it is then eligible for sale under IC 6-1.1-24, shall be placed on the delinquent list as an initial offering under IC 6-1.1-24-6.

(f) Notwithstanding subsections (d) and (e), the court shall not order the return of the purchase price if:

(1) the purchaser or the purchaser of the certificate of sale under IC 6-1.1-24 has failed to provide notice or has provided insufficient notice as required by section 4.5 of this chapter; and

(2) the sale is otherwise valid.

(g) A tax deed executed under this section vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law, and the lien of the state or a political subdivision for taxes and special assessments that accrue subsequent to the sale. However, the estate is subject to all easements, covenants, declarations, and other deed restrictions and laws governing land use, including all zoning restrictions and liens and encumbrances created or suffered by the purchaser at the tax sale. The deed is prima

C o p y

facie evidence of:

(1) the regularity of the sale of the real property described in the deed;

(2) the regularity of all proper proceedings; and

(3) valid title in fee simple in the grantee of the deed.

(h) A tax deed issued under this section is incontestable except by appeal from the order of the court directing the county auditor to issue the tax deed filed not later than sixty (60) days after the date of the court's order.

SECTION 24. IC 6-1.5-5-1, AS AMENDED BY P.L.1-2003, SECTION 31, AND AS AMENDED BY P.L.245-2003, SECTION 22, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The Indiana board shall conduct impartial review of all appeals of final determinations of the department of local government finance made under the following:

(1) IC 6-1.1-8.

(2) IC 6-1.1-14-11.

(3) IC 6-1.1-16.

(4) IC 6-1.1-26-2.

(b) Each notice of final determination issued by the department of local government finance under a statute listed in subsection (a) must give the taxpayer notice of:

(1) the opportunity for review under this section; and

(2) the procedures the taxpayer must follow in order to obtain review under this section.

(c) Except as provided in subsection (e), in order to obtain a review by the Indiana board under this section, the taxpayer must file a petition for review with the appropriate county assessor ~~*within*~~ *not later than* forty-five (45) days after the notice of the department of local government finance's action is given to the taxpayer.

(d) The county assessor shall transmit a petition for review under subsection (c) to the Indiana board ~~*within*~~ *not later than* ten (10) days after ~~*it*~~ *the petition* is filed.

(e) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-8-30, the public utility company must follow the procedures in IC 6-1.1-8-30.

~~*(f) In order to obtain a review by the Indiana board of an appeal of a final determination of the department of local government finance under IC 6-1.1-12.1-5.7(h) (repealed) IC 6-1.1-12.1-5.4(h), the person must follow the procedures in IC 6-1.1-12.1-5.7(h) (repealed). IC 6-1.1-12.1-5.4(h).*~~

C o p y

SECTION 25. IC 6-2.5-1-21, AS ADDED BY P.L.257-2003, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) "Lease" or "rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. "Lease" or "rental" does not include:

(1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(2) a transfer ~~or~~ **of** possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price **that** does not exceed the greater of one hundred dollars ($100) or one percent (1%) of the total required payments; or

(3) providing tangible personal property along with an operator for a fixed or indeterminate period, if:

(A) the operator is necessary for the equipment to perform as designed; and

(B) the operator does more than maintain, inspect, or set up the tangible personal property.

(b) "Lease" or "rental" includes agreements covering motor vehicles and trailers in which the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1).

(c) The definition of "lease" or "rental" set forth in this section applies throughout this article, regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, the uniform commercial code (IC 26-1), or other provisions of federal, state, or local law.

(d) This section applies only to leases or rentals entered into after June 30, 2003, and has no retroactive effect on leases or rentals entered into before July 1, 2003.

SECTION 26. IC 6-2.5-6-13, AS AMENDED BY P.L.1-2003, SECTION 32, AND AS AMENDED BY P.L.269-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. A person is entitled to a refund from the department if:

(1) a retail merchant erroneously or illegally collects state gross retail or use taxes under this article from the person;

(2) the retail merchant remits the taxes to the department;

(3) the retail merchant does not refund the taxes to the person; and

(4) the person properly applies for the refund under the refund

C o p y

provisions ~~*of the gross income tax law*~~ contained in ~~*IC 6-2.1 (repealed)*~~ *IC 6-8.1-9*.

SECTION 27. IC 6-2.5-6-14.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.1. Notwithstanding the refund provisions of this article as incorporated from the gross income tax law (IC 6-2.1, repealed), a retail merchant is not entitled to a refund of state gross retail or use taxes unless the retail merchant refunds those taxes to the person from whom they were collected.**

SECTION 28. IC 6-2.5-6-14.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.2. (a) The department shall annually compile a list of retail merchants that sell tobacco products. The list must include the following information:**

(1) On a county by county basis:

(A) the name of each retail merchant that sells tobacco products in the county; and

(B) the business address of each location in the county at which a retail merchant sells tobacco products.

(2) The name and business address of each retail merchant that has begun to sell tobacco products since the previous report was compiled.

(3) The name and business address of each retail merchant that has ceased to sell tobacco products since the previous report was compiled.

(b) The department shall deliver each list prepared under this section to:

(1) the division of mental health and addiction; and

(2) the alcohol and tobacco commission.

(c) A retail merchant that sells tobacco products shall provide the department with the information required for the preparation of the list under this section.

(d) The department shall prescribe a form to be used in collecting information under this section from retail merchants that sell tobacco products. A form prescribed under this subsection may be a modified version of an existing form.

SECTION 29. IC 6-3.5-1.1-3.6, AS AMENDED BY P.L.1-2003, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.6. (a) This section applies only to a county having a population of more than six thousand (6,000) but less than eight thousand (8,000).

C o p y

(b) The county council may, by ordinance, determine that additional county adjusted gross income tax revenue is needed in the county to:

(1) finance, construct, acquire, improve, renovate, or equip the county courthouse; and

(2) repay bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, and equipping the county courthouse.

(c) In addition to the rates permitted under section 2 of this chapter, the county council may impose the county adjusted gross income tax at a rate of twenty-five hundredths percent (0.25%) on the adjusted gross income of county taxpayers if the county council makes the finding and determination set forth in subsection (b). The tax imposed under this section may be imposed only until the later of the date on which the financing on, acquisition, improvement, renovation, and equipping described in subsection (b) is completed or the date on which the last of any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b) are fully paid. The term of the bonds issued (including any refunding bonds) or a lease entered into under subsection (b)(2) may not exceed twenty-two (22) years.

(d) If the county council makes a determination under subsection (b), the county council may adopt a tax rate under subsection (c). The tax rate may not be imposed for a time greater than is necessary to pay the costs of financing, constructing, acquiring, renovating, and equipping the county courthouse.

(e) The county treasurer shall establish a county ~~jail~~ **courthouse** revenue fund to be used only for purposes described in this section. County adjusted gross income tax revenues derived from the tax rate imposed under this section shall be deposited in the county ~~jail~~ **courthouse** revenue fund before a certified distribution is made under section 11 of this chapter.

(f) County adjusted gross income tax revenues derived from the tax rate imposed under this section:

(1) may only be used for the purposes described in this section;

(2) may not be considered by the department of local government finance in determining the county's maximum permissible property tax levy under IC 6-1.1-18.5; and

(3) may be pledged to the repayment of bonds issued or leases entered into for purposes described in subsection (b).

(g) A county described in subsection (a) possesses unique economic development challenges due to:

(1) the county's heavy agricultural base;

C o p y

(2) the presence of a large amount of state owned property in the county that is exempt from property taxation; and

(3) recent obligations of the school corporation in the county that have already increased property taxes in the county and imposed additional property tax burdens on the county's agricultural base.

Maintaining low property tax rates is essential to economic development. The use of county adjusted gross income tax revenues as provided in this chapter to pay any bonds issued or leases entered into to finance the construction, acquisition, improvement, renovation, and equipping described in subsection (b), rather than the use of property taxes, promotes that purpose.

(h) Notwithstanding any other law, funds accumulated from the county adjusted gross income tax imposed under this section after:

(1) the redemption of the bonds issued; or

(2) the final payment of lease rentals due under a lease entered into under this section;

shall be transferred to the county highway fund to be used for construction, resurfacing, restoration, and rehabilitation of county highways, roads, and bridges.

SECTION 30. IC 6-3.5-6-13, AS AMENDED BY P.L.224-2003, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A county income tax council of a county in which the county option income tax is in effect may adopt an ordinance to increase the percentage credit allowed for homesteads in its county under IC 6-1.1-20.9-2.

(b) A county income tax council may not increase the percentage credit allowed for homesteads by an amount that exceeds the amount determined in the last STEP of the following formula:

STEP ONE: Determine the amount of the sum of all property tax levies for all taxing units in a county which are to be paid in the county in 2003 as reflected by the auditor's abstract for the 2002 assessment year, adjusted, however, for any postabstract adjustments which change the amount of the levies.

STEP TWO: Determine the amount of the county's estimated property tax replacement under IC 6-1.1-21-3(a) for property taxes first due and payable in 2003.

STEP THREE: Subtract the STEP TWO amount from the STEP ONE amount.

STEP FOUR: Determine the amount of the county's total county levy (as defined in IC 6-1.1-21-2(g)) for property taxes first due and payable in 2003.

STEP FIVE: Subtract the STEP FOUR amount from the STEP

C o p y

ONE amount.

STEP SIX: Subtract the STEP FIVE result from the STEP THREE result.

STEP SEVEN: Divide the STEP THREE result by the STEP SIX result.

STEP EIGHT: Multiply the STEP SEVEN result by eight-hundredths (0.08).

STEP NINE: Round the STEP EIGHT product to the nearest one-thousandth **(0.001)** and express the result as a percentage.

(c) The increase of the homestead credit percentage must be uniform for all homesteads in a county.

(d) In the ordinance that increases the homestead credit percentage, a county income tax council may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after January 1 but before June 1 of a calendar year.

(f) An ordinance adopted under this section takes effect on January 1 of the next succeeding calendar year.

(g) Any ordinance adopted under this section for a county is repealed for a year if on January 1 of that year the county option income tax is not in effect.

SECTION 31. IC 6-3.5-7-5, AS AMENDED BY P.L.224-2003, SECTION 254, AND AS AMENDED BY P.L.42-2003, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (c), the county economic development income tax may be imposed on the adjusted gross income of county taxpayers. The entity that may impose the tax is:

(1) the county income tax council (as defined in IC 6-3.5-6-1) if the county option income tax is in effect on January 1 of the year the county economic development income tax is imposed;

(2) the county council if the county adjusted gross income tax is in effect on January 1 of the year the county economic development tax is imposed; or

(3) the county income tax council or the county council, whichever acts first, for a county not covered by subdivision (1) or (2).

To impose the county economic development income tax, a county income tax council shall use the procedures set forth in IC 6-3.5-6 concerning the imposition of the county option income tax.

(b) Except as provided in subsections (c), (g), (k), ~~*and*~~ (p), *and (r)* the county economic development income tax may be imposed at a rate of:

C o p y

(1) one-tenth percent (0.1%);
(2) two-tenths percent (0.2%);
(3) twenty-five hundredths percent (0.25%);
(4) three-tenths percent (0.3%);
(5) thirty-five hundredths percent (0.35%);
(6) four-tenths percent (0.4%);
(7) forty-five hundredths percent (0.45%); or
(8) five-tenths percent (0.5%);

on the adjusted gross income of county taxpayers.

(c) Except as provided in subsection (h), (i), (j), (k), (l), (m), (n), (o), or (p), the county economic development income tax rate plus the county adjusted gross income tax rate, if any, that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%). Except as provided in subsection (g) or (p), the county economic development tax rate plus the county option income tax rate, if any, that are in effect on January 1 of a year may not exceed one percent (1%).

(d) To impose, increase, decrease, or rescind the county economic development income tax, the appropriate body must, after January 1 but before April 1 of a year, adopt an ordinance. The ordinance to impose the tax must substantially state the following:

"The _____ County _____ imposes the county economic development income tax on the county taxpayers of _____ County. The county economic development income tax is imposed at a rate of _____ percent (____%) on the county taxpayers of the county. This tax takes effect July 1 of this year.".

(e) Any ordinance adopted under this chapter takes effect July 1 of the year the ordinance is adopted.

(f) The auditor of a county shall record all votes taken on ordinances presented for a vote under the authority of this chapter and shall, not more than ten (10) days after the vote, send a certified copy of the results to the commissioner of the department by certified mail.

(g) This subsection applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000). Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of:
(A) fifteen-hundredths percent (0.15%);
(B) two-tenths percent (0.2%); or
(C) twenty-five hundredths percent (0.25%); and
(2) county economic development income tax rate plus the county

C o p y

option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county income tax council makes a determination to impose rates under this subsection and section 22 of this chapter.

(h) For a county having a population of more than forty-one thousand (41,000) but less than forty-three thousand (43,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and thirty-five hundredths percent (1.35%) if the county has imposed the county adjusted gross income tax at a rate of one and one-tenth percent (1.1%) under IC 6-3.5-1.1-2.5.

(i) For a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and fifty-five hundredths percent (1.55%).

(j) For a county having a population of more than seventy-one thousand (71,000) but less than seventy-one thousand four hundred (71,400), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(k) This subsection applies to a county having a population of more than twenty-seven thousand four hundred (27,400) but less than twenty-seven thousand five hundred (27,500). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%);

if the county council makes a determination to impose rates under this subsection and section 22.5 of this chapter.

(l) For a county having a population of more than twenty-nine thousand (29,000) but less than thirty thousand (30,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

C o p y

(m) For:

(1) a county having a population of more than one hundred eighty-two thousand seven hundred ninety (182,790) but less than two hundred thousand (200,000); or

(2) a county having a population of more than forty-five thousand (45,000) but less than forty-five thousand nine hundred (45,900);

except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(n) For a county having a population of more than six thousand (6,000) but less than eight thousand (8,000), except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%).

(o) This subsection applies to a county having a population of more than thirty-nine thousand (39,000) but less than thirty-nine thousand six hundred (39,600). Except as provided in subsection (p), in addition to the rates permitted under subsection (b):

(1) the county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) the sum of the county economic development income tax rate and:

(A) the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%); or

(B) the county option income tax rate that are in effect on January 1 of a year may not exceed one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 24 of this chapter.

(p) In addition:

(1) the county economic development income tax may be imposed at a rate that exceeds by not more than twenty-five hundredths percent (0.25%) the maximum rate that would otherwise apply under this section; and

(2) the:

(A) county economic development income tax; and

(B) county option income tax or county adjusted gross income tax;

may be imposed at combined rates that exceed by not more than twenty-five hundredths percent (0.25%) the maximum combined

C o p y

rates that would otherwise apply under this section.

However, the additional rate imposed under this subsection may not exceed the amount necessary to mitigate the increased ad valorem property taxes on homesteads (as defined in IC 6-1.1-20.9-1) resulting from the deduction of the assessed value of inventory in the county under IC 6-1.1-12-41 or IC 6-1.1-12-42.

(q) If the county economic development income tax is imposed as authorized under subsection (p) at a rate that exceeds the maximum rate that would otherwise apply under this section, the certified distribution must be used for the purpose provided in section 25(e) or 26 of this chapter to the extent that the certified distribution results from the difference between:

(1) the actual county economic development tax rate; and

(2) the maximum rate that would otherwise apply under this section.

(r) This subsection applies only to a county described in section 27 of this chapter. Except as provided in subsection (p), in addition to the rates permitted by subsection (b), the:

(1) county economic development income tax may be imposed at a rate of twenty-five hundredths percent (0.25%); and

(2) county economic development income tax rate plus the county option income tax rate that are in effect on January 1 of a year may equal up to one and twenty-five hundredths percent (1.25%);

if the county council makes a determination to impose rates under this subsection and section 27 of this chapter.

~~(r)~~ **(s)** *Except as provided in subsection (p), the county economic development income tax rate plus the county adjusted gross income tax rate that are in effect on January 1 of a year may not exceed one and five-tenths percent (1.5%) if the county has imposed the county adjusted gross income tax under IC 6-3.5-1.1-3.3.*

SECTION 32. IC 6-3.5-7-12, AS AMENDED BY P.L.224-2003, SECTION 255, AND AS AMENDED BY P.L.255-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Except as provided in sections 23, 25, ~~and~~ 26, *and 27* of this chapter, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

(b) Except as provided in subsections (c) and (h) and sections 15 and 25 of this chapter, the amount of the certified distribution that the county and each city or town in a county is entitled to receive during May and November of each year equals the product of the following:

(1) The amount of the certified distribution for that month;

C o p y

multiplied by

(2) A fraction. The numerator of the fraction equals the sum of the following:

(A) Total property taxes that are first due and payable to the county, city, or town during the calendar year in which the month falls; plus

(B) For a county, an amount equal to

~~(i)~~ the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. ~~*plus (ii) after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.*~~

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund. ~~*and after December 31, 2004, the greater of zero (0) or the difference between the county hospital care for the indigent property tax levy imposed by the county in 2004, adjusted each year after 2004 by the statewide average assessed value growth quotient described in IC 12-16-14-3, minus the current uninsured parents program property tax levy imposed by the county.*~~

(c) This subsection applies to a county council or county income tax council that imposes a tax under this chapter after June 1, 1992. The body imposing the tax may adopt an ordinance before July 1 of a year to provide for the distribution of certified distributions under this subsection instead of a distribution under subsection (b). The following apply if an ordinance is adopted under this subsection:

(1) The ordinance is effective January 1 of the following year.

(2) Except as provided in sections 25 and 26 of this chapter, the amount of the certified distribution that the county and each city and town in the county is entitled to receive during May and November of each year equals the product of:

(A) the amount of the certified distribution for the month; multiplied by

(B) a fraction. For a city or town, the numerator of the fraction

C o p y

equals the population of the city or the town. For a county, the numerator of the fraction equals the population of the part of the county that is not located in a city or town. The denominator of the fraction equals the sum of the population of all cities and towns located in the county and the population of the part of the county that is not located in a city or town.

(3) The ordinance may be made irrevocable for the duration of specified lease rental or debt service payments.

(d) The body imposing the tax may not adopt an ordinance under subsection (c) if, before the adoption of the proposed ordinance, any of the following have pledged the county economic development income tax for any purpose permitted by IC 5-1-14 or any other statute:

(1) The county.

(2) A city or town in the county.

(3) A commission, a board, a department, or an authority that is authorized by statute to pledge the county economic development income tax.

(e) The department of local government finance shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

(f) Money received by a county, city, or town under this section shall be deposited in the unit's economic development income tax fund.

(g) Except as provided in subsection (b)(2)(B), in determining the fractional amount of the certified distribution the county and its cities and towns are entitled to receive under subsection (b) during a calendar year, the department of local government finance shall consider only property taxes imposed on tangible property subject to assessment in that county.

(h) In a county having a consolidated city, only the consolidated city is entitled to the certified distribution, subject to the requirements of sections 15, 25, and 26 of this chapter.

SECTION 33. IC 6-3.5-7-26, AS AMENDED BY P.L.1-2003, SECTION 46, AND AS AMENDED BY P.L.272-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) This section applies only to homestead credits for property taxes first due and payable after calendar year 2006.

(b) For purposes of this section, "adopting entity" means: ~~*the entity that:*~~

(1) *the entity that* adopts an ordinance under IC 6-1.1-12-41(f); or

(2) any other entity that may impose a county economic

Copy

development income tax under section 5 of this chapter.

(c) An adopting entity may adopt an ordinance to provide for the use of the certified distribution described in section 16(c) of this chapter for the purpose provided in subsection (e). An adopting entity that adopts an ordinance under this subsection shall use the procedures set forth in IC 6-3.5-6 concerning the adoption of an ordinance for the imposition of the county option income tax. An ordinance must be adopted under this subsection after January 1 but before April 1 of a calendar year. The ordinance may provide for an additional rate under section 5(p) of this chapter. An ordinance adopted under this subsection:

(1) first applies to the certified distribution described in section 16(c) of this chapter made in the later of the calendar year that immediately succeeds the calendar year in which the ordinance is adopted or calendar year 2007; and

(2) must specify that the certified distribution must be used ~~*for the purpose*~~ *to provide for:*

(A) uniformly applied increased homestead credits as provided in subsection ~~*(e).*~~ *(f); or*

(B) allocated increased homestead credits as provided in subsection (h).

An ordinance adopted under this subsection may be combined with an ordinance adopted under section 25 of this chapter.

(d) If an ordinance is adopted under subsection (c), the percentage of the certified distribution specified in the ordinance for use for the purpose provided in subsection (e) shall be:

(1) retained by the county auditor under subsection (g); and

(2) used for the purpose provided in subsection (e) instead of the purposes specified in the capital improvement plans adopted under section 15 of this chapter.

(e) If an ordinance is adopted under subsection (c), the adopting entity shall use the certified distribution described in section 16(c) of this chapter to increase the ~~*percentage of the*~~ homestead credit allowed in the county under IC 6-1.1-20.9 for a year to offset the effect on homesteads in the county resulting from the statewide deduction for inventory under IC 6-1.1-12-42.

(f) If the imposing entity specifies the application of uniform increased homestead credits under subsection (c)(2)(A), the county auditor shall, for each calendar year in which an increased homestead credit percentage is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit percentage for the year;

(2) the amount of uniformly applied homestead credits for the year

C o p y

in the county that equals the amount determined under subdivision (1); and

(3) the increased percentage of homestead credit that equates to the amount of homestead credits determined under subdivision (2).

~~(f)~~ *(g)* The increased percentage of homestead credit determined by the county auditor under subsection ~~(e)~~ *(f)* applies uniformly in the county in the calendar year for which the increased percentage is determined.

(h) If the imposing entity specifies the application of allocated increased homestead credits under subsection (c)(2)(B), the county auditor shall, for each calendar year in which an increased homestead credit is authorized under this section, determine:

(1) the amount of the certified distribution that is available to provide an increased homestead credit for the year; and

(2) an increased percentage of homestead credit for each taxing district in the county that allocates to the taxing district an amount of increased homestead credits that bears the same proportion to the amount determined under subdivision (1) that the amount of inventory assessed value deducted under IC 6-1.1-12-42 in the taxing district for the immediately preceding year's assessment date bears to the total inventory assessed value deducted under IC 6-1.1-12-42 in the county for the immediately preceding year's assessment date.

~~(g)~~ *(i)* The county auditor shall retain from the payments of the county's certified distribution an amount equal to the revenue lost, if any, due to the increase of the homestead credit within the county. The money shall be distributed to the civil taxing units and school corporations of the county:

(1) as if the money were from property tax collections; and

(2) in such a manner that no civil taxing unit or school corporation will suffer a net revenue loss because of the allowance of an increased homestead credit.

SECTION 34. IC 6-3.5-7-27, AS ADDED BY P.L.224-2003, SECTION 257, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) This section applies to a county that:

(1) operates a courthouse that is subject to an order that:

(A) is issued by a federal district court;

(B) applies to an action commenced before January 1, 2003; and

(C) requires the county to comply with the ~~American~~ **federal Americans** with Disabilities Act; and

(2) has insufficient revenues to finance the construction,

C o p y

acquisition, improvement, renovation, equipping, and operation of the courthouse facilities and related facilities.

(b) A county described in this section possesses unique fiscal challenges in financing, renovating, equipping, and operating the county courthouse facilities and related facilities because the county consistently has one ~~has one~~ of the highest unemployment rates in Indiana. Maintaining low property tax rates is essential to economic development in the county. The use of economic development income tax revenues under this section for the purposes described in subsection (c) promotes that purpose.

(c) In addition to actions authorized by section 5 of this chapter, a county council may, using the procedures set forth in this chapter, adopt an ordinance to impose an additional county economic development income tax on the adjusted gross income of county taxpayers. The ordinance imposing the additional tax must include a finding that revenues from additional tax are needed to pay the costs of:

(1) constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities;

(2) repaying any bonds issued, or leases entered into, for constructing, acquiring, improving, renovating, equipping, or operating the county courthouse or related facilities; and

(3) economic development projects described in the county's capital improvement plan.

(d) The tax rate imposed under this section may not exceed twenty-five hundredths percent (0.25%).

(e) If the county council adopts an ordinance to impose an additional tax under this section, the county auditor shall immediately send a certified copy of the ordinance to the department by certified mail. The county treasurer shall establish a county facilities revenue fund to be used only for the purposes described in subsection (c)(1) and (c)(2). The amount of county economic development income tax revenues derived from the tax rate imposed under this section that are necessary to pay the costs described in subsection (c)(1) and (c)(2) shall be deposited into the county facilities revenue fund before a certified distribution is made under section 12 of this chapter. The remainder shall be deposited into the economic development income tax funds of the county's units.

(f) County economic development income tax revenues derived from the tax rate imposed under this section may not be used for purposes other than those described in this section.

(g) County economic development income tax revenues derived from the tax rate imposed under this section that are deposited into the

C o p y

county facilities revenue fund may not be considered by the department of local government finance in determining the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

(h) Notwithstanding section 5 of this chapter, ~~and~~ **an** ordinance may be adopted under this section at any time. If the ordinance is adopted before June 1 of a year, a tax rate imposed under this section takes effect July 1 of that year. If the ordinance is adopted after May 31 of a year, a tax rate imposed under this section takes effect on the January 1 immediately following adoption of the ordinance.

(i) For a county adopting an ordinance before June 1 in a year, in determining the certified distribution under section 11 of this chapter for the calendar year beginning with the immediately following January 1 and each calendar year thereafter, the department shall take into account the certified ordinance mailed to the department under subsection (e). For a county adopting an ordinance after May 31, the department shall issue an initial or **a** revised certified distribution for the calendar year beginning with the immediately following January 1. Except for a county adopting an ordinance after May 31, a county's certified distribution shall be distributed on the dates specified under section 16 of this chapter. In the case of a county adopting an ordinance after May 31, the county, beginning with the calendar year beginning on the immediately following January 1, shall receive the entire certified distribution for the calendar year on November 1 of the year.

(j) Notwithstanding any other law, funds accumulated from the county economic development income tax imposed under this section and deposited into the ~~the~~ county facilities revenue fund or any other revenues of the county may be deposited into a nonreverting fund of the county to be used for operating costs of the courthouse facilities, juvenile detention facilities, or related facilities. Amounts in the county nonreverting fund may not be used by the department of local government finance to reduce the county's ad valorem property tax levy for an ensuing calendar year under IC 6-1.1-18.5.

SECTION 35. IC 8-6-15-2, AS ADDED BY P.L.87-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department shall designate an abandoned or unused railroad grade crossing ~~under IC 9-21-12-5.~~ **as abandoned or unused.**

SECTION 36. IC 8-10-1-12, AS AMENDED BY P.L.271-2003, SECTION 12, AS AMENDED BY P.L.224-2003, SECTION 212, AND AS AMENDED BY P.L.165-2003, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) A special and distinct

C o p y

revolving fund is hereby created, to be known as the Indiana port fund. Expenditures from said fund shall be made only for the *following:*

(1) Acquisition of ~~*the following:*~~ ~~*(1)*~~ land including lands under water and riparian rights, or options for the purchase of such land for a port *or project* site, and incidental expenses incurred in connection with such acquisition.

(2) Studies in connection with the port *or* project.

(3) Studies in connection with transportation by water, intermodal transportation, and other modes of transportation.

(4) ~~*(5)*~~ Transfers to the fund established by IC 14-13-2-19 to carry out the purposes of IC 14-13-2.

(5) ~~*(4)*~~ Administrative expenses of the commission.

The fund shall be held in the name of the Indiana port commission, shall be administered by the commission, and all expenditures therefrom shall be made by the commission, subject, however, to the approval by governor and the state budget committee of all expenditures of moneys advanced to said fund by the state of Indiana. Requests for such approval shall be made in such form as shall be prescribed by the budget committee, but expenditures for acquisition of land including lands under water and riparian rights, or options for the purchase of such land, shall be specifically requested and approved as to the land to be acquired and the amount to be expended. No transfers from said fund to any other fund of the state shall be made except pursuant to legislative action. All unexpended funds appropriated to the Indiana board of public harbors and terminals by Acts 1957, c.286, s.6, are hereby transferred to and made a part of the Indiana port fund created by this section, and shall be expended for the purpose and in the manner provided by this chapter, subject only to the restrictions contained in this chapter and no others. ~~provided,~~ However, ~~that~~ not to exceed one hundred thousand dollars ($100,000) shall be expended for any purpose other than the acquisition of land, including lands under water and riparian rights, or options for the purchase of such land for a port *or project* site, and incidental expenses incurred in connection with such acquisition.

(b) Upon the sale of ~~*port*~~ revenue bonds for any port *or* project, the funds expended from the Indiana port fund in connection with the development of such *port or* project and any obligation or expense incurred by the commission for surveys, preparation of plans and specifications, and other engineering or other services in connection with development of such *port or* project shall be reimbursed to the state general fund from the proceeds of such bonds.

SECTION 37. IC 9-17-3-3, AS AMENDED BY P.L.268-2003,

C o p y

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is otherwise transferred, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions (3) and (4), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

(4) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an encumbrance on the certificate of title, within the twenty-one (21) day period.

(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.

(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(3) or (a)(4) at the time of the sale.

(c) ~~For purposes of this subsection "timely deliver", with respect to a third party, means to deliver with a postmark dated or hand delivered to the purchaser or transferee not more than ten (10) business days after there is no obligation secured by the vehicle.~~ A vehicle dealer who fails to deliver a certificate of title within the time specified under this

C o p y

section is subject to the following civil penalties:

(1) One hundred dollars ($100) for the first violation.

(2) Two hundred fifty dollars ($250) for the second violation.

(3) Five hundred dollars ($500) for all subsequent violations.

Payment shall be made to the bureau and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars ($100). If:

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

~~(d)~~ **(e)** If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

~~(e)~~ **(f)** The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient

C o p y

manner to trace title to the vehicle described in the certificate of title.

~~(f)~~ **(g)** A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.

SECTION 38. IC 9-19-14.5-1, AS AMENDED BY P.L.205-2003, SECTION 2, AND AS AMENDED BY P.L.236-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A privately owned vehicle belonging to a *certified paramedic, certified emergency medical technician-intermediate, certified emergency medical technician-basic advanced,* certified emergency medical technician, certified emergency medical service driver, or certified emergency medical service first responder while traveling in the line of duty in connection with emergency medical services activities may display *flashing or revolving* green lights, subject to the following restrictions and conditions:

(1) The lights may not have a light source less than fifty (50) candlepower.

(2) All lights shall be placed on the top of the vehicle.

(3) Not more than two (2) green lights may be displayed on a vehicle and each light must be of the flashing or revolving type and visible at three hundred sixty (360) degrees.

(4) The lights must consist of a lamp with a green lens and not of an uncolored lens with a green bulb. However, the revolving lights may contain multiple bulbs.

(5) The green lights may not be a part of the regular head lamps displayed on the vehicle.

(6) For a person *to be* authorized under this chapter to display a *flashing or revolving* green light on the person's vehicle, the person must first secure a written permit from the director of the state emergency management agency to use the light. The permit must be carried by the person when the light is displayed.

SECTION 39. IC 9-24-17-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The state and any health care provider (as defined by ~~IC 34-18-2-15)~~ **IC 34-18-2-14)** are not liable for damages alleged to have occurred as a result of an individual making an anatomical gift under this chapter.

SECTION 40. IC 10-11-2-29, AS ADDED BY P.L.2-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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

C o p y

commission under ~~IC 4-33-4-3.6~~ **IC 4-33-4-3.5.**

SECTION 41. IC 10-13-2-5, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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)~~ **(A)** Before July 1 of each year, a printed report containing the criminal statistics of the preceding calendar year.

~~(2)~~ **(B)** 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.

SECTION 42. IC 10-13-3-36, AS AMENDED BY P.L.138-2003, SECTION 2, AS AMENDED BY P.L.158-2003, SECTION 1, AND AS AMENDED BY P.L.261-2003, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 36. (a) The department may not charge a fee for

C o p y

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;

(E) is an area agency on aging designated under IC 12-10-1;

(F) is a community action agency (as defined in IC 12-14-23-2);

(G) is the owner or operator of a hospice program licensed under IC 16-25-3; or

(H) is a community mental health center (as defined in IC 12-7-2-38).

(b) *Except as provided in subsection (d),* 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 school.

(d) As used in this subsection, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of state government, including the executive and judicial branches of state government, the principal secretary of the senate, the principal clerk of the house of representatives, the executive director of the legislative services agency, a state elected official's office, or a body corporate and politic, but does not include a state educational institution (as defined in IC 20-12-0.5-1). 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:

(1) by a state agency; and

C o p y

(2) through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana.

~~*(d)*~~ **(e)** *The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:*

(1) made through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana; and

(2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).

SECTION 43. IC 10-17-10-1, AS ADDED BY P.L.2-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 1. If:

(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 **dies** 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~~ **and** 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~~ **in an amount set by ordinance. However, the amount of the allowance may** not **be** more than one ~~hundred~~ **thousand** 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.~~ **($1,000).**

SECTION 44. IC 10-17-10-2, AS ADDED BY P.L.2-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

Copy

JULY 1, 2003 (RETROACTIVE)]: Sec. 2. (a) Not more than one (1) claim **for a burial allowance** 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 **shall be set by ordinance and** may not exceed one ~~hundred~~ **thousand** 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.~~ **($1,000).**

SECTION 45. IC 10-17-10-4, AS ADDED BY P.L.2-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003 (RETROACTIVE)]: Sec. 4. Before a person enters into a contract to set a grave marker provided by the federal government ~~as~~ **for the grave of a person** described in section ~~2(b)~~ **1(1)** of this chapter with a person who receives the grave marker 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.

SECTION 46. IC 11-13-4-3, AS AMENDED BY P.L.110-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The compact administrator selected by the state council under ~~IC 11-13-4.5-3~~ **IC 11-13-4.5** is the administrator for probationers participating in the interstate compact for the supervision of parolees and probationers under this chapter and under IC 11-13-5.

(b) The judicial conference of Indiana may establish a staff position within the Indiana judicial center to which the duties of the compact administrator may be delegated.

(c) The judicial conference of Indiana shall adopt rules under IC 4-22-2 prescribing duties and procedures for administering probationers participating in the interstate compact under this chapter and under IC 11-13-5.

SECTION 47. IC 12-7-2-76, AS AMENDED BY P.L.120-2002, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 76. (a) "Eligible individual", for purposes of

C o p y

IC 12-10-10, has the meaning set forth in IC 12-10-10-4.

(b) "Eligible individual" has the meaning set forth in IC 12-14-18-1.5 for purposes of the following:

(1) IC 12-10-6.
(2) IC 12-14-2.
(3) IC 12-14-18.
(4) IC 12-14-19.
(5) IC 12-15-2.
(6) IC 12-15-3.
(7) IC 12-16-3.5.
~~(8) IC 12-16.1-3.~~
~~(9)~~ **(8)** IC 12-17-1.
~~(10)~~ **(9)** IC 12-20-5.5.

SECTION 48. IC 12-7-2-103.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 103.3. "Health maintenance organization", for purposes of IC 12-15-39.6, has the meaning set forth in IC 27-13-1-19.**

SECTION 49. IC 12-7-2-104.5, AS AMENDED BY P.L.120-2002, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 104.5. "Holocaust victim's settlement payment" has the meaning set forth in IC 12-14-18-1.7 for purposes of the following:

(1) IC 12-10-6.
(2) IC 12-14-2.
(3) IC 12-14-18.
(4) IC 12-14-19.
(5) IC 12-15-2.
(6) IC 12-15-3.
(7) IC 12-16-3.5.
~~(8) IC 12-16.1-3.~~
~~(9)~~ **(8)** IC 12-17-1.
~~(10)~~ **(9)** IC 12-20-5.5.

SECTION 50. IC 12-10-11.5-6, AS AMENDED BY HEA 1032-2004, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The office of the secretary of family and social services shall annually determine any state savings generated by home and community based services under this chapter by reducing the use of institutional care.

(b) The secretary shall annually report to the governor, the budget agency, the budget committee, the select **joint** commission on Medicaid oversight, and the executive director of the legislative

C o p y

services agency the savings determined under subsection (a). A report under this subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.

(c) Savings determined under subsection (a) may be used to fund the state's share of additional home and community based Medicaid waiver slots.

SECTION 51. IC 12-15-35-28, AS AMENDED BY P.L.184-2003, SECTION 7, AND AS AMENDED BY P.L.193-2003, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The board has the following duties:

(1) The adoption of rules to carry out this chapter, in accordance with the provisions of IC 4-22-2 and subject to any office approval that is required by the federal Omnibus Budget Reconciliation Act of 1990 under Public Law 101-508 and its implementing regulations.

(2) The implementation of a Medicaid retrospective and prospective DUR program as outlined in this chapter, including the approval of software programs to be used by the pharmacist for prospective DUR and recommendations concerning the provisions of the contractual agreement between the state and any other entity that will be processing and reviewing Medicaid drug claims and profiles for the DUR program under this chapter.

(3) The development and application of the predetermined criteria and standards for appropriate prescribing to be used in retrospective and prospective DUR to ensure that such criteria and standards for appropriate prescribing are based on the compendia and developed with professional input with provisions for timely revisions and assessments as necessary.

(4) The development, selection, application, and assessment of interventions for physicians, pharmacists, and patients that are educational and not punitive in nature.

(5) The publication of an annual report that must be subject to public comment before issuance to the federal Department of Health and Human Services and to the Indiana legislative council by December 1 of each year. **The report to the legislative council must be submitted in an electronic format under IC 5-14-6.**

(6) The development of a working agreement for the board to clarify the areas of responsibility with related boards or agencies, including the following:

(A) The Indiana board of pharmacy.

(B) The medical licensing board of Indiana.

Copy

(C) The SURS staff.

(7) The establishment of a grievance and appeals process for physicians or pharmacists under this chapter.

(8) The publication and dissemination of educational information to physicians and pharmacists regarding the board and the DUR program, including information on the following:

(A) Identifying and reducing the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists, and recipients.

(B) Potential or actual severe or adverse reactions to drugs.

(C) Therapeutic appropriateness.

(D) Overutilization or underutilization.

(E) Appropriate use of generic drugs.

(F) Therapeutic duplication.

(G) Drug-disease contraindications.

(H) Drug-drug interactions.

(I) Incorrect drug dosage and duration of drug treatment.

(J) Drug allergy interactions.

(K) Clinical abuse and misuse.

(9) The adoption and implementation of procedures designed to ensure the confidentiality of any information collected, stored, retrieved, assessed, or analyzed by the board, staff to the board, or contractors to the DUR program that identifies individual physicians, pharmacists, or recipients.

(10) The implementation of additional drug utilization review with respect to drugs dispensed to residents of nursing facilities shall not be required if the nursing facility is in compliance with the drug regimen procedures under 410 IAC 16.2-3-8 and 42 CFR 483.60.

(11) The research, development, and approval of a preferred drug list for:

(A) Medicaid's fee for service program;

(B) Medicaid's primary care case management program; and

(C) the primary care case management component of the children's health insurance program under IC 12-17.6;

in consultation with the therapeutics committee.

(12) The approval of the review and maintenance of the preferred drug list at least two (2) times per year.

(13) The preparation and submission of a report concerning the preferred drug list at least two (2) times per year to the select joint commission on Medicaid oversight established by IC 2-5-26-3.

(14) The collection of data reflecting prescribing patterns related

Copy

to treatment of children diagnosed with attention deficit disorder or attention deficit hyperactivity disorder.

(15) Advising the Indiana comprehensive health insurance association established by IC 27-8-10-2.1 concerning implementation of chronic disease management and pharmaceutical management programs under IC 27-8-10-3.5.

(b) The board shall use the clinical expertise of the therapeutics committee in developing a preferred drug list. The board shall also consider expert testimony in the development of a preferred drug list.

(c) In researching and developing a preferred drug list under subsection (a)(11), the board shall do the following:

(1) Use literature abstracting technology.

(2) Use commonly accepted guidance principles of disease management.

(3) Develop therapeutic classifications for the preferred drug list.

(4) Give primary consideration to the clinical efficacy or appropriateness of a particular drug in treating a specific medical condition.

(5) Include in any cost effectiveness considerations the cost implications of other components of the state's Medicaid program and other state funded programs.

(d) Prior authorization is required for coverage under a program described in subsection (a)(11) of a drug that is not included on the preferred drug list.

(e) The board shall determine whether to include a single source covered outpatient drug that is newly approved by the federal Food and Drug Administration on the preferred drug list not later than sixty (60) days after the date *on which the manufacturer notifies the board in writing* of the drug's approval. However, if the board determines that there is inadequate information about the drug available to the board to make a determination, the board may have an additional sixty (60) days to make a determination from the date that the board receives adequate information to perform the board's review. Prior authorization may not be automatically required for a single source drug that is newly approved by the federal Food and Drug Administration, and that is:

(1) in a therapeutic classification:

(A) that has not been reviewed by the board; and

(B) for which prior authorization is not required; or

(2) the sole drug in a new therapeutic classification that has not been reviewed by the board.

(f) The board may not exclude a drug from the preferred drug list based solely on price.

C o p y

(g) The following requirements apply to a preferred drug list developed under subsection (a)(11):

(1) *Except as provided by IC 12-15-35.5-3(b) and IC 12-15-35.5-3(c),* the office or the board may require prior authorization for a drug that is included on the preferred drug list under the following circumstances:

(A) To override a prospective drug utilization review alert.

(B) To permit reimbursement for a medically necessary brand name drug that is subject to generic substitution under IC 16-42-22-10.

(C) To prevent fraud, abuse, waste, overutilization, or inappropriate utilization.

(D) To permit implementation of a disease management program.

(E) To implement other initiatives permitted by state or federal law.

(2) All drugs described in IC 12-15-35.5-3(b) must be included on the preferred drug list.

(3) The office may add a ~~*new single source*~~ drug that has been approved by the federal Food and Drug Administration to the preferred drug list without prior approval from the board.

(4) The board may add a ~~*new single source*~~ drug that has been approved by the federal Food and Drug Administration to the preferred drug list.

(h) At least two (2) times each year, the board shall provide a report to the select joint commission on Medicaid oversight established by IC 2-5-26-3. The report must contain the following information:

(1) The cost of administering the preferred drug list.

(2) Any increase in Medicaid physician, laboratory, or hospital costs or in other state funded programs as a result of the preferred drug list.

(3) The impact of the preferred drug list on the ability of a Medicaid recipient to obtain prescription drugs.

(4) The number of times prior authorization was requested, and the number of times prior authorization was:

(A) approved; and

(B) disapproved.

(i) The board shall provide the first report required under subsection (h) not later than six (6) months after the board submits an initial preferred drug list to the office.

SECTION 52. IC 12-17-2-34, AS AMENDED BY P.L.132-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C o p y

UPON PASSAGE]: Sec. 34. (a) When the Title IV-D agency finds that an obligor is delinquent and can demonstrate that all previous enforcement actions have been unsuccessful, the Title IV-D agency shall send, to a verified address, a notice to the obligor that includes the following:

(1) Specifies that the obligor is delinquent.

(2) Describes the amount of child support that the obligor is in arrears.

(3) States that unless the obligor:

(A) pays the obligor's child support arrearage in full;

(B) requests the activation of an income withholding order under IC 31-16-15-2 and establishes a payment plan with the Title IV-D agency to pay the arrearage; or

(C) requests a hearing under section 35 of this chapter;

within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.

(4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:

(A) Pay the obligor's child support arrearage in full.

(B) Request the activation of an income withholding order under IC 31-16-15-2 and establish a payment plan with the Title IV-D agency to pay the arrearage.

(C) Request a hearing under section 35 of this chapter.

(5) Explains that if the obligor has not satisfied any of the requirements of subdivision (4) within twenty (20) days after the notice is mailed, that the Title IV-D agency shall issue a notice to:

(A) the board that regulates the obligor's profession or occupation, if any, that the obligor is delinquent and that the obligor may be subject to sanctions under IC 25-1-1.2, including suspension or revocation of the obligor's professional or occupational license;

(B) the supreme court disciplinary commission if the obligor is licensed to practice law;

(C) the professional standards board as established by IC 20-1-1.4 if the obligor is a licensed teacher;

(D) the Indiana horse racing commission if the obligor holds or applies for a license issued under IC 4-31-6;

(E) the Indiana gaming commission if the obligor holds or applies for a license issued under IC 4-33;

(F) the commissioner of the department of insurance if the

C o p y

obligor holds or is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3; or

(G) the director of the department of natural resources if the obligor holds or is an applicant for a license issued by the department of natural resources under the following:

(i) IC 14-22-12 (fishing, hunting, and trapping licenses).

(ii) IC 14-22-14 (Lake Michigan commercial fishing license).

(iii) IC 14-22-16 (bait dealer's license).

(iv) IC 14-22-17 (mussel license).

(v) IC 14-22-19 (fur buyer's license).

(vi) IC 14-24-7 (nursery dealer's license).

(vii) IC 14-31-3 (ginseng dealer's license).

(6) Explains that the only basis for contesting the issuance of an order under subdivision (3) or (5) is a mistake of fact.

(7) Explains that an obligor may contest the Title IV-D agency's determination to issue an order under subdivision (3) or (5) by making written application to the Title IV-D agency within twenty (20) days after the date the notice is mailed.

(8) Explains the procedures to:

(A) pay the obligor's child support arrearage in full;

(B) establish a payment plan with the Title IV-D agency to pay the arrearage; and

(C) request the activation of an income withholding order under IC 31-16-15-2.

(b) Whenever the Title IV-D agency finds that an obligor is delinquent and has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter within twenty (20) days after the date the notice described in subsection (a) is mailed;

the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent.

(c) An order issued under subsection (b) must require the following:

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the driving privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the

C o p y

bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

(d) The Title IV-D agency shall provide the:

(1) full name;

(2) date of birth;

(3) verified address; and

(4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

(e) When the Title IV-D agency finds that an obligor who is an applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage or request the activation of an income withholding order under ~~IC 31-2-10-7;~~ **IC 31-16-15;** or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the board regulating the practice of the obligor's profession or occupation stating that the obligor is delinquent.

(f) An order issued under subsection (e) must direct the board regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) When the Title IV-D agency finds that an obligor who is an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage or request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the professional standards board if the obligor is a licensed teacher, that the obligor is delinquent.

(h) When the Title IV-D agency finds that an obligor who holds a license issued under IC 4-31-6 or IC 4-33 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

C o p y

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33, stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11 or IC 4-33-8.5-3.

(i) When the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) When the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2; or

(3) request a hearing under section 35 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in IC 14-11-3.

SECTION 53. IC 12-18-8-4, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "final judgment" means:

(1) an acquittal of a criminal offense; or

(2) a conviction for a criminal offense:

(A) in which the defendant fails to file a timely:

(i) notice of appeal under the Indiana rules of appellate procedure; and

(ii) motion under Indiana Trial Rule 60(B);

C o p y

(B) in which transfer is denied to the Indiana supreme court; or
(C) that is upheld:
(i) on appeal;
(ii) following a ~~60(B)~~ hearing **under Indiana Trial Rule 60(B);** or
(iii) ~~both.~~ **on appeal and following a hearing under Indiana Trial Rule 60(B).**

SECTION 54. IC 12-18-8-8, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) To complete its review of a death that it believes to have resulted from domestic violence, the fatality review performed by a local domestic violence fatality review team may include information from reports generated or received by:
(1) agencies;
(2) organizations; or
(3) individuals;
responsible for the investigation, prosecution, or treatment concerning a death being investigated by the **local** domestic **violence** fatality review team.

(b) An entity or individual that in good faith provides information described in subsection (a) is immune from civil or criminal liability that might otherwise be imposed as the result of providing this information.

SECTION 55. IC 12-18-8-9, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The recommendations of a **local** domestic violence fatality review team may be disclosed at the discretion of a majority of the members at the conclusion of a review.

SECTION 56. IC 12-18-8-10, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A local domestic violence fatality review team consists of the following members:
(1) A survivor of domestic violence.
(2) A domestic violence direct service provider.
(3) A representative of law enforcement from the area served by the local domestic violence **fatality** review team.
(4) A prosecuting attorney or the prosecuting attorney's designee from the area served by the local domestic violence fatality review team.
(5) An expert in the field of forensic pathology.
(6) A medical practitioner with expertise in domestic violence.
(7) A judge who hears civil or criminal cases.

C o p y

(8) An employee of a child protective services agency.

(b) If a local domestic violence fatality review team is established in one (1) county, the legislative body that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) adopt an ordinance for the appointment and reappointment of members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinance adopted.

(c) If a local domestic violence fatality review team is established in a region, the county legislative bodies that voted to establish the local domestic violence fatality review team under section 6 of this chapter shall:

(1) each adopt substantially similar ordinances for the appointment and reappointment of members of the local domestic violence fatality review team; and

(2) appoint members to the local domestic violence fatality review team under the ordinances adopted.

(d) A local domestic violence fatality review team may not have more than fifteen (15) members.

SECTION 57. IC 12-18-8-13, AS ADDED BY P.L.181-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as provided in subsection (b), meetings of a local domestic violence fatality review team are open to the public.

(b) Meetings of a local domestic violence fatality review team that involve:

(1) confidential records; or

(2) identifying information regarding a death;

shall be held as an executive session with the public excluded, except those persons necessary to carry out the fatality review.

(c) If an executive session is held under subsection (b), each individual who:

(1) attends a meeting of a local domestic violence fatality review team; and

(2) is not a member of the local domestic violence fatality review team;

shall sign a confidentiality agreement.

(d) A local domestic violence ~~facility~~ **fatality** review team shall keep all confidentiality statements signed under this section.

SECTION 58. IC 13-11-2-84.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

C o p y

[EFFECTIVE UPON PASSAGE]: **Sec. 84.5. "Financial or administrative function", for purposes of sections 151.2, 151.3, and 151.4 of this chapter, IC 13-23-13-14, IC 13-24-1-10, and IC 13-25-4-8.2, includes a function such as that of:**

(1) a credit manager;

(2) an accounts payable officer;

(3) an accounts receivable officer;

(4) a personnel manager;

(5) a comptroller; or

(6) a chief financial officer or a similar function.

SECTION 59. IC 13-11-2-115.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 115.5. "Land trust", for purposes of IC 13-25-3, means a trust that is established under terms providing that:**

(1) the trustee holds legal or equitable title to property;

(2) the beneficiary has the power to manage the trust property, including the power to direct the trustee to sell the property; and

(3) the trustee may sell the trust property:

(A) only at the direction of the beneficiary or other person; or

(B) after a time stipulated in the terms of the trust.

SECTION 60. IC 13-11-2-116, AS AMENDED BY P.L.133-1998, SECTION 4, AND AS AMENDED BY P.L.14-2000, SECTION 34, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

(b) "Landfill", for purposes of *section 114.2 of this chapter and* IC 13-20-11, ~~*and IC 13-20-23,*~~ means a facility operated under a permit issued under IC 13-15-3 or IC 13-7-10 (before its repeal) at which solid waste is disposed of by placement on or under the surface of the ground.

(c) "Landfill", for purposes of section 82 of this chapter and IC 13-21, means a solid waste ~~management~~ disposal facility at which solid waste is deposited on or in the ground as an intended place of final location. The term does not include the following:

(1) A site that is devoted solely to receiving one (1) or more of the following:

(A) Fill dirt.

C o p y

(B) Vegetative matter subject to disposal as a result of:
(i) landscaping;
(ii) yard maintenance;
(iii) land clearing; or
(iv) any combination of activities referred to in this clause.
(2) A facility receiving waste that is regulated under the following:
(A) IC 13-22-1 through IC 13-22-8.
(B) IC 13-22-13 through IC 13-22-14.

SECTION 61. IC 13-11-2-160 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 160. "Petroleum", for purposes of:
(1) IC 13-23;
(2) IC 13-24-1; and
(3) IC 13-25-5;
includes petroleum and crude oil or any part of petroleum or crude oil that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit ~~(60 F))~~ **(60 F)** and fourteen and seven-tenths (14.7) pounds per square inch absolute).

SECTION 62. IC 13-11-2-265.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.1. "Watershed", for purposes of IC 13-18-3, has the meaning set forth in IC 14-8-2-310.**

SECTION 63. IC 16-18-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 67. ~~(a) "Comprehensive care bed", for purposes of IC 16-29-1, has the meaning set forth in IC 16-29-1-1.~~

~~(b)~~ "Comprehensive care bed", for purposes of IC 16-29-2, has the meaning set forth in IC 16-29-2-1.

SECTION 64. IC 16-31-6-4, AS AMENDED BY P.L.2-2003, SECTION 53, AND AS AMENDED BY P.L.205-2003, SECTION 35, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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*~~ *technician-intermediate,* an emergency medical ~~*technician*~~ *technician-basic advanced, 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*~~ *technician-intermediate,* the emergency medical ~~*technician*~~

C o p y

technician-basic advanced, an 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 emergency declaration of the governor.

SECTION 65. IC 16-31-8.5-1, AS ADDED BY P.L.205-2003, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "agency" refers to the state emergency management agency established by ~~IC 10-8-2-1.~~ **IC 10-14-2-1.**

SECTION 66. IC 16-38-5-4, AS ADDED BY P.L.135-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An entity described in section 3(c) of this chapter, the state department, or an agent of the state department who in good faith provides or receives immunization information is immune from civil and criminal liability for the following:

(1) Providing information to the immunization data registry.

(2) Using the immunization data registry information to verify that a patient or child has received proper immunizations.

(3) Using the immunization data registry information to inform a patient or the child's parent or guardian:

(A) of the ~~patient~~ **patient's** or child's immunization status; or

(B) that an immunization is due according to recommended immunization schedules.

(b) A person who knowingly, intentionally, or recklessly discloses confidential information contained in the immunization data registry in violation of this chapter commits a Class A misdemeanor.

SECTION 67. IC 16-41-6-1, AS AMENDED BY P.L.212-2003, SECTION 4, AND AS AMENDED BY P.L.237-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in *IC 16-41-10-2.5 and* subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to ~~*the human immunodeficiency virus (HIV)*~~ *HIV* without the consent of the individual to be tested or a representative as authorized under

C o p y

IC 16-36-1. A physician ordering the test or the physician's authorized representative shall document whether or not the individual has consented. *The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 of this chapter if the woman refuses under section 7 of this chapter to consent to the test.*

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

(1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is required or authorized under IC 11-10-3-2.5.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 68. IC 16-41-6-8, AS ADDED BY P.L.237-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This section applies to a physician or an advanced practice nurse who orders an HIV test under section 5 or 6 of this chapter or to the physician's or nurse's designee.

(b) An individual described in subsection (a) shall:

(1) inform the pregnant woman that:

(A) the individual is required by law to order an HIV test unless the pregnant woman refuses; and

(B) the pregnant woman has a right to refuse the test; and

(2) explain to the pregnant woman:

(A) the purpose of the test; and

(B) the risks and benefits of the test.

(c) An individual described in subsection (a) shall document in the pregnant woman's medical records that the pregnant woman received the information required under subsection (b).

(d) If a pregnant woman refuses to consent to an HIV test, the refusal must be noted in the pregnant woman's medical records.

(e) If a test ordered under section 5 or 6 of this chapter is positive, an individual described in subsection (a):

C o p y

(1) shall inform the pregnant woman of the test results;
(2) shall inform the pregnant woman of the treatment options or referral options available to the pregnant woman; and
(3) shall:
(A) provide the pregnant woman with a description of the methods of HIV transmission;
(B) discuss risk reduction behavior modifications with the pregnant woman, including methods to reduce the risk of perinatal HIV transmission and HIV transmission through breast milk; and
(C) provide the pregnant woman with referral information to other HIV prevention, health care, and psychosocial services.

(f) The provisions of IC 16-41-2-3 apply to a positive HIV test under section 5 or 6 of this chapter.

(g) The results of a test performed under section 5 or 6 of this chapter are confidential.

(h) As a routine component of prenatal care, every individual described in subsection (a) is required to provide information and counseling regarding HIV and the standard ~~serological~~ **licensed diagnostic** test for HIV and to offer and recommend the standard ~~serological~~ **licensed diagnostic** test for HIV.

(i) An individual described in subsection (a) shall obtain a statement, signed by the pregnant woman, acknowledging that the pregnant woman was counseled and provided the required information set forth in subsection (b) to ensure that an informed decision has been made.

(j) A pregnant woman who refuses a test under this section must do so in writing.

SECTION 69. IC 16-41-10-3, AS AMENDED BY P.L.212-2003, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), if a patient to whose blood or body fluids an emergency medical services provider is exposed as described in section 2 of this chapter:
(1) is admitted to a medical facility following the exposure or is located in a medical facility at the time of the exposure, a physician designated by the medical facility shall, not more than seventy-two (72) hours after the medical facility is notified under section 2 of this chapter:
(A) cause a blood or body fluid specimen to be obtained from the patient and testing to be performed for a dangerous communicable disease of a type that has been epidemiologically demonstrated to be transmittable by an exposure of the kind experienced by the emergency medical services provider; and

C o p y

(B) notify the medical director of the emergency medical services provider's employer; or

(2) is not described in subdivision (1), the exposed emergency medical services provider, the exposed emergency medical services provider's employer, or the state department may:

(A) arrange for testing of the patient as soon as possible; or

(B) petition the circuit or superior court having jurisdiction in the county of the patient's residence or where the employer of the exposed emergency medical services provider has the employer's principal office for an order requiring that the patient provide a blood or body fluid specimen.

(b) An emergency medical services provider may, on the form described in section 2 of this chapter, designate a physician other than the medical director of the emergency medical services provider's employer to receive the test results.

(c) The medical director or physician described in ~~section 3 of~~ this ~~chapter~~ **section** shall notify the emergency medical services provider of the test results not more than forty-eight (48) hours after the medical director or physician receives the test results.

SECTION 70. IC 16-42-5-28, AS ADDED BY P.L.266-2001, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) The state department shall adopt rules under IC 4-22-2 establishing a schedule of civil penalties that may be imposed by the state department to enforce either of the following:

(1) This chapter.

(2) Rules adopted to implement this chapter.

(b) A penalty included in the schedule of civil penalties established under this section may not exceed one thousand dollars ($1,000) for each violation per day.

(c) The civil penalties collected under this section shall be deposited in the state general fund.

(d) The state department may issue an order of compliance or impose a civil penalty included in the schedule of civil penalties established under this section, or both, against a person who does any of the following:

(1) Fails to comply with this chapter or a rule adopted to implement this chapter.

(2) Interferes with or obstructs the state department or the state department's designated agent in the performance of duties under this chapter.

(e) The state department may issue an order of compliance against a person described in subsection ~~(c)~~ **(d)** under IC 4-21.5-3-6,

C o p y

IC 4-21.5-3-8, or IC 4-21.5-4. The state department may impose a civil penalty against a person described in subsection ~~(c)~~ **(d)** only in a proceeding under IC 4-21.5-3-8.

(f) A proceeding commenced to impose a civil penalty under the schedule of civil penalties established under this section may be consolidated with any other proceeding commenced to enforce either of the following:

(1) This chapter.

(2) A rule adopted by the state department to implement this chapter.

(g) A corporation or a local health department:

(1) may bring an administrative action to enforce this chapter, rules adopted to implement this chapter, or the schedule of civil penalties established by the state department under this section;

(2) may use tickets or citations to enforce this chapter, rules adopted under this chapter, or the schedule of civil penalties established by the state department under this section; and

(3) shall deposit in the general fund of the corporation or the local health department the civil penalties collected under this section.

(h) For each violation of the state law or rules concerning food handling or food establishments, the state or either:

(1) a corporation; or

(2) a local health department;

may bring an enforcement action against a food establishment.

SECTION 71. IC 16-42-5.2-3, AS AMENDED BY P.L.104-2003, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. This chapter does not apply to the following:

(1) Hospitals licensed under IC 16-21.

(2) Health facilities licensed under IC 16-28.

(3) Housing with services establishments that are required to file disclosure statements under ~~IC 12-15.~~ **IC 12-10-15.**

(4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.

(5) Community mental health centers (as defined in IC 12-7-2-38).

(6) Private mental health institutions licensed under IC 12-25.

SECTION 72. IC 20-5-2-7, AS AMENDED BY P.L.2-2003, SECTION 56, AND AS AMENDED BY P.L.161-2003, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A school corporation, including a school township, shall adopt a policy concerning criminal history information for individuals who:

C o p y

(1) apply for:
(A) employment with the school corporation; or
(B) employment with an entity with which the school corporation contracts for services;
(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.

C o p y

(5) Each applicant for noncertificated employment or certificated 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).*~~ *subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation.* Failure to comply with subdivisions *(2),* (4), and (5), as required by the school corporation, is grounds for termination of the contract. *An entity that enters into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.*

(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 73. IC 20-6.1-3-11, AS ADDED BY P.L.100-2001, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "program" refers to the transition to teaching program established by subsection (b).

(b) The transition to teaching program is established to accomplish

Copy

the following:

(1) Facilitate the transition into the teaching profession of competent professionals in fields other than teaching.

(2) Allow competent professionals who do not hold a teaching license to earn and be issued a teaching license through participation in and satisfactory completion of the program.

(c) Subject to the requirements of this section, the board shall develop and administer the program. The board shall determine the details of the program that are not included in this section.

(d) Each accredited teacher training school and department shall establish a course of study that constitutes the higher education component of the program. The higher education component required under this subsection must comply with the following requirements:

(1) Include the following study requirements:

(A) For a program participant who seeks to obtain a license to teach in grade 6 through grade 12, up to eighteen (18) credit hours of study or the equivalent that prepare a program participant to meet Indiana standards for teaching in the subject areas corresponding to the area in which the program participant has met the education requirements under subsection (e), unless the program participant demonstrates that the program participant requires fewer credit hours of study to meet Indiana standards for teaching.

(B) For a program participant who seeks to obtain a license to teach in kindergarten through grade 5, twenty-four (24) credit hours of study or the equivalent, which must include at least six (6) credit hours in the teaching of reading, that prepare a program participant to meet Indiana standards for teaching, unless the program participant demonstrates that the program participant requires fewer credit hours of study to meet Indiana standards for teaching.

(2) Focus on the communication of knowledge to students.

(3) Include suitable field or classroom experiences if the program participant does not have teaching experience.

(e) A person who wishes to participate in the program must have one (1) of the following qualifications:

(1) For a program participant who seeks to obtain a license to teach in grade 6 through grade 12, one (1) of the following:

(A) A bachelor's degree or the equivalent with a grade point average of three (3.0) on a four (4.0) scale from an accredited institution of higher education in the subject area that the person intends to teach.

C o p y

(B) A graduate degree from an accredited institution of higher education in the subject area that the person intends to teach.

(C) Both:

(i) a bachelor's degree from an accredited institution of higher education with a grade point average of two and five-tenths (2.5) on a four (4) point scale; and

(ii) five (5) years of professional experience;

in the subject area that the person intends to teach.

(2) For a program participant who seeks to obtain a license to teach in kindergarten through grade 5, one (1) of the following:

(A) A bachelor's degree or the equivalent with a grade point average of three (3.0) on a four (4.0) scale from an accredited institution of higher education.

(B) Both:

(i) a bachelor's degree from an accredited institution of higher education with a grade point average of two and five-tenths (2.5) on a four (4.0) point scale; and

(ii) five (5) years of professional experience in an education-related field.

(f) The board shall grant an initial standard license to a program participant who does the following:

(1) Successfully completes the higher education component of the program.

(2) Demonstrates proficiency through a written examination in:

(A) basic reading, writing, and mathematics;

(B) pedagogy; and

(C) knowledge of the areas in which the program participant is required to have a license to teach;

under section 10.1(a) of this chapter.

(3) Participates successfully in a beginning teacher internship program under IC 20-6.1-8 **(repealed)** that includes implementation in a classroom of the teaching skills learned in the higher education component of the program.

(4) Receives a successful assessment of teaching skills upon completion of the beginning teacher internship program from the administrator of the school where the beginning teacher internship program takes place, or, if the program participant does not receive a successful assessment, participates in the beginning teacher internship program for a second year, as provided under IC 20-6.1-8-13 **(repealed).** The appeals provisions of IC 20-6.1-8-14 **(repealed)** apply to an assessment under this subdivision.

C o p y

(g) This subsection applies to a program participant who has a degree described in subsection (e) that does not include all the content areas of a standard license issued by the board. The board shall issue an initial standard license that is restricted to only the content areas in which the program participant has a degree unless the program participant demonstrates sufficient knowledge in other content areas of the license.

(h) A school corporation may hire a program participant to teach only in the subject area in which the participant meets the qualifications set forth under subsection (e).

(i) After receiving an initial standard license under subsection (f) or (g), a program participant who seeks to renew the participant's initial standard license must meet the same requirements as other candidates for license renewal.

(j) The board may adopt rules under IC 4-22-2 to administer this section. Rules adopted under this subsection must include a requirement that accredited teacher training schools and departments submit an annual report to the board of the number of individuals who:

(1) enroll in; and

(2) complete;

the program.

SECTION 74. IC 20-6.1-4-1, AS AMENDED BY P.L.291-2001, SECTION 173, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Within ten (10) days after a request from the governing body, the superintendent shall make a report on any person being considered by the school corporation for either a teaching appointment or an indefinite contract as defined in section 9 of this chapter. This report must contain the person's teaching preparation, experience, and license.

(b) The governing body of a school corporation may not employ an individual who receives an initial standard or reciprocal license after March 31, 1988, for a teaching appointment under this chapter unless the individual:

(1) has successfully completed a beginning teacher internship program under IC 20-6.1-8 **(repealed);** or

(2) has at least two (2) years of teaching experience outside Indiana.

(c) This section does not prevent the granting of additional authority in the selection or employment of teachers to a superintendent by the rules and regulations of a school corporation.

SECTION 75. IC 20-8.1-5.1-23, AS AMENDED BY P.L.202-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C o p y

UPON PASSAGE]: Sec. 23. (a) This section applies to the following:

(1) A student who:

(A) is expelled from a school corporation or charter school under this chapter; or

(B) withdraws from a school corporation or charter school to avoid expulsion.

(2) A student who:

(A) is required to separate for disciplinary reasons from a nonpublic school or a school in a state other than Indiana by the administrative authority of the school; or

(B) withdraws from a nonpublic school or a school in a state other than Indiana in order to avoid being required to separate from the school for disciplinary reasons by the administrative authority of the school.

(b) The student may enroll in another school corporation or charter school during the period of the actual or proposed expulsion or separation if:

(1) the student's parent informs the school corporation in which the student seeks to enroll and also:

(A) in the case of a student withdrawing from a charter school that is not a conversion charter school to avoid expulsion, the conversion charter school; or

(B) in the case of a student withdrawing from a conversion charter school to avoid expulsion: ~~the:~~

(i) **the** conversion charter school; and

(ii) the school corporation that sponsored the conversion charter school;

of the student's expulsion or separation or withdrawal to avoid expulsion or separation;

(2) the school corporation (and, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school) consents to the student's enrollment; and

(3) the student agrees to the terms and conditions of enrollment established by the school corporation (or, in the case of a student withdrawal described in subdivision (1)(A) or (1)(B), the charter school or conversion charter school).

(c) If:

(1) a student's parent fails to inform the school corporation of the expulsion or separation or withdrawal to avoid expulsion or separation; or

(2) the student fails to follow the terms and conditions of enrollment under subsection (b)(3);

C o p y

the school corporation or charter school may withdraw consent and prohibit the student's enrollment during the period of the actual or proposed expulsion or separation.

(d) Before a consent is withdrawn under subsection (c) the student must have an opportunity for an informal meeting before the principal of the student's proposed school. At the informal meeting, the student is entitled to:

(1) a written or an oral statement of the reasons for the withdrawal of the consent;

(2) a summary of the evidence against the student; and

(3) an opportunity to explain the student's conduct.

(e) This section does not apply to a student who is expelled under section 11 of this chapter.

SECTION 76. IC 20-12-14-2, AS AMENDED BY P.L.224-2003, SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Instruction in laboratory schools may be provided for pre-school pupils, kindergarten pupils, special education pupils, and for all or a portion of the twelve (12) common school grades.

(b) Agreements may be entered into with local school units and educational organizations for the assignment of pupils to such laboratory schools, the payment of transfer fees, and contributions to the cost of establishing and maintaining the laboratory schools.

(c) A laboratory school that:

(1) is operated by a university under this chapter without an agreement described in subsection (b); and

(2) has an ADM (as defined in IC 21-3-1.6-1.1(d)) of not more **than** seven hundred fifty (750);

shall be treated as a charter school for purposes of local funding under IC 6-1.1-19 and state funding under IC 21-3.

(d) A pupil who attends a laboratory school full time may not be counted in ADM or ADA by any local school unit when his attendance is not regulated under an agreement.

SECTION 77. IC 20-12-19.5-1, AS AMENDED BY P.L.32-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The children of:

(1) regular, paid law enforcement officers;

(2) regular, paid firefighters;

(3) volunteer firefighters (as defined in IC 36-8-12-2);

(4) county police reserve officers;

(5) city police reserve officers;

(6) paramedics (as defined in IC 16-18-2-266);

Copy

(7) emergency medical technicians (as defined in IC 16-18-2-112); or

(8) advanced emergency medical technicians (as defined in IC 16-18-2-6) **(repealed);**

who have been killed in the line of duty shall not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the children are under the age of twenty-three (23) and are full-time students pursuing a prescribed course of study.

(b) The surviving spouse of a:

(1) regular, paid law enforcement officer;

(2) regular, paid firefighter;

(3) volunteer firefighter (as defined in IC 36-8-12-2);

(4) county police reserve officer;

(5) city police reserve officer;

(6) paramedic (as defined in IC 16-18-2-266);

(7) emergency medical technician (as defined in IC 16-18-2-112); or

(8) advanced emergency medical technician (as defined in IC 16-18-2-6) **(repealed);**

who has been killed in the line of duty may not be required to pay tuition or mandatory fees at any state supported college, university, or technical school, so long as the surviving spouse is pursuing a prescribed course of study at the institution towards an undergraduate degree.

(c) This section applies to the children and surviving spouse of a:

(1) regular, paid law enforcement officer;

(2) regular, paid firefighter;

(3) volunteer firefighter (as defined in IC 36-8-12-2);

(4) county police reserve officer;

(5) city police reserve officer;

(6) paramedic (as defined in IC 16-18-2-266);

(7) emergency medical technician (as defined in IC 16-18-2-112); or

(8) advanced emergency medical technician (as defined in IC 16-18-2-6) **(repealed);**

if the public safety officer described in this subsection was a resident of Indiana and was killed in the line of duty before, on, or after July 1, 1993.

SECTION 78. IC 21-2-11-4, AS AMENDED BY P.L.224-2003, SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Any lawful school

C o p y

expenses payable from any other fund of the school corporation, including without limitation debt service and capital outlay, but excluding costs attributable to transportation (as defined in IC 21-2-11.5-2), may be budgeted in and paid from the general fund. However, after June 30, 2003, and before July 1, 2005, a school corporation may budget for and pay costs attributable to transportation (as defined in IC 21-2-11.5-2) from the general fund.

(b) In addition, remuneration for athletic coaches (whether or not they are otherwise employed by the school corporation and whether or not they are licensed under IC 20-6.1-3) may be budgeted in and paid from the school corporation's general fund.

(c) During the period beginning July 1, 2003, and ending June 30, 2005, **the** school corporation may transfer money in a fund maintained by the school corporation (other than the special education preschool fund (IC 21-2-17-1) or the school bus replacement fund (IC 21-2-11.5-2)) that is obtained from:

(1) a source other than a state distribution or local property taxation; or

(2) a state distribution or a property tax levy that is required to be deposited in the fund;

to any other fund. A transfer under subdivision (2) may not be the sole basis for reducing the property tax levy for the fund from which the money is transferred or the fund to which money is transferred. Money transferred under this subsection may be used only to pay costs, including debt service, attributable to reductions in funding for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5. The property tax levy for a fund from which money was transferred may not be increased to replace the money transferred to another fund.

(d) The total amount transferred under subsection (c) may not exceed the following:

(1) For the period beginning July 1, 2003, and ending June 30, 2004, the total amount of state funding received for transportation distributions under IC 21-3-3.1, including reimbursements associated with transportation costs for special education and vocational programs under IC 21-3-3.1-4, and ADA flat grants under IC 21-3-4.5 for the same period.

(2) For the period beginning July 1, 2004, and ending June 30, 2005, the product of:

(A) the amount determined under subdivision (1); multiplied by

C o p y

(B) two (2).

SECTION 79. IC 21-2-15-4, AS AMENDED BY P.L.224-2003, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) As used in this subsection, "calendar year distribution" means the sum of:

(1) all distributions to a school corporation under:

(A) IC 6-1.1-19-1.5;

(B) IC 21-1-30;

(C) IC 21-3-1.7;

(D) IC 21-3-2.1; and

(E) IC 21-3-12;

for the calendar year; plus

(2) ~~plus~~ the school corporation's excise tax revenue (as defined in IC 21-3-1.7-2) for the immediately preceding calendar year.

(b) A school corporation may establish a capital projects fund.

(c) With respect to any facility used or to be used by the school corporation (other than a facility used or to be used primarily for interscholastic or extracurricular activities, except as provided in subsection (j)), the fund may be used to pay for the following:

(1) Planned construction, repair, replacement, or remodeling.

(2) Site acquisition.

(3) Site development.

(4) Repair, replacement, or site acquisition that is necessitated by an emergency.

(d) The fund may be used to pay for the purchase, lease, repair, or maintenance of equipment to be used by the school corporation (other than vehicles to be used for any purpose and equipment to be used primarily for interscholastic or extracurricular activities, except as provided in subsection (j)).

(e) The fund may be used for any of the following purposes:

(1) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:

(A) Computer hardware.

(B) Computer software.

(C) Wiring and computer networks.

(D) Communication access systems used to connect with computer networks or electronic gateways.

(2) To pay for the services of full-time or part-time computer maintenance employees.

(3) To conduct nonrecurring inservice technology training of school employees.

(4) To fund the payment of advances, together with interest on the

C o p y

advances, from the common school fund for educational technology programs under IC 21-1-5.

(5) To fund the acquisition of any equipment or services necessary:

(A) to implement the technology preparation curriculum under IC 20-10.1-5.6;

(B) to participate in a program to provide educational technologies, including computers, in the homes of students (commonly referred to as "the buddy system project") under IC 20-10.1-25, the 4R's technology program under IC 20-10.1-25, or any other program under the educational technology program described in IC 20-10.1-25; or

(C) to obtain any combination of equipment or services described in clauses (A) and (B).

(f) The fund may be used to purchase:

(1) building sites;

(2) buildings in need of renovation;

(3) building materials; and

(4) equipment;

for the use of vocational building trades classes to construct new buildings and to remodel existing buildings.

(g) The fund may be used for leasing or renting of existing real estate, excluding payments authorized under IC 21-5-11 and IC 21-5-12.

(h) The fund may be used to pay for services of the school corporation employees that are bricklayers, stone masons, cement masons, tile setters, glaziers, insulation workers, asbestos removers, painters, paperhangers, drywall applicators and tapers, plasterers, pipe fitters, roofers, structural and steel workers, metal building assemblers, heating and air conditioning installers, welders, carpenters, electricians, or plumbers, as these occupations are defined in the United States Department of Labor, Employment and Training Administration, Dictionary of Occupational Titles, Fourth Edition, Revised 1991, if:

(1) the employees perform construction of, renovation of, remodeling of, repair of, or maintenance on the facilities and equipment specified in subsections (b) and (c);

(2) the school corporation's total annual salary and benefits paid by the school corporation to employees described in this subsection are at least six hundred thousand dollars ($600,000); and

(3) the payment of the employees described in this subsection is included as part of the proposed capital projects fund plan described in section 5(a) of this chapter.

However, the number of employees that are covered by this subsection

C o p y

is limited to the number of employee positions described in this subsection that existed on January 1, 1993. For purposes of this subsection, maintenance does not include janitorial or comparable routine services normally provided in the daily operation of the facilities or equipment.

(i) The fund may be used to pay for energy saving contracts entered into by a school corporation under IC 36-1-12.5.

(j) Money from the fund may be used to pay for the construction, repair, replacement, remodeling, or maintenance of a school sports facility. However, a school corporation's expenditures in a calendar year under this subsection may not exceed five percent (5%) of the property tax revenues levied for the fund in the calendar year.

(k) Money from the fund may be used to carry out a plan developed under IC 20-10.1-33.

(l) This subsection applies during the period beginning January 1, 2004, and ending December 31, 2005. Money from the fund may be used to pay for up to one hundred percent (100%) of the following costs of a school corporation:

(1) Utility services.

(2) Property or casualty insurance.

(3) Both utility services and property or casualty insurance.

In the 2004 calendar year, a school corporation's expenditures under this subsection may not exceed one percent (1%) of the school corporation's 2003 calendar year distribution. In the 2005 calendar year, a school corporation's expenditures under this subsection may not exceed two percent (2%) of the school corporation's 2003 calendar year distribution.

(m) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution if the school corporation's 2004 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2004 calendar year may exceed one percent (1%) of the school corporation's 2003 calendar year distribution is the least of the following:

(1) One percent (1%) of the school corporation's 2003 calendar year distribution.

(2) The greater of zero (0) or the difference between:

(A) the sum of:

(i) the school corporation's calendar year distribution;

(ii) the amount determined for the school corporation under

C o p y

subsection (l); plus

(iii) the amount determined for the school corporation under this subsection, if any;

for the immediately preceding calendar year; minus

(B) the school corporation's calendar year distribution for the calendar year.

(3) The difference between:

(A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus

(B) the amount determined for the school corporation under subsection (l) for the calendar year.

(n) Notwithstanding subsection (l), a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution if the school corporation's 2005 calendar year distribution is less than the school corporation's 2003 calendar year distribution. The amount by which a school corporation's expenditures under subsection (l) in the 2005 calendar year may exceed two percent (2%) of the school corporation's 2003 calendar year distribution is the least of the following:

(1) Two percent (2%) of the school corporation's 2003 calendar year distribution.

(2) The greater of zero (0) or the difference between:

(A) the sum of:

(i) the school corporation's calendar year distribution;

(ii) the amount determined for the school corporation under subsection (l); plus

(iii) the amount determined for the school corporation under this subsection, if any;

for the immediately preceding calendar year; minus

(B) the school corporation's calendar year distribution for the calendar year.

(3) The difference between:

(A) one hundred percent (100%) of the school corporation's costs for utility services and property or casualty insurance; minus

(B) the amount determined for the school corporation under subsection (l) for the calendar year.

SECTION 80. IC 21-3-1.6-2, AS AMENDED BY P.L.276-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "school corporation" does not include a charter school.

(b) To each school corporation there shall be assigned for each

C o p y

calendar year a teacher ratio which shall consist of the average training and experience factor of the school corporation divided by the state training and experience factor for the same year. The training and experience factor of the school corporation for each calendar year shall be calculated by assigning to each of its teachers employed on October 1 of the preceding year an index number in accordance with the following table, adding the total index numbers of all teachers in the school corporation and dividing the total by the number of teachers. The state factor shall be similarly calculated for all the teachers employed by the state's school corporations.

	Amount of College Training	Amount of Experience	Index Factor
(a)	Less than 4 years	Not applicable	0.7
(b)	4 years but less than 5 years	Less than 6 years	0.8
		6 years or more	0.9
(c)	5 years or more	Less than 5 years	1.0
		5 years or more but less than 11 years	1.1
		11 years or more but less than 17 years	1.2
		17 years or more	~~1.3a~~ **1.3**

SECTION 81. IC 21-3-1.7-9.8, AS AMENDED BY P.L.224-2003, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.8. (a) In addition to the distributions under sections 8.2, 9.5, 9.7, and 9.9 of this chapter, a school corporation is eligible for an honors diploma award in the amount determined under STEP TWO of the following formula:

STEP ONE: Determine the number of the school corporation's eligible pupils who successfully completed an academic honors diploma program in the school year ending in the previous calendar year.

STEP TWO: Multiply the STEP ONE amount by nine hundred sixty-three dollars ($963).

~~(c)~~ **(b)** Each year the governing body of a school corporation may use the money that the school corporation receives for an honors diploma award under this section to give nine hundred sixty-three dollars ($963) to each eligible pupil in the school corporation who successfully completes an academic honors diploma program in the school year ending in the previous calendar year.

Copy

SECTION 82. IC 22-4-15-1, AS AMENDED BY P.L.189-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the

C o p y

employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be deemed to have left the individual's work voluntarily without good cause in connection with the work. However, if such individual subsequently becomes reemployed and thereafter voluntarily leaves work without good cause in connection with the work, the individual shall be deemed ineligible as outlined in this section.

(5) An otherwise eligible individual shall not be denied benefits for any week because the individual is in training approved under Section 236(a)(1) of the Trade Act of 1974, nor shall the individual be denied benefits by reason of leaving work to enter such training, provided the work left is not suitable employment, or because of the application to any week in training of provisions in this law (or any applicable federal unemployment compensation law), relating to availability for work, active search for work, or refusal to accept work. For purposes of this subdivision, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as defined for purposes of the Trade Act of 1974), and wages for such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

(A) the employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary

C o p y

separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual shall not be subject to disqualification if the individual voluntarily left employment or was discharged due to circumstances directly caused by domestic or family violence (as defined in IC 31-9-2-42). An individual who may be entitled to benefits based on this modification may apply to the office of the attorney general **under IC 5-26.5** to have an address designated by the office of the attorney general to serve as the individual's address for purposes of this article. ~~under IC 5-26.5.~~

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

(1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;

(2) knowing violation of a reasonable and uniformly enforced rule of an employer;

(3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;

(4) damaging the employer's property through willful negligence;

(5) refusing to obey instructions;

(6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;

(7) conduct endangering safety of self or coworkers; or

(8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

(e) To verify that domestic or family violence has occurred, an individual who applies for benefits under subsection (c)(8) shall provide one (1) of the following:

(1) A report of a law enforcement agency (as defined in ~~IC 5-2-5-1).~~ **IC 10-13-3-10).**

(2) A protection order issued under IC 34-26-5.

C o p y

(3) A foreign protection order (as defined in IC 34-6-2-48.5).

(4) An affidavit from a domestic violence service provider verifying services provided to the individual by the domestic violence service provider.

SECTION 83. IC 22-4-15-2, AS AMENDED BY P.L.189-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

(1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;

(2) to accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service, or an employment unit; or

(3) to return to the individual's customary self-employment when directed by the commissioner or the deputy.

(b) With respect to benefit periods established on and after July 6, 1980, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(c) With respect to extended benefit periods established on and after July 5, 1981, the ineligibility shall continue for the week in which the failure occurs and until the individual earns remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of four (4) weeks.

(d) If an individual failed to apply for or accept suitable work as outlined in this section, the maximum benefit amount of the individual's current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the

C o p y

maximum benefit amount is not an even dollar amount, the amount of such reduction shall be raised to the next higher even dollar amount. The maximum benefit amount of the individual's current claim may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(e) In determining whether or not any such work is suitable for an individual, the department shall consider:

(1) the degree of risk involved to such individual's health, safety, and morals;

(2) the individual's physical fitness and prior training and experience;

(3) the individual's length of unemployment and prospects for securing local work in the individual's customary occupation; and

(4) the distance of the available work from the individual's residence.

However, work under substantially the same terms and conditions under which the individual was employed by a base-period employer, which is within the individual's prior training and experience and physical capacity to perform, shall be considered to be suitable work unless the claimant has made a bona fide change in residence which makes such offered work unsuitable to the individual because of the distance involved. For an individual who is ~~not disqualified under~~ **subject to** section 1(c)(8) of this chapter, the determination of suitable work for the individual must reasonably accommodate the individual's need to address the physical, psychological, legal, and other effects of domestic or family violence.

(f) Notwithstanding any other provisions of this article, no work shall be considered suitable and benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(3) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(4) If as a condition of being employed the individual would be required to discontinue training into which the individual had entered with the approval of the department.

(g) Notwithstanding subsection (e), with respect to extended benefit

C o p y

periods established on and after July 5, 1981, "suitable work" means any work which is within an individual's capabilities. However, if the individual furnishes evidence satisfactory to the department that the individual's prospects for obtaining work in the individual's customary occupation within a reasonably short period are good, the determination of whether any work is suitable work shall be made as provided in subsection (e).

(h) With respect to extended benefit periods established on and after July 5, 1981, no work shall be considered suitable and extended benefits shall not be denied under this article to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the gross average weekly remuneration payable to the individual for the position would not exceed the sum of:

(A) the individual's average weekly benefit amount for the individual's benefit year; plus

(B) the amount (if any) of supplemental unemployment compensation benefits (as defined in Section 501(c)(17)(D) of the Internal Revenue Code) payable to the individual for such week.

(2) If the position was not offered to the individual in writing or was not listed with the department of workforce development.

(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 84. IC 22-4-17-2, AS AMENDED BY P.L.273-2003, SECTION 5, AND AS AMENDED BY P.L.189-2003, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of the individual's status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished *to* the individual promptly. Each such determination shall be based on and include a written statement showing the amount of

C o p y

wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ~~twenty (20)~~ *ten (10)* days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) *Except as provided in subsection (i),* the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ~~twenty (20)~~ *ten (10)* days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ~~twenty (20)~~ *ten (10)* days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto

C o p y

in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ~~*twenty (20)*~~ *ten (10)* days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within ~~*twenty-five (25)*~~ *fifteen (15)* days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) ~~*No*~~ *A* person may *not* participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge

C o p y

regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(i) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer that a claim for benefits has been made.

SECTION 85. IC 22-13-4-7, AS ADDED BY P.L.112-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section applies only to new construction of the following dwellings:

(1) A detached one (1) or two (2) family dwelling.

(2) A townhouse.

(b) This section does not apply to a mobile structure or **an** industrialized building system.

(c) As used in this section, "environmental controls" means switches or devices that control or regulate lights, temperature, fuses, fans, doors, security system features, or other features.

(d) As used in this section, "new construction" means the construction of a new dwelling on a vacant lot. The term does not include an addition to or remodeling of an existing building.

(e) As used in this section, "townhouse" means a single family dwelling unit constructed in a row of attached units separated by property lines and with open space on at least two (2) sides.

(f) As used in this section, "visitability feature" means a design feature of a dwelling that allows a person with a mobility impairment to enter and comfortably stay in a dwelling for a duration of time. The term includes features that allow a person with a mobility impairment to get in and out through one (1) exterior door of the dwelling without any steps and to pass through all main floor interior doors, including a bathroom **door.**

(g) If a person contracts with a designer and a builder for construction of a visitability feature in the new construction of a dwelling, the designer and builder shall comply with the standards adopted by the commission under this section for **the** construction and design of the visitability feature. The standards adopted under this section:

(1) shall be enforced by a political subdivision that enforces the

C o p y

commission's standards with respect to Class 2 structures; and

(2) may not be enforced by the department.

(h) The commission shall adopt minimum standards by rule under IC 4-22-2 for visitability features in the new construction of a dwelling. The rules shall include minimum standards for the following:

(1) Entrances to the dwelling, including paths from the dwelling to the street.

(2) Room dimensions.

(3) The width of exterior and interior doors.

(4) The width of interior hallways.

(5) The grade of interior thresholds and hallways.

(6) The height and location of environmental controls.

(7) The reinforcement of bathroom walls sufficient to attach grab bars.

SECTION 86. IC 23-7-8-2, AS AMENDED BY P.L.155-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person may not act as a professional fundraiser consultant or professional solicitor for a charitable organization unless the person has first registered with the division. A person who applies for registration shall disclose the following information while under oath:

(1) The names and addresses of all officers, employees, and agents who are actively involved in fundraising or related activities.

(2) The names and addresses of all persons who own a ten percent (10%) or more interest in the registrant.

(3) A description of any other business related to fundraising conducted by the registrant or any person who owns ten percent (10%) or more interest.

(4) The name or names under which it intends to solicit contributions.

(5) Whether the organization has ever had its registration denied, suspended, revoked, or enjoined by any court or other governmental authority.

(b) A registrant shall notify the division in writing within one hundred eighty (180) days of any change in the information contained in the registration. However, if requested by the division, the solicitor has fifteen (15) days to notify the division of any change in the information.

(c) Before acting as a professional fundraiser consultant for a particular charitable organization, the consultant must enter into a written contract with the organization and file this contract with the

C o p y

division. The contract must identify the services that the professional fundraiser consultant is to provide, including whether the professional fundraiser consultant will at any time have custody of contributions.

(d) Before a professional solicitor engages in a solicitation, the professional solicitor must have a contract which is filed with the division. This contract must specify the percentage of gross contributions which the charitable organization will receive or the terms upon which a determination can be made as to the amount of the gross revenue from the solicitation campaign that the charitable organization will receive. The amount of gross revenue from the solicitation campaign that the charitable organization will receive must be expressed as a fixed percentage of the gross revenue or expressed as a reasonable estimate of the percentage of the gross revenue. If a reasonable estimate is used, the contract must clearly disclose the assumptions or a formula upon which the estimate is based. If a fixed percentage is used, the percentage must exclude any amount that the charitable organization is to pay as expenses of the solicitation campaign, including the cost of the merchandise or services sold. If requested by the charitable organization, the person who solicits must at the conclusion of a charitable appeal provide to the charitable organization the names and addresses of all contributors, the amount of each contribution, and a final accounting of all expenditures. Such information may not be used in violation of any trade secret laws. The contract must disclose the average percentage of gross contributions collected on behalf of charitable organizations that the charitable organizations received from the professional solicitor for the three (3) years preceding the year in which the contract is formed.

(e) Before beginning a solicitation campaign, a professional solicitor must file a solicitation notice with the division. The notice must include the following:

(1) A copy of the contract described in subsection (d).

(2) The projected dates when soliciting will begin and end.

(3) The location and telephone number from where solicitation will be conducted.

(4) The name and residence address of each person responsible for directing and supervising the conduct of the campaign. However, the division shall not divulge the residence address unless ordered to do so by a court of competent jurisdiction, or in furtherance of the prosecution of a violation under this chapter.

(5) If the solicitation is one described under section ~~7(a)(2)~~ **7(a)(3)** of this chapter, the solicitation notice must include a copy of the required written authorization.

C o p y

(f) Not later than ninety (90) days after a solicitation campaign has ended and not later than ninety (90) days after the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, a professional solicitor shall submit the following information concerning the campaign to the division:

(1) The total gross amount of money raised by the professional solicitor and the charitable organization from donors.

(2) The total amount of money paid to or retained by the professional solicitor.

(3) The total amount of money, not including the amount identified under subdivision (2), paid by the charitable organization as expenses as part of the solicitation campaign.

(4) The total amount of money paid to or retained by the charitable organization after the amounts identified under ~~subdivision~~ **subdivisions** (2) and (3) are deducted.

The division may deny or revoke the registration of a professional solicitor who fails to comply with this subsection.

(g) The charitable organization on whose behalf the professional solicitor is acting must certify that the information filed under subsections (e) and (f) is true and complete to the best of its knowledge.

(h) At the beginning of each solicitation call, a professional fundraiser consultant and a professional solicitor must state all of the following:

(1) The name of the company for whom the professional fundraiser consultant or professional solicitor is calling.

(2) The name of the professional fundraiser consultant or professional solicitor.

(3) The phone number and address of the location from which the professional fundraiser consultant or professional solicitor is making the telephone call.

(4) The percentage of the charitable contribution that will be expended for charitable purposes after administrative costs and the costs of making the solicitation have been satisfied.

SECTION 87. IC 24-3-5-7, AS ADDED BY P.L.253-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A merchant who delivers tobacco products to a customer as part of a delivery sale shall:

(1) collect and pay all applicable taxes under IC 6-7-1 and IC 6-7-2; or

(2) place a legible and conspicuous notice on the outside of the container in which the tobacco products are shipped. The notice

C o p y

shall be placed on the same side of the container as the address to which the container is shipped and must state the following:

"If these tobacco products have been shipped to you from a merchant located outside the state in which you reside, the merchant has under federal law reported information about the sale of these tobacco products, including your name and address, to your state tax collection agency. You are legally responsible for all applicable unpaid state taxes on these tobacco products.".

(b) For a violation of this section the alcohol and tobacco commission may impose, in addition to any other remedies, civil penalties as follows:

(1) If the person has one (1) judgment for a violation of this section committed during a five (5) year period, a civil penalty of at least one thousand dollars ($1,000) ~~and~~ **but** not more than two thousand dollars ($2,000).

(2) If the person has two (2) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least two thousand five hundred dollars ($2,500) ~~and~~ **but** not more than three thousand five hundred dollars ($3,500).

(3) If the person has three (3) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least four thousand dollars ($4,000) ~~and~~ **but** not more than five thousand dollars ($5,000).

(4) If the person has four (4) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least five thousand five hundred dollars ($5,500) ~~and~~ **but** not more than six thousand five hundred dollars ($6,500).

(5) If the person has at least five (5) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of ten thousand dollars ($10,000).

SECTION 88. IC 24-3-5.2-7, AS ADDED BY P.L.117-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A merchant who delivers cigarettes to a customer as part of a delivery sale shall:

(1) collect and pay all applicable taxes under IC 6-7-1; or

(2) place a legible and conspicuous notice on the outside of the container in which the cigarettes are shipped. The notice shall be placed on the same side of the container as the address to which the container is shipped and must state the following:

"If these cigarettes have been shipped to you from a merchant located outside the state in which you reside, the merchant has

C o p y

under federal law reported information about the sale of these cigarettes, including your name and address, to your state tax collection agency. You are legally responsible for all applicable unpaid state taxes on these cigarettes.".

In addition to the requirements in subsections (1) and (2), as part of a delivery sale the merchant shall inform the customer in writing of all state taxes imposed by the customer's state of residence, including a computation of the amount of taxes due.

(b) The alcohol and tobacco commission may impose, in addition to any other remedies, civil penalties as follows:

(1) If the defendant has one (1) judgment for a violation of this section committed during a five (5) year period, a civil penalty of at least one thousand dollars ($1,000) ~~and~~ **but** not more than two thousand dollars ($2,000).

(2) If the defendant has two (2) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least two thousand five hundred dollars ($2,500) ~~and~~ **but** not more than three thousand five hundred dollars ($3,500).

(3) If the defendant has three (3) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least four thousand dollars ($4,000) ~~and~~ **but** not more than five thousand dollars ($5,000).

(4) If the defendant has four (4) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of at least five thousand five hundred dollars ($5,500) ~~and~~ **but** not more than six thousand five hundred dollars ($6,500).

(5) If the defendant has at least five (5) unrelated judgments for violations of this section committed during a five (5) year period, a civil penalty of ten thousand dollars ($10,000).

SECTION 89. IC 24-3-5.2-8, AS ADDED BY P.L.117-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The alcohol and tobacco commission may impose a civil penalty of not more **than** one thousand dollars ($1,000) on a:

(1) customer who signs another person's name to a statement required under section 4(1) of this chapter; or

(2) merchant who sells cigarettes by delivery sale to a person less than eighteen (18) years of age.

The alcohol and tobacco commission shall deposit amounts collected under this section into the youth tobacco education and enforcement fund established by IC 7.1-6-2-6.

C o p y

SECTION 90. IC 24-4.7-1-1, AS ADDED BY P.L.189-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This article does not apply to any of the following:

(1) A telephone call made in response to an express request of the person called.

(2) A telephone call made primarily in connection with an existing debt or contract for which payment or performance has not been completed at the time of the call.

(3) A telephone call made on behalf of a charitable organization that is exempt from federal income taxation under Section 501 of the Internal Revenue Code, but only if all of the following apply:

(A) The telephone call is made by a volunteer or an employee of the charitable organization.

(B) The telephone solicitor who makes the telephone call immediately discloses all of the following information upon making contact with the consumer:

(i) The solicitor's true first and last name.

(ii) The name, address, and telephone number of the charitable organization.

(4) A telephone call made by an individual licensed under IC 25-34.1 if:

(A) the sale of goods or services is not completed; and

(B) the payment or authorization of payment is not required;

until after a face to face sales presentation by the seller.

(5) A telephone call made by an individual licensed under ~~IC 27-1-15.5~~ **IC 27-1-15.6 or IC 27-1-15.8** when the individual is soliciting an application for insurance or negotiating a policy of insurance on behalf of an insurer (as defined in IC 27-1-2-3).

(6) A telephone call soliciting the sale of a newspaper of general circulation, but only if the telephone call is made by a volunteer or an employee of the newspaper.

SECTION 91. IC 24-5-22-7, AS ADDED BY P.L.36-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) For purposes of this section, a person knows that the intended recipient of a commercial electronic mail message is an Indiana resident if that information is available, upon request, from the registrant of the Internet domain name contained in the recipient's electronic mail address.

(b) Subsection (c) applies only to a commercial electronic mail message that:

(1) uses a third party's Internet domain name without permission

C o p y

of the third party;

(2) otherwise misrepresents or obscures any information in identifying the point of origin or the transmission path of the commercial electronic mail message; or

(3) contains false or misleading information in the subject line.

(c) A person may not initiate or assist ~~in~~ the transmission of a commercial electronic mail message described in subsection (b):

(1) from a computer located in Indiana; or

(2) to an electronic mail address that the sender:

(A) knows; or

(B) has reason to know;

is held by a resident of Indiana.

SECTION 92. IC 25-14-1-27.5, AS ADDED BY P.L.210-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. (a) The board may issue an instructor's license to an individual who is not otherwise licensed to practice dentistry in Indiana if the individual meets the following conditions:

(1) The individual has been licensed or has had the equivalent of a license for five (5) of the preceding nine (9) years to practice dentistry in the United States or in any country, territory, or other recognized jurisdiction.

(2) The individual has been approved under the credentialing process of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry that is accredited by:

(A) the American Dental Association Commission on Dental Accreditation; or

(B) the Joint Commission on Accreditation of Health Care Organizations.

(3) The individual has successfully documented or demonstrated clinical and academic competency to the board.

(4) The individual is fluent in the English language.

(5) The individual passes the written law examination administered by the board.

(6) The individual meets the continuing education requirements required by IC 25-14-3.

(7) The individual pays the licensing fee set by the board under subsection (f).

(b) A license issued under this section must be held by the Indiana school of dentistry for which the licensee is employed.

(c) A license issued under this section does not meet the requirements of ~~IC 25-14-1-16~~ **section 16 of this chapter** and may not be used to obtain a general dentistry license under ~~IC 25-14.~~ **this**

C o p y

article.

(d) A licensee under this section may teach and practice dentistry only at or on behalf of an Indiana school of dentistry or an affiliated medical center of an Indiana school of dentistry.

(e) An instructor's license is ~~only~~ valid **only** during the time the licensee is employed or has a valid employment contract for a full-time faculty position at the Indiana school of dentistry or an affiliated medical center. The Indiana school of dentistry or the affiliated medical center shall notify the board in writing upon the termination of the employment contract of an individual who is issued a license under this section and surrender the license not later than thirty (30) days after the licensee's employment ceases.

(f) The board shall set a fee for the issuance and renewal of a license under this section.

(g) Unless renewed, a license issued by the board under this section expires annually on a date specified by the health professions bureau under IC 25-1-5-4. An applicant for renewal must pay the renewal fee set by the board on or before the renewal date specified by the health professions bureau.

(h) Not more than five percent (5%) of the Indiana school of dentistry's full-time faculty may be individuals licensed under this section.

(i) The board shall adopt rules under IC 4-22-2 necessary to implement this section.

(j) This section expires June 30, 2008.

SECTION 93. IC 25-22.5-1-2, AS AMENDED BY P.L.2-2003, SECTION 65, AND AS AMENDED BY P.L.205-2003, SECTION 37, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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*~~ *technician-basic advanced* (as defined in ~~*IC 16-18-2-6*~~ *IC 16-18-2-112.5), an emergency medical technician-intermediate (as defined in IC 16-18-2-112.7),* an emergency medical technician (as defined in IC 16-18-2-112),

Copy

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 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

C o p y

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 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;

C o p y

(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.

(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 94. IC 25-22.5-5-4.5, AS ADDED BY P.L.184-2003,

C o p y

SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) The board may authorize the service bureau to issue temporary fellowship permits for the practice of medicine. A temporary fellowship is subject to any termination date specified by the board.

(b) The board may issue a temporary fellowship permit to a graduate of a school located outside the United States, its possessions, or Canada if the graduate:

(1) applies in the form and manner required by the board;

(2) pays a fee set by the board;

(3) has completed the academic requirements for the degree of doctor of medicine from a medical school approved by the board;

(4) has been issued a valid permit by another state for participation in a postgraduate medical education or training program located in a state that has standards for postgraduate medical education and training satisfactory to the board;

(5) has been accepted into a postgraduate medical fellowship training program that:

(A) is affiliated with a medical school located in a state that issued a permit under subdivision (4);

(B) has a training site located in Indiana; and

(C) has standards for postgraduate medical education and training satisfactory to the board;

(6) provides the board with documentation of the areas of medical practice for which the training is sought;

(7) provides the board with at least two (2) letters of reference documenting the individual's character; and

(8) demonstrates to the board that the individual is a physician of good character who is in good standing outside the United States, its possessions, or Canada where the person normally would practice.

(c) Applications for the temporary fellowship permit for graduates of foreign medical schools must be made to the board subject to this section.

(d) A permit issued under this section expires one (1) year after the date it is issued and, at the discretion of the board, may be renewed for additional one (1) year periods upon the payment of a renewal fee set by the board by rule.

(e) An individual who applies for a temporary fellowship permit under this section is not required to take any step of the United States Medical Licensure Examination.

(f) A temporary fellowship permit must be kept in the possession of

C o p y

the fellowship training institution and surrendered by it to the board within thirty (30) days after the person ceases training in Indiana.

(g) A temporary fellowship permit authorizes a person to practice in the training institution only and, in the course of training, to practice only those medical acts approved by the board but does not authorize the person to practice medicine otherwise.

(h) The board may deny an application for a temporary fellowship permit if the training program that has accepted the applicant has:

(1) violated; or

(2) authorized or permitted a physician to violate;

this section.

(i) A person issued a temporary ~~medical~~ **fellowship** permit under this section must file an affidavit that:

(1) is signed by a physician licensed in Indiana;

(2) includes the license number of the signing physician;

(3) attests that the physician will monitor the work of the physician holding the temporary ~~medical~~ **fellowship** permit; and

(4) is notarized.

The affidavit must be filed with the ~~service~~ bureau before the person holding the temporary ~~medical~~ **fellowship** permit may provide medical services.

(j) This section expires July 1, 2008.

SECTION 95. IC 25-26-13-25, AS AMENDED BY P.L.182-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) Except as provided in subsection (c), ~~before the expiration of subsection (c) on June 30, 2003,~~ a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner

Copy

if all of the following conditions are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through

C o p y

the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(e) The original prescription form or the other board approved record described in subsection (d) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

(f) A prescription is valid for not more than one (1) year after the original date of issue.

(g) A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional judgment it is in the best interest of the patient's health.

(h) A pharmacist may not knowingly dispense a prescription after the demise of the patient.

(i) A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

(1) was dispensed to a patient residing in an institutional facility

C o p y

(as defined in ~~856 IAC 1-28-1(a)),~~ **856 IAC 1-28.1-1(6));**

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in IC 25-26-13-17).

(j) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under subsection (i).

(k) A pharmacist who violates subsection (c) commits a Class A infraction.

SECTION 96. IC 27-1-25-1, AS AMENDED BY P.L.160-2003, SECTION 4, AND AS AMENDED BY P.L.178-2003, SECTION 27, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

(a) "Administrator", except as provided in section 7.5 of this chapter, means a person who *directly or indirectly and on behalf of an insurer underwrites,* collects charges or premiums from, or ~~who~~ adjusts or settles claims on residents of Indiana in connection with life, *annuity,* or health coverage ~~or annuities, whether~~ *offered or* provided ~~for~~ by an insurer. ~~or a self-funded plan.~~ The term "administrator" does not include the following persons:

(1) An employer ~~for its~~ *or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the* employees ~~or for the employees~~ of: ~~a~~

(A) the employer;

(B) the subsidiary; or

(C) an affiliated corporation of the employer.

(2) A union *acting* for its members.

(3) An insurer. ~~including:~~

~~(A) an insurer operating a health maintenance organization or a limited service health maintenance organization; and~~

Copy

~~*(B) the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.*~~

(4) ~~*A life or health*~~ *An* insurance producer:

(A) that is licensed under IC 27-1-15.6;

(B) that has:

(i) a life; or

(ii) an accident and health or sickness;

qualification under IC 27-1-15.6-7; and

(C) whose activities are limited exclusively to the sale of insurance.

(5) A creditor *acting* for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities *to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.*

(9) A credit card issuing company that:

(A) advances for; and

(B) collects *from, when a credit card holder authorizes the collection;*

credit card holders of the credit card issuing company, insurance premiums or charges. ~~*from its credit cardholders as long as that company does not adjust or settle claims.*~~

(10) ~~*An individual who*~~ *A person that* adjusts or settles claims in the normal course of ~~*his*~~ *the person's* practice or employment as an attorney at law and ~~*who*~~ *that* does not collect charges or premiums in connection with life, *annuity,* or health ~~*insurance*~~ coverage. ~~*or annuities.*~~

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

C o p y

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(13) A mortgage lender to the extent that the mortgage lender collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(14) A person that:

(A) is licensed as a managing general agent as required under IC 27-1-33; and

(B) acts exclusively within the scope of activities provided for under the license referred to in clause (A).

(15) A person that:

(A) directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage provided by an insurer;

(B) is affiliated with the insurer; and

(C) performs the duties specified in clause (A) only according to a contract between the person and the insurer for the direct and assumed life, annuity, or health coverage provided by the insurer.

~~*(b) "Certificate of registration" refers to the certificate required by section 11 of this chapter.*~~

(b) "Affiliate" means an entity or a person that:

(1) directly or indirectly through an intermediary controls or is controlled by; or

(2) is under common control with;

a specified entity or person.

(c) *"Church plan" has the meaning set forth in IC 27-8-10-1.*

(d) "Commissioner" refers to the *insurance* commissioner ~~*of insurance*~~ *appointed under IC 27-1-1-2.*

~~*(d)*~~ *(e) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether:*

(1) through ownership of voting securities;

(2) by contract other than a commercial contract for goods or nonmanagement services; or

(3) otherwise;

unless the power is the result of an official position with the person or a corporate office held by the person. Control is presumed to exist if a person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing not less than ten percent (10%) of the voting securities of another person.

Copy

(f) "Covered individual" means an individual who is covered under a benefit program provided by an insurer.

(g) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

~~*(e)*~~ *(h) "GAAP" refers to consistently applied United States generally accepted accounting principles.*

(i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

(j) "Home state" means the District of Columbia or any state or territory of the United States in which an administrator is incorporated or maintains the administrator's principal place of business. If the place in which the administrator is incorporated or maintains the administrator's principal place of business is not governed by a law that is substantially similar to this chapter, the administrator's home state is another state:

(1) in which the administrator conducts the business of the administrator; and

(2) that the administrator declares is the administrator's home state.

(k) "Insurance producer" has the meaning set forth in IC 27-1-15.6-2.

(l) "Insurer" means:

(1) a person who obtains a certificate of authority under:

(A) IC 27-1-3-20;

(B) IC 27-13-3; or

(C) IC 27-13-34; or

(2) an employer that provides life, health, or annuity coverage in Indiana under a governmental plan or a church plan.

(m) "NAIC" refers to the National Association of Insurance Commissioners.

(n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.

(o) "Nonresident administrator" means a person that applies for or holds a license under section 12.2 of this chapter.

~~*(f)*~~ *(p)* "Person" ~~*means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association.*~~

~~*(g) "Self-funded plan" means a plan for providing benefits for life, health, or annuity coverage by a person who is not an insurer.*~~ *has the meaning set forth in IC 27-1-15.6-2.*

(q) "Sell" has the meaning set forth in IC 27-1-15.6-2.

(r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.

(s) "Underwrite" refers to the:

(1) acceptance of a group application or an individual application for coverage of an individual in accordance with the

C o p y

written rules of the insurer; or

(2) planning and coordination of a benefit program provided by an insurer.

(t) "Uniform application" means the current version of the NAIC uniform application for third party administrators.

SECTION 97. IC 27-4-1-4, AS AMENDED BY P.L.178-2003, SECTION 35, AS AMENDED BY P.L.201-2003, SECTION 2, AND AS AMENDED BY P.L.211-2003, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender ~~his~~ *the policyholder's* insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of ~~his~~ *the person's* insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making,

C o p y

publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in

C o p y

the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in

C o p y

connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or ~~agent~~ *insurance producer* thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed ~~agent~~ *insurance producer* thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, ~~agent,~~ **an** *insurance producer,* or **a** solicitor duly licensed under the laws of this state, but such broker, ~~agent,~~ *insurance producer,* or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance ~~agent~~ *producer* or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of ~~its or his~~ *the lender's* right to approve or disapprove of the insurance

C o p y

company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of ~~agents~~ *insurance producers* or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, ~~agent,~~ *insurance producer,* or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of ~~his, her, or its~~ *the* right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

C o p y

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

C o p y

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

~~*(25)*~~ **(26)** *Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or IC 27-8-5-19.2.*

~~*(25)*~~ **(27)** *Violating IC 27-2-21 concerning use of credit information.*

SECTION 98. IC 27-7-6-6, AS AMENDED BY P.L.160-2003, SECTION 24, AND AS AMENDED BY P.L.178-2003, SECTION 46, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. *(a)* No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was procured by an ~~*agent*~~ *insurance producer* duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to ~~*such agent*~~ *the insurance producer* at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by ~~*such agent.*~~ *the insurance producer.*

(b) This section shall not apply:

~~*(a)*~~ *(1)* if the insurer has manifested its willingness to renew; ~~*nor*~~ ***or***

~~*(b)*~~ *(2)* in case of nonpayment of premium.

~~*Provided, That,*~~ *However,* notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) A notice of intention not to renew is not required if:

(1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;

(2) the transfer results in the same or broader coverage; and

(3) the insured approves the transfer.

(d) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

SECTION 99. IC 27-8-10-2.1, AS AMENDED BY P.L.178-2003,

C o p y

SECTION 63, AND AS AMENDED BY P.L.193-2003, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of ~~*seven* *(7)*~~ *nine (9)* members whose principal residence is in Indiana selected as follows:

(1) ~~*Three* *(3)*~~ *Four (4)* members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

(4) One (1) member to be appointed by the commissioner must be a representative of health care providers.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair,

C o p y

reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner. The plan of operation must:

(1) establish procedures for the handling and accounting of assets and money of the association;

(2) establish the amount and method of reimbursing members of the board;

(3) establish regular times and places for meetings of the board of directors;

(4) establish procedures for records to be kept of all financial transactions, and for the annual fiscal reporting to the commissioner;

(5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;

(6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and

(7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health

C o p y

insurance described in section 1 of this chapter and also has the specific authority to do the following:

(1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.

(2) Sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.

(3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.

(4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.

(5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.

(6) Pool risks among members.

(7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.

(8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.

(9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association. ~~*and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.*~~

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this

C o p y

chapter.

(f) *The board shall obtain an actuarial recommendation for development of an equitable methodology for determination of member assessments.*

(g) Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may ~~not~~ be:

(1) not more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year *for an insured whose family income is less than three hundred fifty-one percent (351%) of the federal income poverty level for the same size family; and*

(2) an amount equal to:

(A) not less than one hundred fifty-one percent (151%); and

(B) not more than two hundred percent (200%);

of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year, for an insured whose family income is more than three hundred fifty percent (350%) of the federal income poverty level for the same size family.

In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits identical to those issued by the association. All rates adopted by the association must be submitted to the commissioner for approval.

~~(g)~~ *(h)* Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association or any other equitable basis as may be provided in the plan of operation. ~~*For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined*~~

Copy

~~through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided.~~ In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. *Except as provided in sections 12 and 13 of this chapter,* net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

~~(h)~~ *(i)* The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

~~(i)~~ *(j)* The association is subject to examination by the department of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

~~(j)~~ *(k)* All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

~~(k)~~ *(l)* The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

~~(l) The association shall pay an agent's insurance producer's referral fee of twenty-five dollars ($25) to each insurance agent producer who refers an applicant to the association if that applicant is accepted.~~

(m) The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

(n) Members who after July 1, 1983, during any calendar year, have paid one (1) or more assessments levied under this chapter may either:

(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues

C o p y

or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or

(2) any member insurer may include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

(o) The association shall provide for the option of monthly collection of premiums.

SECTION 100. IC 27-8-10-5.1, AS AMENDED BY P.L.193-2003, SECTION 7, AND AS AMENDED BY P.L.211-2003, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) *A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.*

(b) Except as provided in ~~*subsections (b), and*~~ *subsection* (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. *However, an offer of coverage described in IC 27-8-5-2.5(e) or IC 27-8-5-19.2(e) does not affect an individual's eligibility for an association policy under this subsection.* Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

~~*(b)*~~ *(c)* Except as provided in IC 27-13-16-4 *and subsection (a),* a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

C o p y

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

~~*(c) The board of directors may establish procedures that would permit:*~~

~~*(1) an association policy to be issued to persons who are covered by a group insurance arrangement when that person or a dependent's health condition is such that the group's coverage is in jeopardy of termination or material rate increases because of that person's or dependent's medical claims experience; and*~~

~~*(2) an association policy to be issued without any limitation on preexisting conditions to a person who is covered by a health insurance arrangement when that person's coverage is scheduled to terminate for any reason beyond the person's control.*~~

(d) Coverage under an association policy terminates as follows:

(1) On the first date on which an insured is no longer a resident of Indiana.

(2) On the date on which an insured requests cancellation of the association policy.

(3) On the date of the death of an insured.

(4) At the end of the policy period for which the premium has been paid.

(5) On the first date on which the insured no longer meets the eligibility requirements under this section.

~~*(d)*~~ *(e)* An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

(1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

~~*(e)*~~ *(f)* An association policy that provides coverage for a family member of the person in whose name the contract is issued must, as to

C o p y

the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

~~(f)~~ *(g)* Except as provided in subsection ~~(g),~~ *(h),* an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

~~(g)~~ *(h)* If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection ~~(b),~~ *(c),* then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

~~(h)~~ *(i)* For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 101. IC 27-8-10-14, AS ADDED BY P.L.193-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Notwithstanding section 2.1 of this chapter, for the period beginning July 1, 2003, and ending March 15, 2004:

(1) fifty percent (50%) of any net loss determined under section ~~2.1(g)~~ **2.1(h)** of this chapter shall be assessed by the association to all members in proportion to their respective shares of total

C o p y

health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and

(2) fifty percent (50%) of any net loss determined under section ~~2.1(g)~~ **2.1(h)** of this chapter shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.

(b) This section expires March 15, 2004.

SECTION 102. IC 27-13-1-21.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.3. "Insurance producer" means a person who is a licensed insurance producer under IC 27-1-15.6 and who:**

(1) solicits, negotiates, effects, procures, delivers, renews, or continues a policy or contract for membership in a health maintenance organization or a prepaid limited health service organization;

(2) takes or transmits a membership fee or premium for the policy or contract other than for the insurance producer; or

(3) causes the insurance producer to be held out to the public, through advertising or otherwise, as a producer for a health maintenance organization or a prepaid limited health service organization.

SECTION 103. IC 30-2-8.6-38, AS ADDED BY P.L.3-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) If a transaction, including a declaration with respect to or a transfer of specific property, otherwise satisfies applicable law, the criteria of section 18 of this chapter are satisfied by either of the following:

(1) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

TRANSFER UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary), transfer to _____ (name of trustee other than transferor), as custodial trustee for _____ (name of beneficiary) as beneficiary and

C o p y

_____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

_____

(Signature)

(2) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

DECLARATION OF TRUST UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of owner of property), declare that henceforth I hold as custodial trustee for _____ (name of beneficiary other than transferor) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

_____

(Signature)

(b) Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

(1) Registration of a security in the name of:

(A) a trust company;

(B) an adult other than the transferor; or

(C) the transferor if the beneficiary is other than the transferor;

designated in substance "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(2) Delivery of:

(A) a certificated security, or a document necessary for the transfer of an uncertificated security; and

(B) any necessary endorsement;

to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in subsection (a)(1).

(3) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of:

C o p y

(A) a trust company;
(B) an adult other than the transferor; or
(C) the transferor if the beneficiary is other than the transferor;
designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".
(4) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of:
(A) a trust company;
(B) an adult other than the transferor; or
(C) the transferor if the beneficiary is other than the transferor;
designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".
(5) Delivery of a written assignment to:
(A) an adult other than the transferor; or
(B) a trust company;
whose name in the assignment is designated in substance by the words: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".
(6) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of:
(A) a trust company;
(B) an adult other than the donee of the power; or
(C) the donee who holds the power if the beneficiary is other than the donee;
whose name in the appointment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".
(7) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor that transfers the right under the contract to:
(A) a trust company;
(B) an adult other than the transferor; or
(C) the transferor if the beneficiary is other than the transferor;
whose name in the notification or assignment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".
(8) Execution, delivery, and recordation of a conveyance of an interest in real property in the name of:
(A) a trust company;
(B) an adult other than the transferor; or

C o p y

(C) the transferor if the beneficiary is other than the transferor;
designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(9) Issuance of a certificate of title by an agency of a state or of the United States that evidences title to tangible personal property:

(A) issued in the name of:

(i) a trust company;

(ii) an adult other than the transferor; or

(iii) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act"; or

(B) delivered to:

(i) a trust company; or

(ii) an adult other than the transferor or endorsed by the transferor to that person;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(10) Execution and delivery of an instrument of gift to:

(A) a trust company; or

(B) an adult other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the **Indiana** uniform custodial trust act".

SECTION 104. IC 31-9-2-42, AS AMENDED BY P.L.189-2003, SECTION 9, AND AS AMENDED BY P.L.221-2003, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 42. "Domestic or family violence" means, except for an act of self defense, the occurrence of one (1) or more of the following acts committed by a family or household member:

(1) Attempting to cause, threatening to cause, or causing physical harm to another family or household member without legal justification.

(2) Placing a family or household member in fear of physical harm without legal justification.

(3) Causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress.

C o p y

For purposes of *IC 22-4-15-1 and* IC 34-26-5, domestic ~~and~~ **or** family violence also includes stalking (as defined in IC 35-45-10-1) or a sex offense under IC 35-42-4, *whether or not the stalking or sex offense is committed by a family or household member.*

SECTION 105. IC 31-9-2-44.5, AS ADDED BY P.L.133-2002, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44.5. **(a) An individual is a** "family or household member" ~~means:~~ **of another person if the individual:**

(1) ~~a person who~~ is a current or former spouse **of the other person;**

(2) ~~a person who~~ is dating or has dated **the other person;**

(3) ~~a person who~~ is engaged or was engaged in a sexual relationship **with the other person;**

(4) ~~a person who~~ is related by blood or adoption **to the other person;**

(5) ~~a person who~~ is ~~related~~ or was related by marriage **to the other person;**

(6) ~~a person who~~ has **or previously had** an established legal relationship: ~~or previously established a legal relationship:~~

(A) as a guardian **of the other person;**

(B) as a ward **of the other person;**

(C) as a custodian **of the other person;**

(D) as a foster parent **of the other person;** or

(E) in a capacity **with respect to the other person** similar to those listed in clauses (A) through (D); **or**

(7) ~~a person who~~ has a child in common ~~and~~ **with the other person.**

~~(8)~~ **(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is** a minor child of ~~a person in a relationship described in subdivisions (1) through (7).~~ **one (1) of the persons.**

SECTION 106. IC 31-9-2-76.5, AS ADDED BY P.L.152-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 76.5. "Long term foster parent", for purposes of IC 31-34-21-4 and ~~IC 31-34-21-4.6,~~ **IC 31-34-21-4.5,** has the meaning set forth in ~~IC 31-34-21-4.6(a).~~ **IC 31-34-21-4.6.**

SECTION 107. IC 31-18-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. "Child" means an individual who is:

(1) owed or ~~is~~ alleged to be ~~(1)~~ owed a duty of support by the individual's parent; or

Copy

(2) the beneficiary of a support order directed to the parent.

The term includes a child who is over the age of majority.

SECTION 108. IC 31-19-2.5-3, AS ADDED BY P.L.61-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in section 4 of this chapter, notice must be given to a:

(1) person whose consent to adoption is required under IC 31-19-9-1; and

(2) putative father who is entitled to notice under IC 31-19-4.

(b) If the parent-child relationship has been terminated under IC 31-35 (or ~~31-6-5~~ **IC 31-6-5** before its repeal), notice of the pendency of the adoption proceedings shall be given to the:

(1) licensed child placing agency; or

(2) county office of family and children;

that is the ward of the child.

SECTION 109. IC 32-34-1-20, AS AMENDED BY P.L.107-2003, SECTION 2, AND AS AMENDED BY P.L.224-2003, SECTION 113, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

(1) does not include a communication with an owner by an agent of the holder who has not identified in writing the property to the owner; and

(2) includes the following:

(A) With respect to an account or underlying shares of stock or other interest in a business association or financial organization:

(i) the cashing of a dividend check or other instrument of payment received; or

(ii) evidence that the distribution has been received if the distribution was made by electronic or similar means.

(B) A deposit to or withdrawal from a bank account.

(C) The payment of a premium with respect to a property interest in an insurance policy.

(D) The mailing of any correspondence in writing from a financial institution to the owner, including:

(i) a statement;

(ii) a report of interest paid or credited; or

(iii) any other written advice;

relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner

C o p y

has with the financial institution if the correspondence is not returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

(i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or

(ii) any other relationship with the financial institution, including the payment of any amounts due on a loan;

if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

(1) For traveler's checks, fifteen (15) years after issuance.

(2) For money orders, seven (7) years after issuance.

(3) For consumer credits, three (3) years after the credit becomes payable.

~~*(4) For gift certificates, three (3) years after December 31 of the year in which the gift certificate was sold. If the gift certificate is redeemable in merchandise only, the amount abandoned is considered to be sixty percent (60%) of the certificate's face value.*~~

~~*(5)*~~ *(4)* For amounts owed by an insurer on a life or an endowment insurance policy or an annuity contract:

(A) if the policy or contract has matured or terminated, three (3) years after the obligation to pay arose; or

(B) if the policy or contract is payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.

~~*(6)*~~ *(5)* For property distributable by a business association in a

C o p y

course of dissolution, one (1) year after the property becomes distributable.

~~(7)~~ *(6)* For property or proceeds held by a court or a court clerk, ~~other than property or proceeds related to child support,~~ five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3. ~~For property or proceeds related to child support held by a court or a court clerk, ten (10) years after the property or proceeds become distributable.~~

~~(8)~~ *(7)* For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.

~~(9)~~ *(8)* For compensation for personal services, one (1) year after the compensation becomes payable.

~~(10)~~ *(9)* For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.

~~(11)~~ *(10)* For stock or other interest in a business association, five (5) years after the earlier of:

(A) the date of the last dividend, stock split, or other distribution unclaimed by the apparent owner; or

(B) the date of the second mailing of a statement of account or other notification or communication that was:

(i) returned as undeliverable; or

(ii) made after the holder discontinued mailings to the apparent owner.

~~(12)~~ *(11)* For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, three (3) years after the earliest of:

(A) the actual date of the distribution or attempted distribution;

(B) the distribution date as stated in the plan or trust agreement governing the plan; or

(C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.

~~(13)~~ *(12)* For a demand, savings, or matured time deposit, including a deposit that is automatically renewable, five (5) years after maturity or five (5) years after the date of the last indication by the owner of interest in the property, whichever is earlier. Property that is automatically renewable is considered matured for purposes of this section upon the expiration of its initial period, unless the owner has consented to a renewal at or about the time

C o p y

of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder.

~~(14)~~ *(13) For property payable or distributable in the course of a demutualization, rehabilitation, or related reorganization of a mutual insurance company, five (5) years after the earlier of:*

(A) the date of last contact with the policyholder; or

(B) the date the property became payable or distributable.

~~(15)~~ **(14)** For all other property, the earlier of five (5) years after:

(A) the owner's right to demand the property; or

(B) the obligation to pay or distribute the property;

arose.

(d) Property is payable or distributed for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or a document otherwise required to receive payment.

SECTION 110. IC 32-34-1-31, AS AMENDED BY P.L.107-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) Except as provided in subsections (b), (c), and (f), the attorney general, not later than three (3) years after the receipt of abandoned property, shall sell the property to the highest bidder at a commercially reasonable public sale that, in the judgment of the attorney general, affords the most favorable market for the property. The attorney general may decline the highest bid and reoffer the property for sale if, in the judgment of the attorney general, the bid is insufficient. If, in the judgment of the attorney general, the probable cost of the sale exceeds the value of the property, the attorney general is not required to offer the property for sale. A sale held under this section must be preceded, at least three (3) weeks before the sale, by one (1) publication of notice in a newspaper of general circulation published in the county in which the property is to be sold.

(b) If the property is of a type that is customarily sold on a recognized market or that is subject to widely distributed standard price quotations, and if, in the opinion of the attorney general, the probable cost of a public sale to the highest bidder would:

(1) exceed the value of the property; or

(2) result in a net loss;

the attorney general may sell the property privately, without notice by publication, at or above the prevailing price for the property at the time of the sale.

(c) Securities shall be sold as soon as reasonably possible following receipt. If a valid claim is made for any securities in the possession of the attorney general, the attorney general may:

(1) transfer the securities to the claimant; or

C o p y

(2) pay the claimant the value of the securities as of the date the securities were delivered to the attorney general.

Notice of the sale of securities is not required. Securities listed on an established stock exchange must be sold at prices prevailing at the time of the sale on the stock exchange. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the attorney general considers reasonable.

(d) A purchaser of property at a sale conducted by the attorney general under this chapter takes the property free of all claims of the owner or previous holder and of all persons claiming through or under them. The attorney general shall execute all documents necessary to complete the transfer of ownership.

(e) A person does not have a claim against the attorney general for any appreciation of property after the property is delivered to the attorney general, except in a case of intentional misconduct or malfeasance by the attorney general.

(f) If property is forwarded to the attorney general and the **report concerning the** property does not have ~~any~~ **all** of the information required under section 26(b)(1) of this chapter or the total value of the property is ten dollars ($10) or less, the attorney general may immediately:

(1) sell the property and transmit the proceeds; or

(2) transfer the property;

to the state general fund.

SECTION 111. IC 33-4-5-7, AS AMENDED BY P.L.195-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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, 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 10-16-2-5;

C o p y

(6) is an officer or enlisted person of the guard reserve forces authorized by the governor under 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 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

C o p y

cases.

(f) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(g) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (c), (d), and (l), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

(h) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a ~~specified~~ condition **specified** under subsection ~~(d)~~ **(i)** or whether the person has committed a subsequent offense.

(i) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(j) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(k) A person has not been convicted of a crime of domestic violence for purposes of subsection (h) if the conviction has been expunged or if the person has been pardoned.

C o p y

(l) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on post-conviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the post-conviction proceeding.

SECTION 112. IC 33-4-8-3 AS AMENDED BY P.L.94-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A senior judge:

(1) exercises the jurisdiction granted to the court served by the senior judge;

(2) may serve as a domestic relations mediator, subject to the code of judicial conduct;

(3) serves at the pleasure of the supreme court; and

(4) serves in accordance with rules adopted by the supreme court under IC 33-2-1-8.

A senior judge serving as a domestic relations mediator is not entitled to reimbursement or a per diem under ~~IC 33-4-8-5.~~ **section 5 of this chapter.** A senior judge serving as a domestic relations mediator may receive compensation from the alternative dispute resolution fund under IC 33-4-13, in accordance with the county domestic relations alternative dispute resolution plan.

SECTION 113. IC 34-6-2-44.8, AS ADDED BY P.L.133-2002, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 44.8. **(a) An individual is a** "family or household member" ~~means:~~ **of another person if the individual:**

(1) ~~a person who~~ is a current or former spouse **of the other person;**

(2) ~~a person who~~ is dating or has dated **the other person;**

(3) ~~a person who~~ is engaged or was engaged in a sexual relationship **with the other person;**

(4) ~~a person who~~ is related by blood or adoption **to the other person;**

(5) ~~a person who~~ is ~~related~~ or was related by marriage **to the other person;**

(6) ~~a person who~~ has **or previously had** an established legal relationship: ~~or previously established a legal relationship:~~

(A) as a guardian **of the other person;**

(B) as a ward **of the other person;**

(C) as a custodian **of the other person;**

(D) as a foster parent **of the other person;** or

Copy

(E) in a capacity **with respect to the other person** similar to those listed in clauses (A) through (D); **or**

(7) ~~a person who~~ has a child in common ~~and~~ **with the other person.**

~~(8)~~ **(b) An individual is a "family or household member" of both persons to whom subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), or (a)(7) applies if the individual is** a minor child of ~~a person in a relationship described in subdivisions (1) through (7).~~ **one (1) of the persons.**

SECTION 114. IC 34-13-3-4, AS AMENDED BY P.L.108-2003, SECTION 2, AND AS AMENDED BY P.L.161-2003, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. *(a)* The combined aggregate liability of all governmental entities and of all public employees, acting within the scope of their employment and not excluded from liability under section 3 of this chapter, does not exceed:

(1) ~~*three hundred thousand dollars ($300,000)*~~ for injury to or death of one (1) person in any one (1) occurrence:

(A) three hundred thousand dollars ($300,000) for a cause of action that accrues before January 1, 2006;

(B) five hundred thousand dollars ($500,000) for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or

(C) seven hundred thousand dollars ($700,000) for a cause of action that accrues on or after January 1, 2008; and

~~*and*~~ *(2)* ~~*does not exceed five million dollars ($5,000,000)*~~ for injury to or death of all persons in that occurrence, *five million dollars ($5,000,000).*

(b) A governmental entity *or an employee of a governmental entity acting within the scope of employment* is not liable for punitive damages.

SECTION 115. IC 34-24-1-9, AS ADDED BY P.L.174-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Upon motion of a prosecuting attorney under ~~IC 35-33-5-5(i),~~ **IC 35-33-5-5(j),** property seized under this chapter must be transferred, subject to the perfected liens or other security interests of any person in the property, to the appropriate federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice.

(b) Money received by a law enforcement agency as a result of a forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C.

C o p y

881(e) and any related regulations adopted by the United States Department of Justice must be deposited into a nonreverting fund and may be expended only with the approval of:

(1) the executive (as defined in IC 36-1-2-5), if the money is received by a local law enforcement agency; or

(2) the governor, if the money is received by a law enforcement agency in the executive branch.

The money received under this subsection must be used solely for the benefit of any agency directly participating in the seizure or forfeiture for purposes consistent with federal laws and regulations.

SECTION 116. IC 34-30-2-45.5, AS AMENDED BY P.L.120-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.5. IC 12-16-4.5-6 ~~and after June 30, 2004, IC 12-16.1-4-6~~ (Concerning persons who aid a patient in completing an application for assistance under the hospital care for the indigent program).

SECTION 117. IC 34-30-2-45.7, AS AMENDED BY P.L.120-2002, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.7. IC 12-16-5.5-2 ~~and after June 30, 2004, IC 12-16.1-5-2~~ (Concerning hospitals for providing information verifying indigency of patient).

SECTION 118. IC 34-30-2-45.8, AS ADDED BY P.L.181-2003, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.8. ~~IC 12-18-8-7 and IC 12-18-8-12~~ **IC 12-18-8-8** (Concerning an entity or **a** person who **in good faith** provides ~~a record or report to~~ **information that is included in a fatality review performed by** a local domestic violence fatality review team). ~~or members of a local domestic violence fatality review team and persons who attend a meeting of a local child fatality review team as invitees of the chairperson).~~

SECTION 119. IC 34-30-2-45.9, AS AMENDED BY P.L.120-2002, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 45.9. IC 12-16-13.5-1 ~~and after June 30, 2004, IC 12-16.1-12-1~~ (Concerning hospitals or persons providing services under the hospital care for the indigent program).

SECTION 120. IC 34-30-2-54 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 54. IC 14-16-1-28 (Concerning landowners or tenants of property used by persons operating ~~off-road recreational vehicles).~~ **vehicles for recreational purposes).**

SECTION 121. IC 34-30-2-129.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

C o p y

[EFFECTIVE UPON PASSAGE]: **Sec. 129.2. IC 30-2-8.6-32 (Concerning the custodial trustee and beneficiary of a custodial trust).**

SECTION 122. IC 34-30-8-1, AS AMENDED BY P.L.2-2003, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 10-16-2-6.

(7) The assistant adjutants general appointed under 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 10-10-16-3-1~~ **IC 10-16-3-1** and the members of that board.

(10) The local armory board appointed under IC 10-16-4-1 for the armory and the members of that board.

SECTION 123. IC 34-30-15-14, AS AMENDED BY P.L.1-1999, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The immunities granted by sections 15 through 20 of this chapter shall not extend to any person who violates the confidentiality requirements of sections 1 through ~~14~~ **13** of this chapter.

SECTION 124. IC 35-41-4-2, AS AMENDED BY P.L.1-2002, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

(1) within five (5) years after the commission **of the offense, in the case** of a Class B, Class C, or Class D felony; or

(2) within two (2) years after the commission **of the offense, in the case** of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

Copy

(1) first discovers the identity of the offender with DNA (deoxyribonucleic acid) evidence; or

(2) could have discovered the identity of the offender with DNA (deoxyribonucleic acid) evidence by the exercise of due diligence.

However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic acid) evidence after the time otherwise allowed for prosecution and before July 1, 2001, the one (1) year period provided in this subsection is extended to July 1, 2002.

(c) A prosecution for a Class A felony may be commenced at any time.

(d) A prosecution for murder may be commenced:

(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

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

(3) IC 35-42-4-6 (Child solicitation).

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

(5) IC 35-46-1-3 (Incest).

~~(f) Notwithstanding subsection (c)(1), a prosecution for child molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person who is at least sixteen (16) years of age allegedly commits the offense against a child who is not more than two (2) years younger than the older person, is barred unless commenced within five (5) years after the commission of the offense.~~

~~(g)~~ **(f)** A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

~~(h)~~ **(g)** If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

~~(i)~~ **(h)** The period within which a prosecution must be commenced does not include any period in which:

Copy

(1) the accused person is not usually and publicly resident in Indiana or so conceals himself that process cannot be served on him;

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge him with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

~~(j)~~ **(i)** For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

~~(k)~~ **(j)** A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 125. IC 35-47-2.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The state police department shall provide its response to a requesting dealer under section 6 of this chapter during the dealer's call, or by return call without delay.

(b) If a criminal history check indicates that a prospective purchaser or transferee has a disqualifying criminal record or has been acquitted by reason of insanity and committed to the custody of the division of mental health, the state police department has until the end of the next business day of the state police department to advise the dealer that the records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law.

(c) If a dealer:

(1) is not advised of a prohibition before the end of the next business day of the state police department; and

(2) has fulfilled the requirements of section 4 of this chapter;

the dealer may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

(d) In case of electronic failure or other circumstances beyond the control of the state police department, the dealer shall be advised

C o p y

immediately of the reason for the delay and be given an estimate of the length of the delay. However, after a notification under this subsection, the state police department shall inform the requesting dealer whether state police department records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law: ~~not later than:~~

(1) **by** the end of the next business day of the state police department following correction of the problem that caused the delay; or

(2) **within** three (3) business days of the state police department;

whichever ~~is~~ **time limit occurs** earlier.

(e) A dealer that fulfills the requirements of section 4 of this chapter and is told by the state police department that a response will not be available under subsection (d) may immediately complete the sale or transfer and may not be considered in violation of this chapter with respect to the sale or transfer.

SECTION 126. IC 36-4-3-13, AS AMENDED BY P.L.173-2003, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as provided in subsections (e) and (g), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality.

(2) That the territory sought to be annexed is needed and can be

C o p y

used by the municipality for its development in the reasonably near future.

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(e) ~~a~~ At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:

(A) The following services are adequately furnished by a

C o p y

provider other than the municipality seeking the annexation:
(i) Police and fire protection.
(ii) Street and road maintenance.
(B) The annexation will have a significant financial impact on the residents or owners of land.
(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).
(D) One (1) of the following opposes the annexation:
(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.
Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:
(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or
(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.
The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) This subsection applies only to cities located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities. At the hearing under section 12 of this chapter, the court shall do the following:
(1) Consider evidence on the conditions listed in subdivision (2).
(2) Order a proposed annexation not to take place if the court finds that all of the following conditions exist in the territory proposed to be annexed:
(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:
(i) Police and fire protection.

Copy

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land.

(C) One (1) of the following opposes the annexation:

(i) A majority of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(h) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

SECTION 127. IC 36-7-11.5-7, AS ADDED BY P.L.92-2003, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Except as otherwise specified in this chapter, the commission has all of the powers and responsibilities of a historic preservation commission established under IC 36-7-11.

(b) The commission shall do the following:

(1) Designate a fiscal agent who must be the fiscal officer of one (1) of the towns to which this chapter applies.

(2) Employ professional staff ~~to~~ necessary **to** assist the commission in carrying out its duties.

(3) Engage consultants, attorneys, accountants, and other professionals necessary to carry out the commission's duties.

(4) Jointly approve, with the Indiana gaming commission, the location and exterior design of a riverboat to be operated in the historic hotel district.

(5) Make recommendations to the Indiana gaming commission concerning the selection of an operating agent (as defined in IC 4-33-2-14.5) that the commission believes will:

(A) promote the most economic development in the area surrounding the historic hotel district; and

(B) best serve the interests of the residents of the county in which the historic hotel district is located and all other citizens of Indiana.

Copy

(6) Make recommendations to the Indiana gaming commission concerning the operation and management of the riverboat to be operated in the county.

(c) This section does not limit the powers of the Indiana gaming commission with respect to the administration and regulation of riverboat gaming under IC 4-33.

SECTION 128. IC 36-7-11.5-11, AS ADDED BY P.L.92-2003, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "fund" refers to the West Baden Springs historic hotel preservation and maintenance fund established by subsection (b).

(b) The West Baden Springs historic hotel preservation and maintenance fund is established. The fund consists of the following:

(1) Amounts deposited in the fund under IC 4-33-12-6(c) and IC 4-33-13-5(b).

(2) Grants and gifts that the department of natural resources receives for the fund under terms, obligations, and liabilities that the department considers appropriate.

(3) The one million dollar ($1,000,000) initial fee paid to the gaming commission **under** IC 4-33-6.5.

The fund shall be administered by the department of natural resources. The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

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

(e) No money may be appropriated from the fund except as provided in this subsection. The general assembly may appropriate interest accruing to the fund to the department of natural resources only for the following purposes:

(1) To maintain the parts of a qualified historic hotel that were restored before July 1, 2003.

(2) To maintain the grounds surrounding a qualified historic hotel.

No money may be appropriated from the fund for restoration purposes if the restoration is to occur after July 1, 2003.

SECTION 129. IC 36-8-7.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. All pensions, annuities, and benefits payable out of the 1953 fund are exempt from

C o p y

seizure or levy upon attachment, garnishment, execution, and all other process. Except as provided in section 23 **of this chapter,** pensions, annuities, and benefits are not subject to sale, assignment, or transfer by a beneficiary.

SECTION 130. IC 36-8-10-16.5, AS AMENDED BY P.L.86-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. (a) As used in this section, "dies in the line of duty" has the meaning set forth in IC 5-10-10-2.

(b) This section applies to the survivors of an eligible employee who dies in the line of duty.

(c) After December 31, 2003, the department that employed the eligible employee who died in the line of duty shall offer to provide and pay for health insurance coverage for the eligible employee's surviving spouse and for each natural child, stepchild, or adopted child of the eligible employee:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age, if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to an eligible employee, the health insurance provided to a surviving spouse or child under this subsection must be equal in coverage to that offered to an eligible employee. The offer to provide and pay for health insurance ~~cover~~ **coverage** shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the eligible employee is eligible for coverage under subdivision (1), (2), or (3).

SECTION 131. IC 36-8-13-3, AS AMENDED BY P.L.95-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from

C o p y

the United States armed forces.

(B) A person whose mother or father was a:

(i) firefighter of a unit;

(ii) municipal police officer; or

(iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

A person described in this subdivision ~~many~~ **may** not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have all municipal territory completely within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving

C o p y

the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both, without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.

SECTION 132. IC 36-9-27-26.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.5. (a) A county executive may change a regulated drain that is subject to this chapter into a drain that is subject to the jurisdiction of a drainage maintenance and repair district under IC 14-27-8.

(b) When a drain that is subject to assessments for periodic maintenance and repair under this chapter becomes subject to the jurisdiction of a drainage maintenance and repair district under IC 14-27-8, the county treasurer shall transfer all money in the drain's maintenance fund established under ~~IC 36-9-27-44~~ **section 44 of this chapter** to the drain's drainage maintenance fund established under IC 14-27-8-19.

(c) The county executive shall establish procedures for the transition of a drain from administration under this chapter to administration

C o p y

under IC 14-27-8.

SECTION 133. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 3-11-6.5-0.5; IC 3-11-15-13.5; IC 6-2.5-6-14; IC 12-7-2-143; IC 13-11-2-85.5; IC 13-11-2-117; IC 13-11-2-265.5; IC 27-13-1-3; IC 34-30-2-55; IC 34-30-2-116.8; IC 36-9-37-2.

SECTION 134. [EFFECTIVE UPON PASSAGE] **(a) IC 4-22-2.1, as added by this act, is a recodification of IC 4-22-2-37.1. The purpose of this act in adding IC 4-22-2.1 and repealing IC 4-22-2-37.1 is to redistribute the text of the former IC 4-22-2-37.1 into multiple sections within a new chapter, thereby making the text easier to read and preventing future technical conflicts of the sort that have arisen during a legislative session when multiple acts of the general assembly amended the law set forth in a single section, IC 4-22-2-37.1.**

(b) A reference in a statute or rule to IC 4-22-2-37.1 shall be treated, after the effective date of the repeal of IC 4-22-2-37.1 and the addition of IC 4-22-2.1 by this act, as a reference to IC 4-22-2.1.

(c) The validity of a rule adopted under IC 4-22-2-37.1 before its repeal by this act is not affected by the repeal of IC 4-22-2-37.1 by this act.

(d) A rule adopted under IC 4-22-2-37.1 before its repeal by this act may be extended for one (1) extension period through the adoption of another rule under IC 4-22-2.1, as added by this act, if the rule could have been extended for one (1) extension period through the adoption of another rule under IC 4-22-2-37.1 if IC 4-22-2-37.1 had not been repealed by this act.

(e) Except to the extent that:

(1) this act is amended to reflect the changes made in another act that adds to, amends, or repeals a provision of IC 4-22-2-37.1 or IC 4-22-2.1; or

(2) the minutes of the 2003 meetings of the code revision commission indicate a different purpose;

the substantive operation and effect of the text of IC 4-22-2-37.1 continue uninterrupted as if IC 4-22-2-37.1 had not repealed by this act.

(f) This act, in repealing IC 4-22-2-37.1 and adding IC 4-22-2.1, does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

C o p y

(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 repeal of IC 4-22-2-37.1 and the addition of IC 4-22-2.1. 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 as under prior law as if this act had not repealed IC 4-22-2-37.1 and added IC 4-22-2.1.

(g) This act, in repealing IC 4-22-2-37.1 and adding IC 4-22-2.1, 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.

(h) This act, in repealing IC 4-22-2-37.1 and adding IC 4-22-2.1, 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 rules adopted under IC 4-22-2-37.1.

(i) Except as provided in subsection (e)(1) and (e)(2), if the literal meaning of IC 4-22-2.1 as added by this act (including a literal application of an erroneous change in an internal reference) would result in a substantive change in the prior law under IC 4-22-2-37.1, the difference shall be construed as a

C o p y

typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in this act; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply IC 4-22-2.1 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 this act in repealing IC 4-22-2-37.1 and adding IC 4-22-2.1, to the extent that this act is not substantively identical to the prior law.

(j) The inclusion in or omission from this act of a reference to IC 4-22-2-37.1 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;

(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 repeal of IC 4-22-2-37.1 and the addition of IC 4-22-2.1 by this act. 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 as under prior law as if IC 4-22-2-37.1 had not repealed by this act.

C o p y

(k) The inclusion in or omission from this act of a reference to IC 4-22-2-37.1 before its repeal does not affect the use of a violation of or noncompliance with a rule adopted under IC 4-22-2-37.1 as the basis for the suspension or revocation of a license, permit, certificate of registration, or other grant of authority, as necessary or appropriate to apply this act in a manner that does not result in a substantive change in the law.

SECTION 135. [EFFECTIVE UPON PASSAGE] **The amendment of IC 35-41-4-2(f) by this act does not apply to offenses committed under IC 35-42-4-3(c) and IC 35-42-4-3(d) as those provisions existed before the amendment of IC 35-42-4-3 by P.L.79-1994, SECTION 12.**

SECTION 136. P.L.112-2003, SECTION 2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 2. (a) As used in this SECTION, "commission" refers to the fire prevention and building safety commission.

(b) The commission shall consider the following criteria in adopting standards under IC 22-13-4-7, as added by this act:

(1) Standards for an entrance to the dwelling unit that has the following features:

(A) The entrance is designed to:

(i) provide access to; and

(ii) be usable by;

people with physical disabilities.

(B) The entrance is designed:

(i) without any steps; or

(ii) with a rise that is not more than one-half (1/2) inch.

(C) The entrance is located on a continuous unobstructed path from the entrance of the building that contains or consists of the dwelling unit to the street. The commission shall consider standards that make the path:

(i) usable by a person who uses a wheelchair; and

(ii) safe for and usable by people with other physical disabilities and people without physical disabilities.

The commission's standards may include curb ramps, parking access aisles, walks, ramps, or lifts.

(2) Standards for doors within the dwelling that are designed to allow passage for a person described in subdivision (1)(C)(i) ~~and~~ **or** (1)(C)(ii). The commission shall consider standards that require a door to have an unobstructed opening of at least thirty-six (36) inches.

(3) Standards for the location of environmental controls including

Copy

the following:

(A) Except as provided in clause (B), environmental controls that are located:

(i) not higher than forty-eight (48) inches; and

(ii) not lower than eighteen (18) inches;

on a wall.

(B) If environmental controls are located directly above a counter, **a** sink, or **an** appliance, the controls shall be located not higher than three (3) inches above the counter, sink, or appliance.

(4) Standards for indoor rooms that:

(A) have an area of not less than seventy (70) square feet; and

(B) contain no side or dimension narrower than seven (7) feet.

(5) Standards for a bathroom located on the first floor of the dwelling that contains at least a toilet, **a** sink, and walls that may be reinforced later to allow for the installation of grab bars.

(6) Standards for interior hallways that are level and at least thirty-six (36) inches wide.

(c) The commission shall adopt rules under IC 4-22-2 as required under IC 22-13-4-7, as added by this act, not later than January 1, 2005.

(d) This SECTION expires January 1, 2006.

SECTION 137. P.L.192-2002(ss), SECTION 199, AS AMENDED BY P.L.269-2003, SECTION 14, AND AS AMENDED BY P.L.269-2003, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 199. (a) This SECTION applies to a taxpayer that:

(1) was subject to the gross income tax under IC 6-2.1 before January 1, 2003; ~~*and*~~

(2) has a taxable year that begins before January 1, 2003, and ends after December 31, 2002; *and*

(3) is not subject to the adjusted gross income tax under IC 6-3 in the taxpayer's taxable year.

(b) A taxpayer shall file the taxpayer's estimated gross income tax return and pay the taxpayer's estimated gross income tax liability to the department of state revenue as provided in IC 6-2.1-5-1.1 ~~*for due dates that occur before January 1, 2003.*~~ *(before its repeal).*

(c) ~~Not later than *April 15, 2003, a taxpayer shall file a*~~ *Except as otherwise provided in 45 IAC 1.1-5-3, the* final gross income tax return ~~*with the department of state revenue*~~ *of a taxpayer is due on the fifteenth day of the fourth month following the end of the taxpayer's regular taxable year determined as if IC 6-2.1 had not been repealed by P.L.192-2002(ss). The taxpayer shall file the final gross income tax*

Copy

return on a form and in the manner prescribed by the department of state revenue. At the time of filing the final gross income tax return, a taxpayer shall pay to the department of state revenue an amount equal to the remainder of:

(1) the total gross income tax liability incurred by the taxpayer for the part of the taxpayer's taxable year that occurred in calendar year 2002; minus

(2) the sum of:

(A) the total amount of gross income taxes that was previously paid by the taxpayer to the department of state revenue for any quarter of that same part of the taxpayer's taxable year; plus

(B) any gross income taxes that were withheld from the taxpayer for that same part of the taxpayer's taxable year under IC 6-2.1-6.

(d) The department of state revenue may prescribe forms and procedures for reconciling the returns and tax due under P.L.192-2002(ss), SECTION 199 before the enactment of this amendment and the returns and tax due under P.L.192-2002(ss), SECTION 199, as amended by this SECTION. The procedures may include procedures for granting an automatic extension for the filing of some or all returns due before April 16, 2003, under P.L.192-2002(ss), SECTION 199 before the enactment of this amendment.

SECTION 138. P.L.224-2003, SECTION 261, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 261. (a) The duties conferred on the department of commerce relating to energy policy are transferred to the office of energy policy on July 1, 2005.

(b) The rules adopted by the department of commerce concerning energy policy before July 1, 2005, are considered, after June 30, 2005, rules of the office of energy policy until the office of energy policy adopts replacement rules.

(c) On July 1, 2005, the office of energy policy becomes the owner of all property relating to energy policy of the department of commerce.

(d) Any appropriations to the department of commerce relating to energy policy and any funds relating to energy policy under the control or supervision of the department of commerce on June 30, 2005, are ~~be~~ transferred to the control or supervision of the office of energy policy on July 1, 2005.

(e) The legislative services agency shall prepare legislation for introduction in the 2004 regular session of the general assembly to organize and correct statutes affected by the transfer of responsibilities

C o p y

to the office of energy policy by this act.

(f) This SECTION expires January 1, 2006.

SECTION 139. P.L.264-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 15. (a) IC 6-1.1-10-16 (subject to SECTION ~~13~~ **14** of this act), IC 6-1.1-10-21, and IC 14-33-7-4, all as amended by this act, apply only to property taxes first due and payable after December 31, 2002.

SECTION 140. P.L.272-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 10. (a) This SECTION applies to certified applications for an enterprise zone inventory credit under IC 6-1.1-20.8 that were filed for property taxes due and payable in 2002.

(b) Notwithstanding any other law, the county auditor may determine that a person who filed a certified application ~~no~~ **not** later than thirty (30) days after the time established in IC 6-1.1-20.8-2.5 is eligible to receive the credit. In order to approve the application, the county auditor shall make the findings set forth in subsection (d).

(c) To apply for a determination of eligibility under this SECTION, a person must file with the auditor of the county in which the person's facility is located, by ~~no~~ **not** later than July 1, 2003, an application for an enterprise zone inventory credit for its inventory as of March 1, 2001, on a form EZ-1 prescribed by the department of local government finance.

(d) If an application for an enterprise zone inventory credit is filed by a person under subsection (c), the county auditor shall, within thirty (30) days after ~~such~~ **the** filing, determine whether the application should be approved. The county auditor shall make the following findings:

(1) The person applied for the credit ~~no~~ **not** later than thirty (30) days after the time established in IC 6-1.1-20.8-2.5 and the application was denied as being not timely filed.

(2) The application would have been approved if it had been timely filed.

(3) Local officials support the approval of the application.

(4) Approval of the application will result in a significant assistance payment to the applicable local zone urban enterprise association.

(5) The approval of the application will promote economic development activities in the enterprise zone.

(e) If the auditor approves the application, the auditor shall determine the amount of the credit by calculating the person's property tax liability on inventory located within an enterprise zone as of March

C o p y

1, 2001, payable in 2002.

(f) Without any appropriation being required, the county auditor shall issue warrants payable from the county general fund to a person eligible for credit under subsection (e) in the following amounts and on the following dates:

(1) On July 15, 2004, for an amount equal to one-half **(1/2)** of the liability calculated under subsection (e)(1).

(2) On January 15, 2005, for an amount equal to one-half **(1/2)** of the liability calculated under subsection (e)(1).

(g) In addition to issuing a warrant, the county auditor may choose to grant the person a credit against the person's property tax liability payable in 2004 and 2005 for all or a portion of the amount of the credit determined in subsection (e).

(h) Within thirty (30) days after receiving either the credit against property tax liability under subsection (g) or each of the warrants issued under subsection (f), the person shall pay an amount equal to the pro rata amount of any additional registration fee under IC 4-4-6.1-2(a)(4) and the pro rata amount of any assistance payment under IC 4-4-6.1-2(b).

(i) This SECTION expires December 31, 2005.

SECTION 141. P.L.276-2003, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 36. (a) An advance to a charter school from the department **of** education that is financed by a transfer by the state board of finance from the abandoned property fund established ~~in~~ **by** IC 32-34-1-33 is forgiven.

(b) This SECTION expires June 30, 2005.

SECTION 142. P.L.277-2003, SECTION 16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 16. (a) Except as provided in subsection (b), the administrative ~~fee~~ **fees** deposited into:

(1) the county supplemental juvenile probation services fund under IC 31-40-2-1;

(2) the county supplemental adult probation services fund under IC 35-38-2-1(f); **and**

(3) the local supplemental adult probation services fund under IC 35-38-2-1(g);

as amended by this act shall be used to pay for salary increases required under the salary schedule adopted under IC 36-2-16.5 and IC 11-13-8 that became effective January 1, 2004.

(b) Administrative fees collected that exceed the amount required to pay for salary increases required under the salary schedule adopted

C o p y

under IC 36-2-16.5 and IC 11-13-1-8 may be used in any manner permitted under IC 31-40-2-2, IC 35-38-2-1(f), or IC 35-38-2-1(i).

SECTION 143. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 106, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 181, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 156. IC 34-24-1-9, AS ADDED BY P.L.174-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) Upon motion of a prosecuting attorney under ~~IC 35-33-5-5(i),~~ **IC 35-33-5-5(j),** property seized under this chapter must be transferred, subject to the perfected liens or other security interests of any person in the property, to the appropriate federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice.

(b) Money received by a law enforcement agency as a result of a forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice must be deposited into a nonreverting fund and may be expended only with the approval of:

(1) the executive (as defined in IC 36-1-2-5), if the money is received by a local law enforcement agency; or

(2) the governor, if the money is received by a law enforcement agency in the executive branch.

The money received under this subsection must be used solely for the benefit of any agency directly participating in the seizure or forfeiture for purposes consistent with federal laws and regulations.".

Page 182, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 164. IC 35-41-4-2, AS AMENDED BY P.L.1-2002, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

(1) within five (5) years after the commission **of the offense, in the case** of a Class B, Class C, or Class D felony; or

(2) within two (2) years after the commission **of the offense, in the case** of a misdemeanor.

(b) A prosecution for a Class B or Class C felony that would otherwise be barred under this section may be commenced within one (1) year after the earlier of the date on which the state:

C o p y

(1) first discovers the identity of the offender with DNA (deoxyribonucleic acid) evidence; or

(2) could have discovered the identity of the offender with DNA (deoxyribonucleic acid) evidence by the exercise of due diligence.

However, for a Class B or Class C felony in which the state first discovered the identity of an offender with DNA (deoxyribonucleic acid) evidence after the time otherwise allowed for prosecution and before July 1, 2001, the one (1) year period provided in this subsection is extended to July 1, 2002.

(c) A prosecution for a Class A felony may be commenced at any time.

(d) A prosecution for murder may be commenced:

(1) at any time; and

(2) regardless of the amount of time that passes between:

(A) the date a person allegedly commits the elements of murder; and

(B) the date the alleged victim of the murder dies.

(e) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

(1) IC 35-42-4-3(a) (Child molesting).

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

(3) IC 35-42-4-6 (Child solicitation).

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

(5) IC 35-46-1-3 (Incest).

~~(f) Notwithstanding subsection (c)(1), a prosecution for child molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person who is at least sixteen (16) years of age allegedly commits the offense against a child who is not more than two (2) years younger than the older person, is barred unless commenced within five (5) years after the commission of the offense.~~

~~(g)~~ **(f)** A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

~~(h)~~ **(g)** If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

~~(i)~~ **(h)** The period within which a prosecution must be commenced does not include any period in which:

C o p y

(1) the accused person is not usually and publicly resident in Indiana or so conceals himself that process cannot be served on him;

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge him with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

~~(j)~~ **(i)** For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

~~(k)~~ **(j)** A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.".

Page 196, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 176. [EFFECTIVE UPON PASSAGE] **The amendment of IC 35-41-4-2(f) by this act does not apply to offenses committed under IC 35-42-4-3(c) and IC 35-42-4-3(d) as those provisions existed before the amendment of IC 35-42-4-3 by P.L.79-1994, SECTION 12.**".

Page 199, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 178. P.L.264-2003, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE] SECTION 15. (a) IC 6-1.1-10-16 (subject to SECTION ~~13~~ **14** of this act), IC 6-1.1-10-21, and IC 14-33-7-4, all as amended by this act, apply only to property taxes first due and payable after December 31, 2002.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 106 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 106, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 7.
Page 11, delete lines 27 through 42.
Delete pages 12 through 21.
Page 22, delete lines 1 through 18.
Page 31, delete lines 37 through 42.
Delete pages 32 through 33.
Page 34, delete lines 1 through 9.
Page 39, delete lines 17 through 42.
Delete pages 40 through 44.
Page 45, delete lines 1 through 28.
Page 52, delete lines 27 through 42.
Page 53, delete lines 1 through 14.
Page 68, delete lines 5 through 29.
Page 69, delete lines 39 through 42.
Delete pages 70 through 72.
Page 73, delete lines 1 through 15.
Page 76, delete lines 7 through 11.
Page 81, delete lines 13 through 42.
Page 82, delete lines 1 through 34.
Page 82, line 35, delete "ADDED BY P.L.274-2003," and insert "AMENDED BY HEA 1032-2004, SECTION 90,".
Page 82, line 36, delete "SECTION 5,".
Page 83, line 2, after "(a)." insert "A report under this subsection to the executive director of the legislative services agency must be in an electronic format under IC 5-14-6.".
Page 83, delete lines 6 through 11.
Page 87, delete lines 4 through 13.
Page 91, delete lines 6 through 11.
Page 95, delete lines 2 through 42.
Delete pages 96 through 100.
Page 101, delete lines 1 through 7.
Page 128, delete lines 39 through 42.
Delete page 129.
Page 130, delete lines 1 through 2.
Page 135, delete lines 34 through 42.
Page 136, delete line 1.
Page 137, delete lines 14 through 42.

C o p y

Page 138, delete lines 1 through 23.
Page 147, delete lines 34 through 38.
Page 167, delete lines 6 through 42.
Page 168, delete lines 1 through 15.
Page 185, delete lines 12 through 42.
Delete page 186.
Page 187, delete lines 1 through 4.
Page 195, line 29, delete "IC 4-22-2-37.1;".
Page 201, line 29, after "PASSAGE]" insert ":".
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 106 as printed January 16, 2004.)

LAWSON L, Chair

Committee Vote: yeas 8, nays 0.

C o p y