CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 314

Citations Affected: IC 5-14; IC 5-28-6-2; IC 10-19-8-2; IC 14-8-2; IC 14-22-6-14; IC 14-24-4.5; IC 14-25-14-4; IC 14-32; IC 15-11; IC 15-12; IC 15-13; IC 15-15; IC 15-16; IC 15-17-5.5; IC 15-18-5; IC 15-19-7; IC 21-46-2-1; IC 24-6-7; IC 26-3-7-1; IC 34-30-2-64; IC 35-42-2-1.

Synopsis: Agricultural matters. Changes the name of the department of agriculture to the Indiana state department of agriculture (department). Adds specific economic development efforts to be administered by the department. Requires the department to assist agricultural businesses in obtaining and preparing permits and serving as a liaison between the business and state and local government. Provides for the confidentiality of financial and application information obtained by the department that relates to economic development or promotion of agriculture and certain voluntary certification programs. Establishes duties for the director of the department concerning agricultural promotion, research, and international agricultural trade. Establishes duties for the director of the department concerning diversified farming. Makes changes to the commercial fertilizer law, including changing the definition of "blending" for fertilizers and adding a definition of "ammonium nitrate". Makes it a Class A misdemeanor to knowingly or intentionally violate the commercial fertilizer law. Changes the membership of the fertilizer advisory board. Amends certain definitions concerning pesticide laws. Removes the specific volume requirement for exempted bulk pesticide containers. Removes certain pesticides from the list of restricted pesticides. Requires pesticide product applicants to comply with the pesticide product laws. Allows the state chemist to deny a pesticide product registration. Amends a pesticide product applicant's and registrant's right to a review of a state chemist's action. Changes the membership of the pesticide review board (board). Allows the members to continue to serve until a successor is appointed and qualified. Provides that the board's travel reimbursement must meet Purdue University's travel policies. Allows the state chemist to have access to production records of pesticide products. Provides that the state chemist may refer violations to the prosecuting attorney. (Current law requires referral.) Amends the definition of "property" under pesticide use and application laws to include vehicles. Includes diagnostic inspections and determining infestations of wood destroying pests as qualifications to obtain a pesticide business license. Adds technician registrations to the licenses that are invalid if the business does not maintain financial responsibility. Prohibits: (1) verbal misrepresentations

concerning the effect of pesticides; (2) using known ineffective amounts of pesticides; (3) refusing to supply the state chemist information during an investigation or inspection; (4) intentionally altering a license; (5) failing to provide proof of financial responsibility; and (6) impeding duties of the state chemist. Allows the state chemist to specify the time period certain pesticide records must be kept. Removes the 60 day time limit to file a claim from a pesticide accident and the seven day notification of licensees after an accident claim is filed. Authorizes the state board of animal health to provide voluntary grading and certification relating to meat and meat products. Provides that a person who knowingly or intentionally forges a grade or certification commits a Class D felony. Increases the battery penalty to a Class A misdemeanor if committed against the state chemist or the chemist's agent while performing their duties. Repeals provisions concerning: (1) operation of livestock export inspection facilities; (2) livestock inspection fees; (3) livestock export facilities; (4) the livestock export facility administration fund; (5) the center for value added research; and (6) adoption of federal fruit grades, domestic grading of certain fruits, inspections, and penalties. Makes conforming and technical changes. **(This conference committee report makes the following changes: (1) removes changes made to the clean water Indiana fund; (2) adds the voluntary grading and certification relating to meat and meat products; and (3) makes conforming changes to conform this bill to SEA 176, SEA 190, SEA 360, and HEA 1341).**

Effective: July 1, 2008.

Adopted	Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 314 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 5-14-1.5-6.1, AS AMENDED BY HEA 1341-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

(1) Where authorized by federal or state statute.

(2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.

(C) The implementation of security systems.

(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation

of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, the ports of Indiana, an economic development commission, **the Indiana state department of agriculture,** a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individual's alleged misconduct; and

(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 2. IC 5-14-3-4, AS AMENDED BY HEA 1341-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following

public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, **the Indiana state department of agriculture,** the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and

evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and surface water intakes;

(I) the emergency contact information of emergency responders and volunteers;

(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer

of a municipally owned utility (as defined in IC 8-1-2-1):
(A) Telephone number.
(B) Address.
(C) Social Security number.
(21) The following personal information about a complainant contained in records of a law enforcement agency:
(A) Telephone number.
(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.
(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.
(23) Records requested by an offender that:
(A) contain personal information relating to:
(i) a correctional officer (as defined in IC 5-10-10-1.5);
(ii) the victim of a crime; or
(iii) a family member of a correctional officer or the victim of a crime; or
(B) concern or could affect the security of a jail or correctional facility.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:
(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 3. IC 5-28-6-2, AS AMENDED BY P.L.1-2006, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The corporation shall develop and promote programs designed to make the best use of Indiana resources to ensure a balanced economy and continuing economic growth for Indiana, and, for those purposes, may do the following:
(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources.
(2) Receive and expend funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the corporation, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The corporation:
(A) may accept federal grants for providing planning

assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with the terms of the grants; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the corporation be given to the corporation by an officer, agent, or employee of the executive branch of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the corporation on a temporary basis or may direct a division or an agency under the department's or agency's supervision and control to make a special study or survey requested by the corporation.

(b) The corporation shall perform the following duties:

(1) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities in Indiana and to encourage new industrial, commercial, and business locations in Indiana.

(2) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations in Indiana. The corporation, with the approval of the governor, may establish foreign offices to assist in this function.

(3) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion or establishment of new businesses or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(4) Assist the office of the lieutenant governor in:

(A) community economic development planning;

(B) implementation of programs designed to further community economic development; and

(C) the development and promotion of Indiana's tourist resources.

(5) Assist the secretary of agriculture and rural development in promoting and marketing of Indiana's agricultural products and provide assistance to the director of the **Indiana state** department of agriculture.

(6) With the approval of the governor, implement federal programs delegated to the state to carry out the purposes of this article.

(7) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance programs available through government agencies and private sources.

(8) Establish a public information page on its current Internet site on the world wide web. The page must provide the following:

(A) By program, cumulative information on the total amount of incentives awarded, the total number of companies that received the incentives and were assisted in a year, and the names and addresses of those companies.

(B) A mechanism on the page whereby the public may request further information online about specific programs or incentives awarded.

(C) A mechanism for the public to receive an electronic response.

(c) The corporation may do the following:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Assist in community economic development planning and the implementation of programs designed to further community economic development.

SECTION 4. IC 10-19-8-2, AS AMENDED BY P.L.101-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The council consists of the following members:

(1) The lieutenant governor.

(2) The executive director.

(3) The superintendent of the state police department.

(4) The adjutant general.

(5) The state health commissioner.

(6) The commissioner of the department of environmental management.

(7) The director of the **Indiana state** department of agriculture.

(8) The chairman of the Indiana utility regulatory commission.

(9) The commissioner of the Indiana department of transportation.

(10) The executive director of the Indiana criminal justice institute.

(11) The commissioner of the bureau of motor vehicles.

(12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

(13) The speaker of the house of representatives or the speaker's designee.

(14) The president pro tempore of the senate or the president pro tempore's designee.

(15) The chief justice of the supreme court.

(16) The director of the department of natural resources or, if designated by the director, the deputy director who manages the bureau of law enforcement and administration.

(17) The state veterinarian.

(b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.

(c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

SECTION 5. IC 14-8-2-67, AS AMENDED BY SEA 190-2008, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 67. (a) "Department", except for purposes of IC 14-32, refers to the department of natural resources.

(b) "Department" for purposes of IC 14-32, refers to the **Indiana state** department of agriculture established by IC 15-11-2-1.

SECTION 6. IC 14-8-2-77, AS AMENDED BY SEA 176-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 77. "Division" has the following meaning:

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

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

(3) For purposes of IC 14-21, the division of historic preservation and archeology.

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

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

(6) For purposes of IC 14-25.5, the division of water.

(7) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.

(8) For purposes of IC 14-32, the division of soil conservation of the **Indiana state** department of agriculture established by IC 15-11-4-1.

(9) For purposes of IC 14-37, the division of oil and gas.

SECTION 7. IC 14-22-6-14, AS AMENDED BY SEA 190-2008, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The:

(1) division of fish and wildlife of the department; and

(2) division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1, through the soil and water conservation districts established under IC 14-32;

shall, in cooperation with other conservation education organizations and one (1) or more organizations of hunters, establish a program to help landowners with problems determined by the director to be caused by localized deer population.

(b) The program established under this section must educate landowners concerning the means by which a landowner can:

(1) control; or

(2) obtain assistance in controlling;

the deer population on the landowner's tract of land.

(c) Under the program established under this section, one (1) or more hunters or organizations of hunters may, upon request by a landowner, work with the department and the landowner to alleviate problems caused by localized deer populations.

(d) In each county, the division of fish and wildlife, in cooperation with the soil and water conservation district established within the county under IC 14-32, shall disseminate information about the program established under this section.

SECTION 8. IC 14-24-4.5-13, AS AMENDED BY P.L.1-2006, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The director of the **Indiana state** department of agriculture or the director's designee shall serve as compact administrator for Indiana. The duties of the compact administrator are considered a regular part of the duties of the commissioner of agriculture.

(b) Copies of bylaws and amendments to the compact adopted under section 4(h) of this chapter must be filed with the compact administrator.

SECTION 9. IC 14-24-4.5-14, AS AMENDED BY P.L.1-2006, SECTION 216, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. Within the meaning of sections 6(b) and 8(a) of this chapter, a request or an application for assistance from the fund may be made by the director of the **Indiana state** department of agriculture or the director's designee whenever the director or director's designee believes the conditions qualifying the state for assistance exist and it would be in the best interest of the state to make a request.

SECTION 10. IC 14-25-14-4, AS ADDED BY P.L.112-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Each of the following state agencies shall designate a representative to advise the task force:

(1) The department.
(2) The department of environmental management.
(3) The department of homeland security.
(4) The **Indiana state** department of agriculture.
(5) The state department of health.

(b) In addition to the representatives set forth in subsection (a), the director may invite representatives of other state and federal agencies as appropriate to advise the task force.

SECTION 11. IC 14-32-2-1, AS AMENDED BY SEA 190-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The soil conservation board is established within the **Indiana state** department of agriculture established by IC 15-11-2-1 as the policy making body for soil and water conservation.

SECTION 12. IC 14-32-2-3, AS AMENDED BY P.L.175-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) A majority of the seven (7) appointed members of the board must have experience as district supervisors.

(b) In making appointments to the board, the governor may invite

and consider the recommendations of the following:

(1) The Purdue University cooperative extension service.

(2) The **Indiana state** department of agriculture.

(3) The Indiana Association of Soil and Water Conservation Districts.

(c) All appointments to the board shall be made without regard to political affiliation.

(d) The members appointed to the board under section 2(1) and 2(2) of this chapter must be residents of at least four (4) different geographic regions of Indiana.

SECTION 13. IC 14-32-2-7, AS AMENDED BY P.L.175-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The governor may appoint advisory members from other organizations that promote conservation, including local, state, and federal agencies upon the recommendation of the board.

(b) The governor shall appoint members to the advisory board that represent the following:

(1) The **Indiana state** department of agriculture.

(2) The department of natural resources.

(3) The department of environmental management.

(4) The Purdue University cooperative extension service.

(5) The Indiana Association of Soil and Water Conservation Districts.

(6) The Farm Service Agency of the United States Department of Agriculture.

(7) The Natural Resources Conservation Service of the United States Department of Agriculture.

SECTION 14. IC 14-32-2-8, AS AMENDED BY SEA 190-2008, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The members of the board shall elect a member as the chairman of the board.

(b) The director of the division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1 is the secretary of the board.

SECTION 15. IC 14-32-5-4, AS AMENDED BY SEA 190-2008, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) As used in this section, "landfill" means a facility where solid waste is to be disposed of through placement on or beneath the surface of the ground. However, the term does not include any of the following:

(1) A land application operation regulated under 327 IAC 6.

(2) A surface impoundment.

(3) An injection well.

(4) A facility for the disposal of solid waste other than sludge from a municipal wastewater treatment plant that is:

(A) generated at the site of the facility; or

(B) generated by the owner or operator of the facility.

(5) An operation permitted under IC 14-34.

(b) As used in this section, "underground injection" means the subsurface emplacement of fluids through:

(1) a bored, drilled, or driven shaft; or

(2) a dug hole, the depth of which is greater than the hole's largest surface dimension.

(c) A district shall inspect every landfill located within the boundaries of the district for compliance with rules adopted under IC 13-18 or IC 13-19 concerning erosion and sediment control. Each landfill shall be inspected under this section at least two (2) times each calendar year as follows:

(1) One (1) time before July 1.

(2) One (1) time after June 30 and before December 31.

(d) Not later than ten (10) days after an inspection of a landfill under this section, the individual who conducted the inspection on behalf of the district shall prepare a written report on the results of the inspection and send the report to the following:

(1) The executive of the county.

(2) The commissioner of the department of environmental management.

(3) The director of the division of soil conservation established within the **Indiana state** department of agriculture by IC 15-11-4-1.

SECTION 16. IC 14-32-7-6, AS AMENDED BY P.L.175-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) The division of soil conservation:

(1) shall administer and coordinate the duties and responsibilities of the **Indiana state** department of agriculture under the land resource programs authorized by this chapter; and

(2) in carrying out its duties under subdivision (1), may work in cooperation with the following:

(A) Federal and state agencies.

(B) Local governmental agencies involved in land use planning and zoning.

(C) Any person, firm, institution, or agency, public or private, having an interest in land conservation.

(b) The **Indiana state** department of agriculture may employ the personnel and provide facilities and services that are necessary to carry out the **Indiana state** department of agriculture's duties and responsibilities under this chapter.

(c) The **Indiana state** department of agriculture shall prepare an annual report of the division of soil conservation's expenditures and accomplishments and that contains a proposed business plan.

SECTION 17. IC 14-32-7-7, AS AMENDED BY P.L.1-2006, SECTION 224, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) As used in this section, "urban geology survey" means a systematic scientific identification, inventory, and mapping of the earth materials of a given area that sets forth the capabilities, potentials, and limitations of the earth materials for human needs.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of urban geology surveys, together with other geologic investigations, for Indiana to develop and present the geologic data and

information necessary to a coordinated land conservation program that will promote sound land use decisions.

SECTION 18. IC 14-32-7-8, AS AMENDED BY P.L.1-2006, SECTION 225, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) As used in this section, "landscape survey" means a systematic scientific identification, inventory, and mapping of the features of the earth's surface that serve to constitute the landscape of a given area, including key factors such as the following:

(1) Land form.
(2) Vegetation.
(3) Wildlife.
(4) Physical characteristics.
(5) Visual perception.
(6) Historical and cultural sites.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to initiate and carry out a program of landscape surveys for Indiana to develop and present the surficial landscape data and information necessary to promote wise land use decisions.

SECTION 19. IC 14-32-7-8.5, AS AMENDED BY P.L.175-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8.5. (a) As used in this section, "soil survey" means a systematic scientific identification, inventory, and mapping of the soils of a given area that sets forth the capabilities, potential, and limitations of the soils in the satisfaction of human needs.

(b) The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to implement and supplement a program of modern soil surveys and geographic information systems (GIS) for Indiana that will, within the shortest practicable time, provide a modern soil survey and geographic information system for each county as an essential tool in land conservation.

SECTION 20. IC 14-32-7-9, AS AMENDED BY P.L.1-2006, SECTION 227, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. The **Indiana state** department of agriculture shall provide more support and assistance to the local soil and water conservation districts by:

(1) granting to the districts the additional money that is appropriated by the general assembly; and
(2) increased coordination and consultative services;

to obtain increased participation by the districts in the development of improved local land use practices and decisions.

SECTION 21. IC 14-32-7-10, AS AMENDED BY P.L.1-2006, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. The **Indiana state** department of agriculture shall use the money appropriated by the general assembly to expand the small watershed planning program as carried out in cooperation with the Natural Resources Conservation Service of the United States Department of Agriculture under 16 U.S.C. 1001 et seq., to reduce the accumulation of approved watershed planning requests and expedite the realization of the multiple benefits of this soil and

water conservation program.

SECTION 22. IC 14-32-7-11, AS AMENDED BY P.L.1-2006, SECTION 229, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. The **Indiana state** department of agriculture shall coordinate and schedule the programs authorized by sections 7 through 8 of this chapter to provide, as nearly as practicable, for concurrent completion and furnishing of the results of each program for each selected area study unit.

SECTION 23. IC 14-32-7-13, AS AMENDED BY P.L.1-2006, SECTION 230, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. The **Indiana state** department of agriculture shall administer this article subject to the direction of the board.

SECTION 24. IC 15-11-1-2, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. "Department" refers to the **Indiana state** department of agriculture established by IC 15-11-2-1.

SECTION 25. IC 15-11-1-3, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. "Director" refers to the director of the **Indiana state** department of agriculture appointed under IC 15-11-3-1.

SECTION 26. IC 15-11-2-1, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The **Indiana state** department of agriculture is established.

SECTION 27. IC 15-11-2-3, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The department shall do the following:

(1) Provide administrative and staff support for the following:

~~(A) The center for value added research under IC 15-11-9.~~

~~(B)~~ **(A)** The state fair board for purposes of carrying out the ~~director of the department of agriculture's~~ **director's** duties under IC 15-13-5.

~~(C)~~ **(B)** The Indiana corn marketing council for purposes of administering the duties of the director ~~of the department of agriculture~~ under IC 15-15-12.

~~(D)~~ **(C)** The Indiana organic peer review panel under IC 15-15-8.

~~(E)~~ **(D)** The Indiana dairy industry development board for purposes of administering the duties of the director ~~of the department of agriculture~~ under IC 15-18-5.

~~(F)~~ **(E)** The Indiana land resources council under IC 15-12-5.

~~(G)~~ **(F)** The Indiana grain buyers and warehouse licensing agency under IC 26-3-7.

~~(H)~~ **(G)** The Indiana grain indemnity corporation under IC 26-4-3.

~~(I)~~ **(H)** The division.

~~(J)~~ **(I)** The E85 fueling station grant program under IC 15-11-11.

(2) Administer the election of state fair board members under

IC 15-13-5.

(3) Administer state programs and laws promoting agricultural trade.

(4) Administer state livestock or agriculture marketing grant programs.

(5) Administer economic development efforts for agriculture **by doing the following:**

(A) Promoting value added agricultural resources.

(B) Marketing Indiana agriculture to businesses internationally.

(C) Assisting Indiana agricultural businesses with developing partnerships with the Indiana economic development corporation.

(D) Soliciting private funding for selective economic development and trade initiatives.

(E) Providing for the orderly economic development and growth of Indiana's agricultural economy.

SECTION 28. IC 15-11-2-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 6. The department shall promote the growth of agricultural businesses by doing the following:**

(1) Assisting agricultural businesses with the permit process required to conduct business in Indiana.

(2) Serving as a liaison between agricultural businesses, state agencies, and local units of government.

SECTION 29. IC 15-11-2-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 7. The department may keep records submitted to the department by a livestock producer under a voluntary certification program confidential.**

SECTION 30. IC 15-11-6-1, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The director is responsible for foreign market promotion for agricultural products **through the following:**

(1) Creating a report and plan for international trade.

(2) Working in partnership with the Food Export Association of the Midwest.

(3) Conducting and participating in foreign trade missions.

(4) Providing education on export and export opportunities for Indiana agricultural businesses.

SECTION 31. IC 15-11-7-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.3. As used in this chapter, "diversified farming" means new, emerging, and small scale agricultural markets, including alternative and niche agricultural markets.**

SECTION 32. IC 15-11-7-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 1.6. As used in this chapter, "specialty crop" means any fruit, vegetable, tree nut, dried fruit, and nursery crop, including floriculture.**

SECTION 33. IC 15-11-7-2, AS ADDED BY SEA 190-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The director shall do the following:

(1) ~~Organize and develop an~~ **Prepare an annual report that contains** information and market research ~~center for aquaculture.~~ **concerning diversified farming.**

(2) Instigate the formation of a market and development plan for ~~the aquaculture industry.~~ **diversified farming.**

(3) Encourage the development and growth of **diversified farming,** aquaculture, **and specialty crops through education programs.**

(4) Administer the United States Department of Agriculture Specialty Crop Block Grant Program.

(5) Identify diversified farming opportunities.

(6) Create a healthy network to better connect farmers to available resources.

(7) Aggressively promote the opportunities and benefits of agricultural diversification.

SECTION 34. IC 15-12-2-1, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "director" means the director of the **Indiana state** department of agriculture.

SECTION 35. IC 15-12-4-1, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

(2) "Remediation program" refers to the program established under section 2 of this chapter.

SECTION 36. IC 15-12-5-2, AS ADDED BY SEA 190-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture.

SECTION 37. IC 15-13-2-2, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The commission consists of eight (8) members as follows:

(1) Five (5) members appointed by the governor.

(2) The presiding officer of the board.

(3) The director of the **Indiana state** department of agriculture appointed under IC 15-11-3-1 or the director's designee.

(4) The presiding officer of the trustees elected under IC 15-13-11-7 or the presiding officer's designee who must be selected from the membership of the trustees.

(b) The chairperson of the advisory committee appointed under IC 15-13-6-2(d) or a member of the advisory committee designated by the chairperson may serve as an ex officio nonvoting member of the commission.

(c) Not more than:

(1) one (1) member appointed under subsection (a)(1) may reside

in the same district; and

(2) three (3) members appointed under subsection (a)(1) may be affiliated with the same political party.

Each district is not required to have a member of the commission represent it.

(d) Two (2) members appointed under subsection (a)(1) must have a recognized interest in agriculture or agribusiness.

SECTION 38. IC 15-13-5-2, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) The board consists of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the **Indiana state** department of agriculture or the director's designee.

(3) The director of the cooperative extension service of Purdue University or the director's designee.

(4) Seven (7) members appointed under this chapter by the governor, one (1) from each district.

(5) One (1) member elected under this chapter from each district.

(b) Not more than one (1) member appointed under subsection (a)(4) may reside in the same district.

(c) Not more than four (4) members appointed under subsection (a)(4) may be affiliated with the same political party.

(d) Each member appointed under subsection (a)(4) must have a recognized interest in agriculture or agribusiness.

(e) When an appointment of a member under subsection (a)(4) is required, the appointment may not be made until after the election of members under subsection (a)(5) for that year is certified under section 22 of this chapter.

SECTION 39. IC 15-13-5-9, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. If an organization wants to be certified to vote in an election under this chapter, the organization must apply to the director of the **Indiana state** department of agriculture.

SECTION 40. IC 15-13-5-10, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) Subject to sections 11 through 13 of this chapter, the director of the **Indiana state** department of agriculture shall certify an organization that applies under section 9 of this chapter as eligible to vote in a district election under this chapter only if the organization:

(1) is an agricultural interest;

(2) is regularly organized within the district;

(3) has at least ten (10) active members;

(4) has elected officers;

(5) has an annual meeting;

(6) has been in existence for at least one (1) year before the application for certification is filed with the director of the **Indiana state** department of agriculture; and

(7) before July 1 of the year of the election in which the organization wants to participate, files with the director of the

Indiana state department of agriculture:

(A) the name of the organization;

(B) the names and addresses of the organization's officers;

(C) the name, address, and title of the individual who is authorized by the organization to vote for the organization in an election under this chapter;

(D) the number of the organization's active members;

(E) a certification that the organization is eligible to be certified under this chapter; and

(F) other information required by the director of the **Indiana state** department of agriculture.

(b) A certification under subsection (a) expires July 1 of the fourth year after the certification is issued by the director of the **Indiana state** department of agriculture.

SECTION 41. IC 15-13-5-13, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 13. (a) The director of the **Indiana state** department of agriculture may not certify for a district under section 10 of this chapter more than two (2) organizations in a county in the district that satisfy the requirements of section 10 of this chapter.

(b) If more than two (2) organizations in a county in a district that satisfy the requirements of section 10 of this chapter apply for certification, the director of the **Indiana state** department of agriculture may certify any two (2) of those organizations, considering the following criteria:

(1) Order of application for certification.

(2) Number of members of each organization.

(3) How long each organization has been in existence.

(4) Activity of each organization in promotion of agricultural interests.

(5) Diversity of representation of interests within the agricultural community.

SECTION 42. IC 15-13-5-14, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) Before September 1 of the year the term of a member representing a district expires, the director of the **Indiana state** department of agriculture shall notify each organization certified for the district under section 10 of this chapter that a district convention will be held to elect the member to represent the district.

(b) Subject to section 17 of this chapter, the director of the **Indiana state** department of agriculture shall:

(1) state in the notice required by subsection (a) the date, time, and place of the district convention and the name of the presiding officer; and

(2) choose a date, time, and place that will encourage maximum participation in the district convention by organizations referred to in subsection (a).

SECTION 43. IC 15-13-5-15, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. The director of the **Indiana state** department

of agriculture shall send copies of the credentials of each individual entitled to vote in a district convention to the following:

(1) The board member representing the district.

(2) The individual who will preside over the district convention.

SECTION 44. IC 15-13-5-16, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) The director of the **Indiana state** department of agriculture shall choose from among the members of the commission the individual to preside at a district convention.

(b) The presiding officer of the convention may vote in the case of a tie vote on any matter.

SECTION 45. IC 15-13-5-18, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 18. The director of the **Indiana state** department of agriculture shall adopt rules for the business of a district convention. Rules adopted under this section may not be inconsistent with this chapter.

SECTION 46. IC 15-13-5-23, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. The director of the **Indiana state** department of agriculture may:

(1) adopt rules under IC 4-22-2; and

(2) prescribe forms;

to implement sections 9 through 22 of this chapter.

SECTION 47. IC 15-13-11-3, AS ADDED BY SEA 190-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) The trustees govern the barn. The trustees consist of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the **Indiana state** department of agriculture or the director's designee.

(3) The dean of agriculture of Purdue University or the dean's designee.

(4) The president of the Purdue University Agriculture Alumni Association or the president's designee.

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

(6) The state veterinarian or the state veterinarian's designee.

(7) The presiding officer of the commission or the presiding officer's designee selected from the membership of the commission.

(8) The presiding officer of the board or the presiding officer's designee selected from the membership of the board.

(9) One (1) member appointed by the largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(10) One (1) member appointed by the second largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(11) Seven (7) members appointed by the governor.

(b) Of the members appointed under subsection (a)(11), not more than four (4) may be affiliated with the same political party.

(c) Each member appointed under subsection (a)(11) must have a recognized interest in the barn.

SECTION 48. IC 15-15-5-1, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to civil actions against a seller for the failure of agricultural or vegetable seeds to perform if the container in which the seeds were sold included the following notice on the label:

NOTICE OF REQUIRED ARBITRATION

Under the seed laws of Indiana and some other states, arbitration is required as a precondition of maintaining certain legal actions, counterclaims, or defenses against a seller of seed. Information about this requirement, where applicable, may be obtained from a state's seed commissioner or the **Indiana State** Department of Agriculture.

SECTION 49. IC 15-15-7-11, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 11. (a) As used in this section, "suit" refers to a suit commenced against a farmer by a seed supplier to enforce the seed supplier's rights under, or in connection with, a seed contract.

(b) If a seed supplier files suit against a farmer, the seed supplier shall provide simultaneous written notice of the suit to the director of the **Indiana state** department of agriculture.

(c) Failure to give notice of the suit to the director of the **Indiana state** department of agriculture as provided in subsection (b) does not impair the jurisdiction of the court to hear the suit.

(d) A seed supplier that fails to give notice to the director of the **Indiana state** department of agriculture as provided in subsection (b) commits a Class B infraction.

(e) The director of the **Indiana state** department of agriculture shall keep a file of all notices of suits received under this section.

SECTION 50. IC 15-15-8-3, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the director's designee.

SECTION 51. IC 15-15-11-10, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) A representative group of at least five percent (5%) of the producers of an agricultural commodity may petition the dean of agriculture for permission to establish a commodity market development council.

(b) A petition described in subsection (a) must include the following:

(1) A statement of the area of production to be included. The area must be statewide. However, the area may be limited to a well defined smaller area if the area is the principal commercial producer of the agricultural commodity in Indiana.

(2) A statement of the general purposes of the agricultural commodity market development council program. The purposes may include research, education, market development, publicity, sales promotion, and cooperation with other state, regional, and national organizations.

(3) The amount of the fee to be collected for each designated unit of commercial quantities of the agricultural commodity.

(4) The method to be used in the collection of the fee.

(5) The composition, qualification, terms of office, method of nomination, election, filling unexpired terms, expenses, and duties of the members of the commodity market development council. However, the following apply to the council:

(A) The council must consist of an odd number of at least five (5) but not more than fifteen (15) members. A member may not serve on the council for more than six (6) consecutive years. A majority of the council members must be producers selected by producers.

(B) The dean of agriculture serves as an ex officio member of the council.

(C) The director of the **Indiana state** department of agriculture or the director's designee serves as an ex officio member of the council.

(6) The method of conducting the referendum of the agricultural commodity producers. The method must be either by mail or by polling place, depending on the area and volume of the commodity.

SECTION 52. IC 15-15-12-6, AS ADDED BY SEA 190-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the person designated by the director of the **Indiana state** department of agriculture to carry out duties imposed on the director of the **Indiana state** department of agriculture under this chapter.

SECTION 53. IC 15-16-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 2.5. As used in this chapter, "ammonium nitrate" means the ammonium salt of nitric acid, which must contain not less than thirty-three percent (33%) nitrogen, fifty percent (50%) of which is in the ammonium form and fifty percent (50%) of which is in the nitrate form.**

SECTION 54. IC 15-16-2-3, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "blender" means a person ~~who is~~ **or system** engaged in the business of blending fertilizer materials.

SECTION 55. IC 15-16-2-4, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. As used in this chapter, "blending" means the physical mixing or combining: ~~of at least two (2) fertilizer materials. The term includes the simultaneous application of at least two (2) fertilizer materials~~

(1) of one (1) or more fertilizer materials and one (1) or more filler materials;

(2) of two (2) or more fertilizer materials; or

(3) of two (2) or more fertilizer materials and filler materials; including mixing through the simultaneous or sequential application of any of the combinations referred to in subdivision (1), (2), or (3) to produce a uniform mixture.

SECTION 56. IC 15-16-2-9, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. As used in this chapter, "custom blend" means a fertilizer blended:

(1) according to specifications provided to a blender in a soil test nutrient recommendation; or

(2) to meet **specific requests of a** consumer ~~requirements specified~~ **(who is the end user)** before blending.

SECTION 57. IC 15-16-2-23, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 23. As used in this chapter, "use" means the ~~process of placing~~ **placement or usage of commercial** fertilizer ~~to promote plant growth.~~ **on a targeted growing area.**

SECTION 58. IC 15-16-2-25, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:Sec. 25. (a) The Indiana fertilizer advisory board is established to:

(1) study the regulation of fertilizer; and

(2) advise the state chemist on the administration of this chapter.

(b) The board consists of the following members:

(1) Two (2) representatives of the retail fertilizer industry.

(2) One (1) representative of fertilizer manufacturing, distributing, or manufacturing and distributing.

(3) Two (2) representatives of producers of agricultural crops.

(4) One (1) representative of the lawn care industry.

(5) One (1) representative of the Purdue School of Agriculture.

(6) One (1) representative of a public conservation organization.

(7) One (1) representative of the livestock industry.

~~(7)~~ **(8)** The president of the Indiana Plant Food and Agricultural Chemicals Association, who serves as a nonvoting member.

~~(8)~~ **(9)** One (1) representative of the department of environmental management, who serves as a nonvoting member.

~~(9)~~ **(10)** The fertilizer administrator for the office of the state chemist, who serves as a nonvoting member.

~~(10)~~ **(11)** The engineer specialist for the office of the state chemist, who serves as a nonvoting member.

(12) One (1) representative of the department, who shall serve as a nonvoting member.

(c) The state chemist shall appoint the voting members of the board, who serve for terms of four (4) years.

(d) Voting members of the board may be appointed for successive terms at the discretion of the state chemist.

SECTION 59. IC 15-16-2-49.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2008]: **Sec. 49.5. (a) If a person violates this chapter or a rule adopted under this chapter, the state chemist may:**

(1) warn or issue a citation to the person; or

(2) deny, suspend, revoke, or amend the person's registration under this chapter.

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

SECTION 60. IC 15-16-4-2, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this chapter, "active ingredient" means:

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:

(A) prevent;

(B) destroy;

(C) repel; or

(D) mitigate;

insects, nematodes, fungi, rodents, weeds, or other pests;

(2) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or alter the behavior of:

(A) ornamental or crop plants; or

(B) the produce of ornamental or crop plants;

(3) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; ~~and~~

(4) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue; **and**

(5) in the case of a nitrogen stabilizer, an ingredient that will prevent or hinder the process of nitrification, denitrification, ammonia volatilization, or urease production through an action affecting soil bacteria.

SECTION 61. IC 15-16-4-20, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. As used in this chapter, "ingredient statement" means any of the following:

(1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.

(2) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide.

~~However, the statement under subdivision (1) applies if the preparation is highly toxic to humans, determined under section 50 of this chapter. In addition to requirements under subdivisions (1) and (2), if a pesticide contains arsenic in any form, the term also means a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.~~

SECTION 62. IC 15-16-4-24, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 24. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

(1) upon the pesticide product or any of its containers or wrappers;

(2) accompanying the pesticide product at any time; or

(3) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:

(A) the United States Department of Agriculture;

(B) the United States Department of Interior;

(C) the United States Department of Health and Human Services;

(D) the United States Environmental Protection Agency;

~~(D)~~ **(E)** state experiment stations;

~~(E)~~ **(F)** state agricultural colleges; or

~~(F)~~ **(G)** other similar federal institutions or official agencies of Indiana or other states authorized by law to conduct research in the field of pesticides.

SECTION 63. IC 15-16-4-42, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. (a) The Indiana pesticide review board is established. The board consists of the following members:

(1) One (1) representative of the state department of health.

~~(2) One (1) representative of the state department of toxicology.~~

~~(3) One (1) representative of the state veterinarian.~~

~~(4)~~ **(2)** One (1) representative of the department of natural resources.

~~(5)~~ **(3)** One (1) representative of the department of environmental management.

~~(6)~~ **(4)** One (1) representative of the Purdue University office of agricultural research programs.

~~(7)~~ **(5)** One (1) representative of the Purdue University cooperative extension service.

~~(8)~~ **(6)** Two (2) ecologists with earned doctorate degrees:

(A) one (1) a terrestrial ecologist; and

(B) one (1) an aquatic ecologist.

~~Not more than one (1) ecologist may be from a state supported university or college; and~~ Not more than one (1) ecologist may be a plant ecologist.

~~(9)~~ **(7)** One (1) public representative.

~~(10)~~ **(8)** One (1) representative of the pesticide industry.

~~(11)~~ **(9)** Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:

(A) one (1) of whom represents producers of agronomic crops; and

(B) one (1) of whom represents producers of nonagronomic crops.

~~(12)~~ **(10)** One (1) public representative from conservation

organizations.

~~(13)~~ **(11)** Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

~~(14)~~ **(12)** Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-16-5-45.

~~(15)~~ **(13)** The state chemist, who is an ex officio member and shall serve as a nonvoting member.

~~(16)~~ **(14)** The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

~~(17)~~ **(15)** The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years **and, subject to subsection (d), continue until the member's successor is approved and qualified.** Appointments shall be made so that not more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

SECTION 64. IC 15-16-4-46, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 46. (a) ~~Ten (10)~~ **Nine (9)** members of the board constitute a quorum.

(b) Official actions are subject to approval by a simple majority of board members present at a called meeting.

(c) The chairperson shall actively participate in all decisions of the board.

SECTION 65. IC 15-16-4-47, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 47. The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:

(1) State officials.

(2) Staff members of state offices.

(3) Staff members of the Purdue University office of agricultural research programs.

(4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the ~~state~~ **Purdue University** travel policies and procedures, established by the ~~Indiana~~ **Purdue University** department of ~~administration~~ **transportation** and approved by the ~~budget agency.~~ **Purdue University vice president of business services.**

SECTION 66. IC 15-16-4-53, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2008]: Sec. 53. ~~An agent of~~ The state chemist ~~has the same authority~~ **may delegate to an employee or agent any function** that is vested in the state chemist by this chapter.

SECTION 67. IC 15-16-4-55, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 55. The state chemist or the state chemist's agent may do the following:

(1) Enter any public or private premises, including any vehicle of transport during regular business hours:

(A) to:

(i) have access to; and

(ii) obtain samples of;

pesticide products; and

(B) to:

(i) examine; and

(ii) copy;

records relating to the **production,** use, transportation, and sale of pesticide products, subject to this chapter and the rules adopted under this chapter.

(2) Enter at a reasonable time in or upon any:

(A) private; or

(B) public;

property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

SECTION 68. IC 15-16-4-57, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 57. Except as provided in section 58 of this chapter, a person may not produce, distribute, display, sell, or offer for sale within Indiana or deliver for transportation or transport in intrastate commerce or between points within Indiana through any point outside Indiana any of the following:

(1) Any pesticide product that has not been registered under section 61 of this chapter.

(2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration.

(3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container designed and constructed to accommodate the return and refill of ~~greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material)~~ **the container)** unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly

read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

~~(5) The pesticides commonly known as:~~

~~(A) standard lead arsenate;~~

~~(B) basic lead arsenate;~~

~~(C) calcium arsenate;~~

~~(D) magnesium arsenate;~~

~~(E) zinc arsenate;~~

~~(F) zinc arsenite;~~

~~(G) sodium fluoride;~~

~~(H) sodium fluosilicate; and~~

~~(I) barium fluosilicate;~~

~~unless the pesticides have been distinctly colored or discolored as provided by rules adopted under this chapter, or any other white powder pesticide that the state chemist, by rule, requires to be distinctly colored or discolored unless it has been so colored or discolored. If the state chemist requires a white powder pesticide to be distinctly colored or discolored under this section, the state chemist must first investigate and hold a public hearing on the necessity for action for the protection of the public health and the feasibility of coloration or discoloration. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.~~

~~(6)~~ **(5)** Any pesticide product that is adulterated or misbranded.

~~(7)~~ **(6)** Any pesticide in containers violating rules adopted under section 50(a)(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

~~(8)~~ **(7)** A highly volatile herbicide except on written permission by the state chemist.

~~(9)~~ **(8)** Any bulk pesticide unless it is accompanied in all transfers of custody or ownership by or held in storage vessels to which is affixed a label bearing the information specified in subdivision (4).

SECTION 69. IC 15-16-4-64, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the:

(1) confidential statement of formula;

(2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; and

(3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement may be waived.

(b) The state chemist shall register a pesticide product if:

(1) the state chemist determines that the composition of the pesticide product warrants the proposed claims for ~~it; and~~ **the pesticide product;**

(2) the pesticide product, its labeling, and other material required to be submitted comply with the requirements of section 61 of this chapter; **and**

(3) the state chemist determines that the person submitting the application for registration has complied with the requirements of this chapter.

(c) The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if the state chemist determines:

(1) that the proposed claims for the pesticide product; or

(2) the pesticide product, ~~and~~ its labeling, and other material required to be submitted;

does not comply with this chapter.

(d) If the state chemist notifies an applicant under subsection (c), the state chemist shall give the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

(e) The state chemist, in accordance with the procedures specified in this section, may **deny,** suspend, or cancel the registration of a pesticide whenever the state chemist determines that:

(1) the pesticide product; ~~or its~~

(2) the pesticide product's labeling; **or**

(3) the person submitting the application for registration of the pesticide product;

does not comply with this chapter.

(f) If:

(1) an application for registration is refused; or

(2) the state chemist proposes to **deny,** suspend, or cancel a registration;

notice of the action **and information concerning the person's right to obtain a review under section 64.5 of this chapter** must be given to the applicant or registrant. ~~who shall have fifteen (15) days from the date of the notice to request a hearing on the proposed action in accordance with IC 4-21.5.~~

SECTION 70. IC 15-16-4-64.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 64.5. (a) A person who is:**

(1) regulated under this chapter; and

(2) aggrieved by any decision of the state chemist;

may obtain a review by the board if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days

after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.

SECTION 71. IC 15-16-4-70, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 70. (a) The examination of pesticide products shall be made under the direction of the state chemist to determine whether the pesticide products comply with this chapter.

(b) If it appears after an examination that a pesticide product fails to comply with this chapter and the state chemist contemplates instituting proceedings against any person, the state chemist shall give appropriate notice to the person.

(c) A person notified under subsection (b) shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings to the state chemist.

(d) Subject to subsection (e), if the state chemist determines that a person violated this chapter, the state chemist ~~shall~~ **may** refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product.

(e) This chapter may not be construed to require the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

SECTION 72. IC 15-16-4-73, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 73. (a) Except as provided in subsection (f), if the state chemist:

(1) finds any pesticide product:

(A) upon any premises; or

(B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution or sale; and

(2) determines that the pesticide product:

(A) is in violation of this chapter; or

(B) has been or is intended to be:

(i) distributed; ~~or~~

(ii) sold; **or**

(iii) used;

in violation of this chapter;

the state chemist may issue an order under subsection (b).

(b) The state chemist may issue a written or printed:

(1) stop sale;

(2) use; or

(3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

(1) sell;

(2) use; or

(3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

(1) sell;

(2) use; or

(3) remove;

the pesticide product only in accordance with the order or until the pesticide product is released in writing by the state chemist or by order of a court.

(e) When a stop sale order is issued under subsection (b), the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

(1) A stop sale order has been issued on the pesticide product.

(2) A reference to the specific language of the law or rule that is believed to have been violated.

(f) Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

SECTION 73. IC 15-16-5-31, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 31. As used in this chapter, "property" means all:

(1) land and water areas, including airspace; and ~~all~~

(2) plants, animals, structures, buildings, contrivances, **vehicles,** and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

SECTION 74. IC 15-16-5-42, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 42. The state chemist may waive all or part of the requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, 53, 54, **56,** and 57 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

SECTION 75. IC 15-16-5-48, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 48. (a) Subject to section 55 of this chapter, a person may not engage in or profess to engage in the business of:

(1) using a pesticide; or

(2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide

business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars ($45) for each pesticide business license that is issued.

(b) A pesticide business license must be obtained for each business location from which pesticide use or application is conducted.

(c) The application for a license must be on a form provided by the state chemist. Each application must contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

(1) use of pesticides under the category for which the applicant or applicator has applied; and

(2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any pesticide business license.

(f) Subject to **subsections (a), (b), (c), and (d) and** section 65 of this chapter, if:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides **or making diagnostic inspections or reports to determine infestations of wood destroying pests** on the property of another;

(2) the applicant files evidence of financial responsibility required under section 58 of this chapter; and

(3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist ~~shall~~ **may** issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license expires January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. A surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 58 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 76. IC 15-16-5-52, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 52. (a) A person applying for a license described

under section 49, 50, or 51 of this chapter must:

(1) submit an application to the state chemist on a form provided by the state chemist;

(2) pass the appropriate examination provided under section 45 of this chapter;

(3) except for a person applying for a licensed public applicator's license, submit a fee of forty-five dollars ($45) to the state chemist; and

(4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) Subject to section 65 of this chapter, if a person meets the requirements under subsection (a), the state chemist shall issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person who applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person who has been issued a license under subsection (b):

(1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and

(2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

(1) expires January 1 of each year; and

(2) **subject to section 65 of this chapter,** may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license, pays a forty-five dollar ($45) renewal fee;

before January 1.

SECTION 77. IC 15-16-5-58, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 58. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses **and technician registrations** are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is in compliance and the applicant's license is reinstated by the state chemist.

(b) This chapter does not relieve any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

SECTION 78. IC 15-16-5-59, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 59. (a) Commercial applicators and licensed pest inspectors shall maintain records concerning:

(1) the application of restricted use pesticides;

(2) diagnostic inspections to determine infestations of wood destroying pests; and

(3) any relevant information that the state chemist determines by rule is necessary for purposes of this chapter.

(b) The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses.

(c) Records required under this section must be kept for:

(1) two (2) years after the date of the **inspection or the** application of the pesticide; ~~and~~ **or**

(2) the time specified by rule.

(d) The state chemist shall be provided access to the records by the commercial applicator **or licensed pest inspector.**

SECTION 79. IC 15-16-5-62, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 62. **(a)** The state chemist may adopt rules to require the reporting of significant pesticide accidents or incidents.

(b) Any person:

(1) claiming damages from a pesticide accident ~~shall~~ **or incident; and**

(2) requesting an investigation of those damages by the state chemist;

must file a ~~claim on a form provided by~~ **report with** the state chemist. ~~This report must be filed within sixty (60) days after the date that damages occurred.~~ If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested. ~~The state chemist shall, not later than seven (7) days after the receipt of such statement, notify the licensee and the owner or lessee of the property or other persons who may be charged with the responsibility for the damages claimed, and furnish copies of such statements as may be requested.~~

SECTION 80. IC 15-16-5-63, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 63. The state chemist may cooperate with, and enter into agreements with, any other agency of the state, any federal agency, or any other state agency or nongovernmental organization to carry out this chapter to:

(1) secure uniformity of rules;

(2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;

(3) develop and administer state plans for certification of applicators consistent with federal standards;

(4) contract or cooperate with agencies or organizations for the purpose of training applicators;

(5) contract for monitoring pesticides; ~~for the national plan;~~

(6) prepare and submit state plans to meet federal certification standards;

(7) ~~regulate certified applicators;~~ **administer and enforce requirements under this chapter;** and

(8) make reports to the United States Environmental Protection Agency as the agency requires.

SECTION 81. IC 15-16-5-64, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. (a) A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner ~~as to:~~ **that may:**

(1) cause injury to:

(A) humans;

(B) beneficial vegetation;

(C) crops;

(D) livestock;

(E) wildlife; or

(F) beneficial insects; or

(2) pollute any waterway in a way harmful to any wildlife in a waterway.

(b) The board may adopt rules governing the storage and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.

SECTION 82. IC 15-16-5-65, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

(1) Made false or fraudulent claims **either verbally or** through any media misrepresenting the effect of pesticides or methods to be used.

(2) Recommended, used, or supervised the use of any registered pesticide in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide.

(3) Used known ineffective or improper pesticides **or known ineffective amounts of pesticides.**

(4) Operated faulty or unsafe equipment.

(5) Operated in a careless or negligent manner.

(6) Neglected or, after notice, refused to comply with this chapter,

the rules adopted under this chapter, or of any lawful order of the state chemist **or the board.**

(7) Refused or neglected to:

(A) keep and maintain the records required by this chapter; or ~~to~~

(B) make reports and supply information when required **or requested by the state chemist in the course of an investigation or inspection.**

(8) Made false or fraudulent records, invoices, or reports.

(9) Engaged in or professed to be engaged in the business of:

(A) using a pesticide; or

(B) making a diagnostic inspection to determine infestations of a wood destroying pest;

for hire on the property of another without having a pesticide business license.

(10) Used a restricted use pesticide without having an applicator, who is licensed or permitted under this chapter, in direct supervision.

(11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.

(13) Aided or abetted a person to evade this chapter, conspired with a person to evade this chapter, or allowed a license, permit, registration, or certification to be used by another person.

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.

(15) Impersonated any federal, state, county, or city inspector, investigator, or official.

(16) Knowingly purchased or used a pesticide that was not registered under IC 15-16-4.

(17) Failed to continuously maintain financial responsibility required under section 58 of this chapter **or to provide proof of financial responsibility to the state chemist when requested.**

(18) Intentionally altered a duly issued license, permit, registration, or certification.

(19) Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.

SECTION 83. IC 15-16-5-69, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 69. (a) The state chemist may enter upon any public or private property at reasonable times to do the following:

(1) Observe the use and application of a pesticide.

(2) Inspect equipment subject to this chapter.

(3) Inspect and sample property actually or reported to be exposed to pesticides.

(4) Inspect storage or disposal areas.

(5) Inspect or investigate complaints of injury to humans or property.

(6) Sample pesticides being used or to be used.

(7) Inspect and obtain copies of pesticide sale, distribution, purchase, use, storage, and disposal records.

(b) ~~If the state chemist is denied access to any property for a purpose under subsection (a),~~ The state chemist may, upon showing a need, apply to any court with jurisdiction for a search warrant authorizing access to the property. The court may, after receiving the application and finding a need, issue the search warrant for the purposes requested.

(c) A prosecuting attorney to whom a violation of this chapter is reported may institute and prosecute the violation in a court with jurisdiction of that county without delay. The state chemist may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

SECTION 84. IC 15-16-5-70, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 70. (a) A person who recklessly, knowingly, or intentionally:

(1) violates this chapter, except as provided in subsection (b); or

(2) impedes or prevents the state chemist or the state chemist's agent from performing a duty of the state chemist;

commits a Class C misdemeanor.

(b) A person who **recklessly,** knowingly, or intentionally violates section 65(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 65(9) of this chapter commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or a rule under this chapter. A court may not allow the recovery of damages for an administrative action taken under this subsection if the court finds that there was probable cause for the action.

SECTION 85. IC 15-17-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5.5. Grading and Certification of Meat and Meat Products

Sec. 1. The board may provide voluntary grading and certification services relating to meat and meat products.

Sec. 2. The board shall charge a fee to cover the cost of grading and certification under this chapter. The board shall adopt rules under IC 4-22-2 to set the fees under this section.

Sec. 3. Neither the board nor the state may incur any liability for lawful actions taken under this chapter.

Sec. 4. A person who knowingly or intentionally forges a grade or certification under this chapter commits a Class D felony.

SECTION 86. IC 15-18-5-3, AS AMENDED BY SEA 190-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. As used in this chapter, "director" refers to the director of the **Indiana state** department of agriculture or the director's

designee.

SECTION 87. IC 15-18-5-16, AS AMENDED BY SEA 190-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. The board shall do the following:

(1) Elect from among the board's members a chairperson, vice chairperson, secretary, treasurer, and other officers the board considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.

(4) Bond the treasurer and other persons as necessary to ensure adequate protection of funds received and administered by the board.

(5) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

(6) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the board and the scope of this chapter.

(7) Provide for an independent audit, provide the results of the audit to the state board of accounts and the **Indiana state** department of agriculture, and make the results of the audit available to all interested persons.

(8) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(9) Formulate and execute assessment procedures and methods of collection.

(10) Establish procedures to annually inform all producers regarding board members, policy, expenditures, and programs for the preceding year.

(11) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

(12) Take any other action necessary for the proper implementation of this chapter, including the adoption of rules under IC 4-22-2.

SECTION 88. IC 15-19-7-26, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 26. A commercial feed, except a custom mixed feed, must be accompanied by a label bearing the following information:

(1) The net weight.

(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in the terms that the state chemist, by rule, determines are required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by AOAC ~~(Association of Analytical Communities)~~ International.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. However, the state chemist, by rule, may:

(A) permit the use of a collective term for a group of ingredients that perform a similar function; or

(B) exempt a commercial feed or group of commercial feeds from the requirement for an ingredient statement if the state chemist finds that such a statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for:

(A) commercial feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(7) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the commercial feed.

SECTION 89. IC 15-19-7-27, AS ADDED BY SEA 190-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27. Custom mixed feed must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, and the net weight of each ~~registered~~ commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 26 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.

(5) Adequate directions for use for:

(A) custom mixed feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(6) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the custom mixed feed.

SECTION 90. IC 21-46-2-1, AS ADDED BY P.L.2-2007, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The director of the **Indiana state** department of agriculture shall ~~establish a center for value added research to~~ perform the following duties:

(1) **Work with each county to** develop ~~a~~ **an annual** strategic assessment of Indiana agricultural industries and establish targeted priorities for industry expansion.

(2) Develop recommendations for legislative and administrative programs that will enhance economic development in the targeted agricultural industries.

~~(3) Identify and prioritize research development and educational~~

~~needs for expanding value added opportunities in Indiana.~~

~~(4)~~ **(3)** Establish cooperative industry research and development initiatives that lead to new agricultural industry opportunities in Indiana.

~~(5)~~ **(4)** Serve as a resource for industry in the planning, promotion, and development of value added agricultural products and agricultural industry opportunities in Indiana, including product feasibility, market feasibility, economic feasibility, product development, product testing, and test marketing.

~~(6)~~ **(5)** Serve as a resource for industry and the state in attracting value added agricultural industry to Indiana.

~~(7)~~ **(6)** Develop private sector research funding and technology transfer programs commensurate with the state's targeted agricultural industry economic development objectives.

~~(8)~~ **(7)** Provide a forum for continuing dialogue between industry, government, and researchers in addressing the needs and opportunities for expanding the value added agricultural industry.

SECTION 91. IC 26-3-7-1, AS AMENDED BY P.L.1-2006, SECTION 482, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) ~~There is created in the department of agriculture an agency to be known as~~ The Indiana grain buyers and warehouse licensing agency **is established within the Indiana state department of agriculture** to administer this chapter. The director of the **Indiana state** department of agriculture may appoint the director of the agency, who shall serve at the pleasure of the director of the **Indiana state** department of agriculture. The director shall administer this chapter and shall be the ultimate authority in the administration of this chapter.

(b) The agency may employ all necessary employees, counsel, and consultants to carry out the provisions of this chapter and is vested with the power necessary to fully and effectively carry out the provisions and objectives of this chapter.

SECTION 92. IC 34-30-2-64, AS AMENDED BY SEA 190-2008, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. IC 15-12-2-6 (Concerning the United States and the United States Secretary of Agriculture for the transfer of assets to the director of the **Indiana state** department of agriculture on behalf of the Indiana rural rehabilitation corporation).

SECTION 93. IC 35-42-2-1, AS AMENDED BY P.L.164-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

(A) it results in bodily injury to any other person;

(B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of the officer's official duty;

(C) it is committed against an employee of a penal facility or

a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; ~~or~~

(E) it is committed against a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; **or**

(F) it is committed against the state chemist or the state chemist's agent while the state chemist or the state chemist's agent is performing a duty under IC 15-16-5;

(2) a Class D felony if it results in bodily injury to:

(A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of ~~his~~ **the officer's** official duty;

(B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(C) a person of any age who has a mental or physical disability and is committed by a person having the care of the person with a mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty;

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; or

(M) a family or household member (as defined in

IC 35-41-1-10.6) if the person who committed the offense:
(i) is at least eighteen (18) years of age; and
(ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense;
(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;
(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2);
(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and
(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.
(b) For purposes of this section:
(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and
(2) "correctional professional" means a:
(A) probation officer;
(B) parole officer;
(C) community corrections worker; or
(D) home detention officer.
SECTION 94. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 15-11-6-3; IC 15-11-6-4; IC 15-11-6-5; IC 15-11-6-6; IC 15-11-9-2; IC 15-11-9-3; IC 24-6-7.
(Reference is to ESB 314 as printed February 22, 2008.)

Conference Committee Report
on
Engrossed Senate Bill 314

Signed by:

Senator Jackman Chairperson	Representative Pflum
Senator Lewis	Representative Friend
Senate Conferees	**House Conferees**