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# SENATE BILL No. 364

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 2-7; IC 3-9-3-4; IC 4-2; IC 4-4-11-15.1; IC 4-6-3-2; IC 5-1.5-2-10; IC 5-10.3-3-7; IC 5-10.4-3-6; IC 5-11; IC 5-13-12-3.1; IC 5-20-1-4.1; IC 8-10-1-7.1; IC 9-15-2-2.2; IC 10-15-2-11; IC 14-12-1-10.1; IC 14-13-1-14.5; IC 15-13-2-13; IC 21-11-9-3; IC 26-4-3-10; IC 27-1-29-27.1.

**Synopsis:** Government ethics. Includes the legislative council and the budget committee in the definition of "legislative body" in the lobbyist regulation statute. Provides that a national organization established by an association of persons that includes members of state legislatures or by a political party and whose primary purpose is the education and support of legislative leadership, legislators, legislative staff, or related government employees is not considered a lobbyist. Defines "reporting year" for purposes of lobbyist reporting of expenditures and gifts. Requires a lobbyist's report of purchases or gifts must be filed with the lobby registration commission (commission) electronically. Requires the commission to forward a copy of such a report electronically to the affected legislator and the secretary of the senate or the principal clerk of the house of representatives. Provides that such a report is confidential until ten days after the commission forwards the report. Provides that if such a report is corrected within the period of confidentiality, the report remains confidential. Provides that a lobbyist's activity report must report expenditures for a function or activity to which a legislative body is invited. Deletes language about the reporting of expenditures or gifts relating to the performance of a legislative person's official duties. Provides that the prohibition of lobbyist payment of a legislative person's out of state travel expenses  
(Continued next page)

**Effective:** Upon passage; November 1, 2010 (retroactive); July 1, 2011.

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January 11, 2011, read first time and referred to Committee on Rules and Legislative Procedure.

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does not apply to an out of state function paid for by a lobbyist if all members of a legislative body or all legislative persons from Indiana attending the function are invited. Provides that money received by a candidate or committee as a political contribution may not be used to send a communication to an electronic mail address: (1) with a domain name that contains "in.gov"; (2) of any agency in the legislative, executive, or judicial branch of state government; or (3) of any political subdivision. Redefines "communication" in the statute relating to communications by state officers to refer to only audio and video communications intended for dissemination to the general public or a print communication in a newspaper. Provides that a communication made before the effective date of the amendment that would not have violated the statute under the amended definition of "communication" is considered not to have violated the statute as in effect before the amendment. Authorizes the inspector general to directly institute civil proceedings against persons who have failed to pay civil penalties imposed by the state ethics commission. Requires the state board of accounts to provide to the inspector general (in addition to the attorney general) copies of certain reports concerning: (1) malfeasance, misfeasance, or nonfeasance in office by public officials or employees; (2) fraud or misconduct with respect to public contracts; or (3) unlawful expenditure or diversion of public money. Repeals or deletes provisions in the statutes governing the following quasi-governmental entities that give those entities the option of establishing a code of ethics for their employees or being under the jurisdiction of the state ethics commission (the state ethics commission statute provides that these entities are "agencies" for purposes of the commission's jurisdiction): (1) Indiana finance authority. (2) Indiana bond bank. (3) Public employees' retirement fund. (4) Indiana state teachers' retirement fund. (5) Board for depositories. (6) Indiana housing and community development authority. (7) Ports of Indiana. (8) Bureau of motor vehicles commission. (9) Indiana homeland security foundation. (10) Indiana natural resources foundation. (11) Indiana White River state park development commission. (12) State fair commission. (13) State student assistance commission. (14) Indiana grain indemnity corporation. (15) Indiana political subdivision risk management commission.

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Introduced

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 364

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

1 SECTION 1. IC 2-7-1-7.2, AS ADDED BY P.L.58-2010, SECTION  
2 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 NOVEMBER 1, 2010 (RETROACTIVE)]: Sec. 7.2. "Legislative body"  
4 refers to any of the following:  
5 (1) The general assembly.  
6 (2) The house of representatives.  
7 (3) The senate.  
8 (4) A standing or other committee established by the rules of the  
9 house of representatives or the senate.  
10 **(5) The legislative council.**  
11 **(6) The budget committee.**  
12 ~~(5)~~ (7) A committee established by statute or by the legislative  
13 council. An individual who:  
14 (A) is a member of a committee described in this subdivision;  
15 and



1 (B) is not a member of the general assembly;  
2 is not considered to be a member of a legislative body for  
3 purposes of this article.

4 ~~(6)~~ (8) A caucus of the house of representatives or the senate.

5 SECTION 2. IC 2-7-1-10, AS AMENDED BY P.L.58-2010,  
6 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 NOVEMBER 1, 2010 (RETROACTIVE)]: Sec. 10. (a) "Lobbyist"  
8 means any person who:

- 9 (1) engages in lobbying; and
- 10 (2) in any registration year, receives or expends an aggregate of
- 11 at least five hundred dollars (\$500) in compensation or
- 12 expenditures reportable under this article for lobbying, whether
- 13 the compensation or expenditure is solely for lobbying or the
- 14 lobbying is incidental to that individual's regular employment.

15 (b) The following are not considered lobbyists:

- 16 (1) A public employee or public official.
- 17 (2) The National Conference of State Legislatures.
- 18 (3) The National Conference of Insurance Legislators.
- 19 (4) The American Legislative Exchange Council.
- 20 (5) Women in Government.
- 21 (6) The Council of State Governments.
- 22 (7) The National Black Caucus of State Legislators.
- 23 (8) Any other national organization:

24 (A) established for by:

25 (i) an association of persons that includes members of  
26 state legislatures; or

27 (ii) a political party; and

28 (B) whose primary purpose is the education and support of  
29 legislative leadership, legislators, legislative staff, or related  
30 government employees.

31 SECTION 3. IC 2-7-1-18 IS ADDED TO THE INDIANA CODE  
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
33 NOVEMBER 1, 2010 (RETROACTIVE)]: **Sec. 18. "Reporting year"**  
34 **means the period beginning November 1 of a year through October**  
35 **31 of the following year.**

36 SECTION 4. IC 2-7-3-2, AS AMENDED BY P.L.58-2010,  
37 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 NOVEMBER 1, 2010 (RETROACTIVE)]: Sec. 2. (a) One (1) activity  
39 report shall be filed not later than May 31, covering the period from  
40 November 1 of the immediately preceding calendar reporting year  
41 through April 30. The other activity report shall be filed not later than  
42 November 30, covering the period from May 1 through October 31.

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1 The commission shall provide a copy of an activity report to a member  
2 of the general assembly at the request of the member.

3 (b) Subject to subsections (c) and (d), the commission shall impose  
4 a penalty of not more than one hundred dollars (\$100) per day for each  
5 day that the person fails to file any report required by this chapter until  
6 the report is filed.

7 (c) The penalty shall not exceed four thousand five hundred dollars  
8 (\$4,500) per report.

9 (d) The commission may waive the penalty if the commission  
10 determines that the circumstances make imposition of the penalty  
11 inappropriate.

12 SECTION 5. IC 2-7-3-3, AS AMENDED BY P.L.58-2010,  
13 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 NOVEMBER 1, 2010 (RETROACTIVE)]: Sec. 3. (a) The activity  
15 reports of each lobbyist shall include the following information:

16 (1) A complete and current statement of the information required  
17 to be supplied under IC 2-7-2-3 and IC 2-7-2-4.

18 (2) Total expenditures on lobbying (prorated, if necessary) broken  
19 down to include at least the following categories:

- 20 (A) Compensation to others who perform lobbying services.
- 21 (B) Reimbursement to others who perform lobbying services.
- 22 (C) Receptions.
- 23 (D) Entertainment, including meals.
- 24 (E) Gifts made to a legislative person.

25 (3) Subject to section 3.5 of this chapter, a statement of each:

- 26 (A) expenditure for entertainment (including meals and drink);
- 27 or
- 28 (B) gift;

29 that equals fifty dollars (\$50) or more in one (1) day, or  
30 expenditures for entertainment (including meals and drink) or  
31 gifts that together total more than two hundred fifty dollars (\$250)  
32 during the ~~calendar~~ **reporting** year, if the expenditures and gifts  
33 are made by the lobbyist or the lobbyist's agent to benefit a  
34 specific legislative person.

35 (4) A list of the general subject matter of each bill or resolution  
36 concerning which a lobbying effort was made within the  
37 registration period.

38 (5) The name of each member of the general assembly from  
39 whom the lobbyist has received an affidavit required under  
40 IC 2-2.1-3-3.5.

41 (b) In the ~~second semiannual~~ report **required to be filed not later**  
42 **than November 30**, when total amounts are required to be reported,

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1 totals shall be stated both for the period covered by the statement and  
2 for the entire reporting year.

3 (c) An amount reported under this section is not required to include  
4 the following:

- 5 (1) Overhead costs.  
6 (2) Charges for any of the following:  
7 (A) Postage.  
8 (B) Express mail service.  
9 (C) Stationery.  
10 (D) Facsimile transmissions.  
11 (E) Telephone calls.

12 (3) Expenditures for the personal services of clerical and other  
13 support staff persons who are not lobbyists.

14 (4) Expenditures for leasing or renting an office.

15 (5) Expenditures for lodging, meals, and other personal expenses  
16 of the lobbyist.

17 (d) A report of an expenditure under subsection (a)(3) must state the  
18 following information:

- 19 (1) The name of the lobbyist making the expenditure.  
20 (2) A description of the expenditure.  
21 (3) The amount of the expenditure.

22 SECTION 6. IC 2-7-3-3.3, AS ADDED BY P.L.58-2010, SECTION  
23 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
24 2011]: Sec. 3.3. (a) This section does not apply to gifts made between  
25 close relatives.

26 (b) A lobbyist shall file a written report whenever the lobbyist  
27 makes a gift with respect to a legislative person that is required to be  
28 included in a report under section 3(a)(3) of this chapter.

29 (c) A report under this section must state the following:

- 30 (1) The name of the lobbyist making the gift.  
31 (2) A description of the gift.  
32 (3) The amount of the gift.

33 (d) A lobbyist shall file ~~a copy of~~ a report required by this section  
34 **electronically with all the following:**

35 ~~(1)~~ the commission. **The commission shall promptly forward**  
36 **an electronic copy of the report to the following:**

37 ~~(2)~~ **(1) The legislative electronic mail address of the legislative**  
38 **person to whom the report is made.**

39 ~~(3)~~ **(2) The electronic mail address designated by the principal**  
40 **clerk of the house of representatives, if the legislative person is a**  
41 **member of, or a candidate for election to, the house of**  
42 **representatives.**

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1            ~~(4)~~ **(3) The electronic mail address designated** by the secretary  
 2            of the senate, if the legislative person is a member of, or candidate  
 3            for election to, the senate.

4            (e) A lobbyist shall file a report required by this section not later  
 5            than fifteen (15) business days after making the gift. A report filed  
 6            under this section is confidential and is not available for public  
 7            inspection or copying until ten (10) business days after the report is  
 8            filed ~~with the commission.~~ **received by:**

9            **(1) the principal clerk of the house of representatives; or**

10           **(2) the secretary of the senate;**

11           **whichever is applicable. If a report filed under this section is**  
 12           **corrected not later than ten (10) business days after the report is**  
 13           **filed under this subsection, the original filed report remains**  
 14           **confidential.**

15           (f) Not later than January 7 each year, the commission shall provide  
 16           to each member and candidate a written compilation of all reports filed  
 17           under subsection (d) relating to that member or candidate. The  
 18           compilation must provide the following information to the member or  
 19           candidate for each gift reported under subsection (d):

20           (1) A description of the gift.

21           (2) The amount of the gift.

22           (3) The name of the lobbyist making the gift.

23           SECTION 7.IC 2-7-3-3.5, AS ADDED BY P.L.58-2010, SECTION  
 24           19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25           NOVEMBER 1, 2010 (RETROACTIVE)]: Sec. 3.5. (a) If an  
 26           expenditure for entertainment (including meals and drink) or a gift can  
 27           clearly and reasonably be attributed to a particular legislative person,  
 28           the expenditure must be reported with respect to that particular  
 29           legislative person.

30           (b) A report of an expenditure with respect to a particular legislative  
 31           person:

32           (1) must report actual amounts; and

33           (2) may not allocate to the particular legislative person a prorated  
 34           amount derived from an expense made with respect to several  
 35           legislative persons;

36           to the extent practicable.

37           (c) An activity report must report expenditures for a function or  
 38           activity to which ~~all the members of~~ a legislative body ~~are~~ **is** invited.  
 39           Expenditures reported for a function or activity described in this  
 40           subsection may not be allocated and reported with respect to a  
 41           particular legislative person.

42           (d) If two (2) or more lobbyists contribute to an expenditure, each

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1 lobbyist shall report the actual amount the lobbyist contributed to the  
2 expenditure. For purposes of reporting such an expenditure, the  
3 following apply:

4 (1) For purposes of determining whether the expenditure is  
5 reportable, the total amount of the expenditure with respect to a  
6 particular legislative person must be determined and not the  
7 amount that each lobbyist contributed to that expenditure.

8 (2) Each lobbyist shall report the actual amount the lobbyist  
9 contributed to the expenditure, even if that amount would not  
10 have been reportable under this section if only one (1) lobbyist  
11 made an expenditure of that amount.

12 (e) The report of an expenditure with respect to a particular  
13 legislative person may not include any amount that the particular  
14 legislative person contributed to the expenditure.

15 (f) An activity report may not report expenditures or gifts relating  
16 to property or services received by a legislative person if the legislative  
17 person paid for the property or services the amount that would be  
18 charged to any purchaser of the property or services in the ordinary  
19 course of business.

20 (g) An activity report may not report expenditures or gifts made  
21 between close relatives unless the expenditure or gift is made in  
22 connection with a legislative action.

23 (h) An activity report may not report expenditures or gifts relating  
24 to the performance of a legislative person's official duties including the  
25 legislative person's service as a member of any of the following:

- 26 (1) The legislative council;
- 27 (2) The budget committee;
- 28 (3) A standing or other committee established by the rules of the  
29 house of representatives or the senate;
- 30 (4) A study committee established by statute or by the legislative  
31 council;
- 32 (5) A statutory board or commission;

33 (i) (h) An activity report may not report a contribution (as defined  
34 in IC 3-5-2-15).

35 SECTION 8. IC 2-7-3-7, AS ADDED BY P.L.58-2010, SECTION  
36 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
37 2011]: Sec. 7. (a) This section does not apply to a purchase by a  
38 lobbyist from a member's or candidate's business made in the ordinary  
39 course of business at prices that are available to the general public.

40 (b) As used in this section, "purchase" refers to a purchase of goods  
41 or services for which the lobbyist paid more than one hundred dollars  
42 (\$100) from any of the following:

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- 1 (1) A member or candidate.  
 2 (2) A member's or candidate's sole proprietorship.  
 3 (3) A member's or candidate's family business, regardless of the  
 4 manner of the family business's legal organization.  
 5 (c) A lobbyist shall file a written report with respect to a member or  
 6 candidate whenever the lobbyist makes a purchase.  
 7 (d) A report required by this section must state the following:  
 8 (1) The name of the lobbyist making the purchase.  
 9 (2) A description of the purchase.  
 10 (3) The amount of the purchase.  
 11 (e) A lobbyist shall file ~~a copy of~~ a report required by this section  
 12 **electronically with all the following:**  
 13 ~~(1)~~ **(1) the commission. The commission shall promptly forward**  
 14 **an electronic copy to the following:**  
 15 ~~(2)~~ **(1) The legislative electronic mail address of the member or**  
 16 **a designated electronic mail address of the candidate with**  
 17 **respect to whom the report is made.**  
 18 ~~(3)~~ **(2) The electronic mail address designated by the principal**  
 19 **clerk of the house of representatives, if the member or candidate**  
 20 **is a member of, or a candidate for election to, the house of**  
 21 **representatives.**  
 22 ~~(4)~~ **(3) The electronic mail address designated by the secretary**  
 23 **of the senate, if the member or candidate is a member of, or**  
 24 **candidate for election to, the senate.**  
 25 (f) A lobbyist shall file a report required by this section not later  
 26 than fifteen (15) business days after making the purchase. A report  
 27 filed under this section is confidential and is not available for public  
 28 inspection or copying until ten (10) business days after the report is  
 29 ~~filed with the commission:~~ **received by:**  
 30 **(1) the principal clerk of the house of representatives; or**  
 31 **(2) the secretary of the senate;**  
 32 **whichever is applicable. If a report filed under this section is**  
 33 **corrected not later than ten (10) business days after the report is**  
 34 **filed under this subsection, the original filed report remains**  
 35 **confidential.**  
 36 (g) Not later than January 7 each year, the commission shall provide  
 37 to each member and candidate a written compilation of all reports filed  
 38 under subsection (e) relating to that member or candidate. The  
 39 compilation must provide the following information to the member or  
 40 candidate for each purchase:  
 41 (1) A description of the purchase.  
 42 (2) The amount of the purchase.

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1 (3) The name of the lobbyist making the purchase.  
2 SECTION 9. IC 2-7-5-9, AS ADDED BY P.L.58-2010, SECTION  
3 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
4 2011]: Sec. 9. (a) This section does not apply to the following:  
5 (1) Expenses associated with travel outside Indiana for any  
6 purpose that is paid for by an organization or corporation of which  
7 the legislative person or the legislative person's spouse is an  
8 officer, member of the board of directors, employee, or  
9 independent contractor.  
10 (2) Travel expenses of a legislative person attending a public  
11 policy meeting if:  
12 (A) the legislative person's sole purpose for attending the  
13 meeting is to serve as a speaker or other key participant in the  
14 meeting; and  
15 (B) the speaker of the house of representatives or the president  
16 pro tempore of the senate approves the payment of the travel  
17 expenses in writing.  
18 (b) As used in this section, "travel expenses" includes expenses for  
19 transportation, lodging, meals, registration fees, and other expenses  
20 associated with travel.  
21 (c) Except as provided in subsection (a), a lobbyist may not pay for  
22 or reimburse for travel expenses of a legislative person for travel  
23 outside Indiana for any purpose.  
24 **(d) This section does not prohibit a lobbyist for paying for the**  
25 **expenses for a function or activity occurring outside of Indiana to**  
26 **which all:**  
27 **(1) members of a legislative body; or**  
28 **(2) legislative persons;**  
29 **from Indiana attending the function or activity are invited. A**  
30 **lobbyist shall report expenditures described in this subsection in**  
31 **the same manner as the lobbyist reports expenditures under**  
32 **IC 2-7-3-3.5(c).**  
33 SECTION 10. IC 3-9-3-4 IS AMENDED TO READ AS FOLLOWS  
34 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Money received by a  
35 candidate or committee as a contribution may be used only:  
36 (1) to defray any expense reasonably related to the person's or  
37 committee's:  
38 (A) campaign for federal, state, legislative, or local office;  
39 (B) continuing political activity; or  
40 (C) activity related to service in an elected office;  
41 (2) to make an expenditure to any national, state, or local  
42 committee of any political party or another candidate's committee;

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1 or  
 2 (3) upon dissolution of a committee, in a manner permitted under  
 3 IC 3-9-1-12.  
 4 (b) Money received by a candidate or committee as a contribution  
 5 may not be used for primarily personal purposes by the candidate or by  
 6 any other person except as described in subsection (a).  
 7 **(c) Money received by a candidate or committee as a**  
 8 **contribution may not be used to send a communication to an**  
 9 **electronic mail address:**  
 10 **(1) with a domain name that contains "in.gov";**  
 11 **(2) of any agency in the legislative, executive, or judicial**  
 12 **branch of state government; or**  
 13 **(3) of any political subdivision.**  
 14 ~~(c)~~ (d) Money received as a contribution may be invested by a  
 15 committee in an account with a financial institution, savings  
 16 association, or credit union, or in any equity account. Any loss resulting  
 17 from an investment under this subsection must be reported as a  
 18 committee expenditure. Any gain resulting from an investment under  
 19 this subsection must be reported as income.  
 20 SECTION 11. IC 4-2-6-15, AS AMENDED BY P.L.114-2010,  
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2011]: Sec. 15. (a) This section does not apply to the  
 23 following:  
 24 (1) A communication made by the governor concerning the public  
 25 health or safety.  
 26 (2) A communication:  
 27 (A) that a compelling public policy reason justifies the state  
 28 officer to make; and  
 29 (B) the expenditure for which is approved by the budget  
 30 agency after an advisory recommendation from the budget  
 31 committee.  
 32 (b) This section does not prohibit a state officer from using in a  
 33 communication the title of the office the state officer holds.  
 34 (c) As used in this section, "communication" refers only to: ~~the~~  
 35 ~~following:~~  
 36 (1) an audio **or video** communication **intended for**  
 37 **dissemination to the general public; or**  
 38 ~~(2) A video communication.~~  
 39 ~~(3)~~ (2) a print communication in a newspaper (as defined in  
 40 IC 5-3-1-0.4).  
 41 (d) A state officer may not use the state officer's name or likeness in  
 42 a communication paid for entirely or in part with appropriations made

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by the general assembly, regardless of the source of the money.

(e) A state officer may not use the state officer's name or likeness in a communication paid for entirely or in part with:

- (1) money from the securities division enforcement account established under IC 23-19-6-1(f); or
- (2) appropriations from the state general fund made under IC 23-19-6-1(f).

**(f) A communication made after March 16, 2010, that would not have violated this section as in effect after June 30, 2011, is considered not to have violated this section as in effect after March 16, 2010.**

SECTION 12. IC 4-2-7-6, AS ADDED BY P.L.222-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) This section applies if the inspector general finds evidence of misfeasance, malfeasance, nonfeasance, misappropriation, fraud, or other misconduct that has resulted in a financial loss to the state or in an unlawful benefit to an individual in the conduct of state business.

(b) If the inspector general finds evidence described in subsection (a), the inspector general shall certify a report of the matter to the attorney general and provide the attorney general with any relevant documents, transcripts, or written statements. Not later than one hundred eighty (180) days after receipt of the report from the inspector general, the attorney general shall do one (1) of the following:

- (1) File a civil action (including an action upon a state officer's official bond) to secure for the state the recovery of funds misappropriated, diverted, missing, or unlawfully gained. Upon request of the attorney general, the inspector general shall assist the attorney general in the investigation, preparation, and prosecution of the civil action.
- (2) Inform the inspector general that the attorney general does not intend to file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. If the attorney general elects not to file a civil action, the attorney general shall return to the inspector general all documents and files initially provided by the inspector general.
- (3) Inform the inspector general that the attorney general is diligently investigating the matter and after further investigation may file a civil action for the recovery of funds misappropriated, diverted, missing, or unlawfully gained. However, if more than three hundred sixty-five (365) days have passed since the inspector general certified the report to the attorney general, the

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1 attorney general loses the authority to file a civil action for the  
2 recovery of funds misappropriated, diverted, missing, or  
3 unlawfully gained and shall return to the inspector general all  
4 documents and files initially provided by the inspector general.

5 (c) If the inspector general has found evidence described in  
6 subsection (a) and reported to the attorney general under subsection (b)  
7 and:

8 (1) the attorney general has elected under subsection (b)(2) not to  
9 file a civil action for the recovery of funds misappropriated,  
10 diverted, missing, or unlawfully gained; or

11 (2) under subsection (b)(3) more than three hundred sixty-five  
12 (365) days have passed since the inspector general certified the  
13 report to the attorney general under subsection (b) and the  
14 attorney general has not filed a civil action;

15 the inspector general may file a civil action for the recovery of funds  
16 misappropriated, diverted, missing, or unlawfully gained.

17 (d) If the inspector general has found evidence described in  
18 subsection (a), the inspector general may institute forfeiture  
19 proceedings under IC 34-24-2 in a court having jurisdiction in a county  
20 where property derived from or realized through the misappropriation,  
21 diversion, disappearance, or unlawful gain of state funds may be  
22 located, unless a prosecuting attorney has already instituted forfeiture  
23 proceedings against that property.

24 **(e) The inspector general may directly institute civil proceedings**  
25 **against persons who have failed to pay civil penalties imposed by**  
26 **the ethics commission under IC 4-2-6-12.**

27 SECTION 13. IC 4-6-3-2, AS AMENDED BY P.L.111-2009,  
28 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2011]: Sec. 2. (a) The attorney general shall have charge of  
30 and direct the prosecution of all civil actions that are brought in the  
31 name of the state of Indiana or any state agency.

32 (b) In no instance under this section shall the state or a state agency  
33 be required to file a bond.

34 (c) This section does not affect the authority of prosecuting  
35 attorneys to prosecute civil actions.

36 (d) This section does not affect the authority of the inspector general  
37 to prosecute a civil action under IC 4-2-7-6 for the recovery of **either**  
38 **or both of the following:**

39 (1) Funds misappropriated, diverted, missing, or unlawfully  
40 gained.

41 (2) **A civil penalty imposed by the state ethics commission**  
42 **under IC 4-2-6-12.**

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1 (e) The attorney general may bring an action to collect unpaid  
2 registration fees owed by a commercial dog broker or a commercial  
3 dog breeder under IC 15-21.

4 SECTION 14. IC 5-10.3-3-7, AS AMENDED BY P.L.107-2010,  
5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2011]: Sec. 7. The board shall do all of the following:

7 (1) In conjunction with the board of trustees of the Indiana state  
8 teachers' retirement fund, appoint a director.

9 (2) Appoint an actuary and employ or contract with employees,  
10 auditors, technical experts, legal counsel, and other service  
11 providers as it considers necessary to transact the business of the  
12 fund, without the approval of any state officer.

13 (3) Fix the compensation of persons:

14 (A) appointed or employed by the board; or

15 (B) who contract with the board.

16 (4) Establish a general office in Indianapolis for board meetings  
17 and for administrative personnel.

18 (5) Provide for the installation in the general office of a complete  
19 system of books, accounts including reserve accounts, and records  
20 in order to give effect to all the requirements of this article and to  
21 assure the proper operation of the fund.

22 (6) Provide for a report at least annually, before June 1, to each  
23 member of the amount credited to ~~him~~ **the member** in the annuity  
24 savings account in each investment program under IC 5-10.2-2.

25 (7) With the advice of the actuary, adopt actuarial tables and  
26 compile data needed for actuarial studies which are necessary for  
27 the fund's operation.

28 (8) Act on applications for benefits and claims of error filed by  
29 members.

30 (9) Have the accounts of the fund audited annually by the state  
31 board of accounts.

32 (10) Publish for the members a synopsis of the fund's condition.

33 (11) Adopt a budget on a calendar year or fiscal year basis that is  
34 sufficient, as determined by the board, to perform the board's  
35 duties and, as appropriate and reasonable, draw upon fund assets  
36 to fund the budget.

37 (12) Expend money, including income from the fund's  
38 investments, for effectuating the fund's purposes.

39 (13) Establish personnel programs and policies for its employees.

40 (14) Submit a report of its activities each year to the governor, the  
41 pension management oversight commission, and the budget  
42 committee before November 1 of each year. The report under this

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1 subdivision must set forth a complete operating and financial  
 2 statement covering its operations during the most recent fiscal  
 3 year, including information on the following:

- 4 (A) Investment performance.
- 5 (B) Investment and administrative costs as a percentage of  
 6 assets under management.
- 7 (C) Investment asset allocation strategy.
- 8 (D) Member services.
- 9 (E) Member communications.

10 ~~(15) Establish a code of ethics or decide to be under the~~  
 11 ~~jurisdiction and rules adopted by the state ethics commission.~~

12 ~~(16)~~ **(15)** Cooperate with the board of trustees of the Indiana state  
 13 teachers' retirement fund to the extent practicable and feasible in:

- 14 (A) administering and investing the assets of the funds  
 15 administered by the board; and
- 16 (B) hiring investment managers, investment advisors, and  
 17 other service providers.

18 SECTION 15. IC 5-10.4-3-6, AS AMENDED BY P.L.107-2010,  
 19 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2011]: Sec. 6. (a) A trustee shall give bond as specified  
 21 periodically by the state board of finance.

22 (b) The board shall do all the following:

- 23 (1) Act on an application for benefits.
- 24 (2) Provide the necessary forms for administering the fund.
- 25 (3) Establish records and accounts, which:
  - 26 (A) provide the necessary information for an actuary's  
 27 examination; and
  - 28 (B) are sanctioned by the state board of accounts.
- 29 (4) Maintain individual records for each member containing the  
 30 member's:

- 31 (A) name;
- 32 (B) date of birth;
- 33 (C) age at beginning service;
- 34 (D) service record;
- 35 (E) address;
- 36 (F) contributions to the fund;
- 37 (G) amounts withdrawn; and
- 38 (H) benefits paid;

39 and other items considered necessary.

40 (5) Employ or contract with employees, auditors, technical  
 41 experts, legal counsel, and other service providers as the board  
 42 considers necessary to transact the business of the fund without

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- 1 the approval of any state officer, and fix the compensation of
- 2 those persons.
- 3 (6) Make rules as required to administer the fund.
- 4 (7) Publish a summary of the fund's condition.
- 5 (8) Provide for a report for each member, at least annually before
- 6 June 1, of the value of the amount credited to the member in the
- 7 annuity savings account in each investment program under
- 8 IC 5-10.2-2.
- 9 (9) Provide for the installation in the general office of a complete
- 10 system of:
- 11 (A) books;
- 12 (B) accounts, including reserve accounts; and
- 13 (C) records;
- 14 to give effect to all the requirements of this article and to ensure
- 15 the proper operation of the fund.
- 16 (10) Appoint an actuary.
- 17 (11) With the advice of the actuary, adopt actuarial tables and
- 18 compile data needed for actuarial studies necessary for the fund's
- 19 operation.
- 20 (12) Adopt a budget on a calendar year or fiscal year basis that is
- 21 sufficient, as determined by the board, to perform the board's
- 22 duties and, as appropriate and reasonable, draw upon fund assets
- 23 to fund the budget.
- 24 (13) Expend money, including income from the fund's
- 25 investments, for effectuating the fund's purposes.
- 26 (14) Establish personnel programs and policies for the employees
- 27 of the board.
- 28 (15) Submit a report of the board's activities to the governor, the
- 29 pension management oversight commission, and the budget
- 30 committee before November 1 of each year. The report under this
- 31 subdivision shall set forth a complete operating and financial
- 32 statement covering the board's operations during the most recent
- 33 fiscal year, including information on the following:
- 34 (A) Investment performance.
- 35 (B) Investment and administrative costs as a percentage of
- 36 assets under management.
- 37 (C) Investment asset allocation strategy.
- 38 (D) Member services.
- 39 (E) Member communications.
- 40 ~~(16) Establish a code of ethics or decide to be under the~~
- 41 ~~jurisdiction and rules adopted by the state ethics commission.~~
- 42 ~~(17)~~ **(16)** Cooperate with the board of trustees of the public

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- 1 employees' retirement fund to the extent practicable and feasible
- 2 in:
- 3 (A) administering and investing the assets of the fund; and
- 4 (B) hiring investment managers, investment advisors, and
- 5 other service providers.

6 SECTION 16. IC 5-11-5-1, AS AMENDED BY P.L.176-2009,  
 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2011]: Sec. 1. (a) Whenever an examination is made under  
 9 this article, a report of the examination shall be made. The report must  
 10 include a list of findings and shall be signed and verified by the  
 11 examiner making the examination. A finding that is critical of an  
 12 examined entity must be based upon one (1) of the following:

13 (1) Failure of the entity to observe a uniform compliance  
 14 guideline established under IC 5-11-1-24(a).

15 (2) Failure of the entity to comply with a specific law.

16 A report that includes a finding that is critical of an examined entity  
 17 must designate the uniform compliance guideline or the specific law  
 18 upon which the finding is based. The reports shall immediately be filed  
 19 with the state examiner, and, after inspection of the report, the state  
 20 examiner shall immediately file one (1) copy with the officer or person  
 21 examined, one (1) copy with the auditing department of the  
 22 municipality examined and reported upon, and one (1) copy in an  
 23 electronic format under IC 5-14-6 of the reports of examination of state  
 24 agencies, instrumentalities of the state, and federal funds administered  
 25 by the state with the legislative services agency, as staff to the general  
 26 assembly. Upon filing, the report becomes a part of the public records  
 27 of the office of the state examiner, of the office or the person examined,  
 28 of the auditing department of the municipality examined and reported  
 29 upon, and of the legislative services agency, as staff to the general  
 30 assembly. A report is open to public inspection at all reasonable times  
 31 after it is filed. If an examination discloses malfeasance, misfeasance,  
 32 or nonfeasance in office or of any officer or employee, a copy of the  
 33 report, signed and verified, shall be placed by the state examiner with  
 34 the attorney general **and the inspector general**. The attorney general  
 35 shall diligently institute and prosecute civil proceedings against the  
 36 delinquent officer, or upon the officer's official bond, or both, and  
 37 against any other proper person that will secure to the state or to the  
 38 proper municipality the recovery of any funds misappropriated,  
 39 diverted, or unaccounted for.

40 (b) Before an examination report is signed, verified, and filed as  
 41 required by subsection (a), the officer or the chief executive officer of  
 42 the state office, municipality, or entity examined must have an

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1 opportunity to review the report and to file with the state examiner a  
2 written response to that report. If a written response is filed, it becomes  
3 a part of the examination report that is signed, verified, and filed as  
4 required by subsection (a).

5 (c) Except as required by subsections (b) and (d), it is unlawful for  
6 any deputy examiner, field examiner, or private examiner, before an  
7 examination report is made public as provided by this section, to make  
8 any disclosure of the result of any examination of any public account,  
9 except to the state examiner or if directed to give publicity to the  
10 examination report by the state examiner or by any court. If an  
11 examination report shows or discloses the commission of a crime by  
12 any person, it is the duty of the state examiner to transmit and present  
13 the examination report to the grand jury of the county in which the  
14 crime was committed at its first session after the making of the  
15 examination report and at any subsequent sessions that may be  
16 required. The state examiner shall furnish to the grand jury all evidence  
17 at the state examiner's command necessary in the investigation and  
18 prosecution of the crime.

19 (d) If, during an examination under this article, a deputy examiner,  
20 field examiner, or private examiner acting as an agent of the state  
21 examiner determines that the following conditions are satisfied, the  
22 examiner shall report the determination to the state examiner:

23 (1) A substantial amount of public funds has been  
24 misappropriated or diverted.

25 (2) The deputy examiner, field examiner, or private examiner  
26 acting as an agent of the state examiner has a reasonable belief  
27 that the malfeasance or misfeasance that resulted in the  
28 misappropriation or diversion of the public funds was committed  
29 by the officer or an employee of the office.

30 (e) After receiving a preliminary report under subsection (d), the  
31 state examiner may provide a copy of the report to the attorney general.  
32 The attorney general may institute and prosecute civil proceedings  
33 against the delinquent officer or employee, or upon the officer's or  
34 employee's official bond, or both, and against any other proper person  
35 that will secure to the state or to the proper municipality the recovery  
36 of any funds misappropriated, diverted, or unaccounted for.

37 (f) In an action under subsection (e), the attorney general may attach  
38 the defendant's property under IC 34-25-2.

39 (g) A preliminary report under subsection (d) is confidential until  
40 the final report under subsection (a) is issued, unless the attorney  
41 general institutes an action under subsection (e) on the basis of the  
42 preliminary report.

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1 SECTION 17. IC 5-11-6-1, AS AMENDED BY P.L.176-2009,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2011]: Sec. 1. (a) The state examiner, personally or through  
4 the deputy examiners, field examiners, or private examiners, upon the  
5 petition of twenty-five (25) interested taxpayers showing that effective  
6 local relief has not and cannot be obtained after due effort, shall make  
7 the inquiries, tests, examinations, and investigations that may be  
8 necessary to determine whether:

9 (1) any public contract has been regularly and lawfully executed  
10 and performed; or

11 (2) any public work, building, or structure has been or is being  
12 performed, built, or constructed in accordance with the terms and  
13 provisions of the contract, and in compliance with the plans and  
14 specifications, if any.

15 Upon a written petition of twenty-five (25) taxpayers, the state  
16 examiner may also require all plans, specifications, and estimates to be  
17 submitted to the state examiner for corrections and approval before a  
18 contract is awarded.

19 (b) The state examiner, deputy examiner, and any field examiner,  
20 when engaged in making an inquiry, test, examination, or investigation  
21 under subsection (a), is entitled to examine and inspect any public  
22 records, documents, data, contracts, plans, and specifications contained  
23 or found in any public office or other place pertaining or relating to the  
24 public contract or public work, building, or structure. In addition,  
25 subpoenas may be issued to witnesses to appear before the examiner in  
26 person or to produce books and papers for inspection and examination.  
27 The state examiner, deputy, field, and private examiner may administer  
28 oaths and examine witnesses under oath either orally or by  
29 interrogatories on all matters under examination and investigation.  
30 Under order of the state examiner, the examination may be transcribed,  
31 with the reasonable expense paid by the municipality in the same  
32 manner as the compensation of the field examiner is paid.

33 (c) The state examiner, the deputy examiner, and a field examiner  
34 may enforce attendance and answers to questions and interrogatories,  
35 as provided by law, with respect to examinations and investigations  
36 made by the state examiner, deputy examiner, field examiner, or  
37 private examiner of public offices.

38 (d) The state examiner, deputy examiner, any field examiner, and  
39 any private examiner, when making an examination or investigation  
40 under subsection (a), shall examine, inspect, and test the public works,  
41 buildings, or structures in the manner that the examiner sees fit to  
42 determine whether it is being performed, built, or constructed

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according to the contract and plans and specifications.

(e) The state examiner shall file a report covering any examination or investigation that discloses:

(1) fraud, collusion, misconduct, or negligence in the letting or the execution of any public contract or in the performance of any of the terms and conditions of any public contract; or

(2) any failure to comply with the terms or conditions of any public contract in the construction of any public work, building, or structure or to perform, build, or construct it according to the plans and specifications, if any, provided in the contract;

that causes loss, injury, waste, or damage to the state, the municipality, taxing or assessment district, other public entity, or to its citizens, if it is enforceable by assessment or taxation.

(f) The report must meet the following requirements:

(1) The report must be made, signed, and verified in quadruplicate by the examiner making the examination.

(2) The report shall be filed promptly with the state examiner.

After inspection of the report, the state examiner shall file a copy of the report promptly with the attorney general **and the inspector general.**

(g) The attorney general shall diligently institute and prosecute civil proceedings against any or all officers, individuals, and persons in the form and manner that the attorney general determines will secure a proper recovery to the state, municipality, taxing or assessment district, or other public entity injured, defrauded, or damaged by the matters in the report. These prosecutions may be made by the attorney general and the recovery may be had, either upon public official bonds, contractors' bonds, surety or other bonds, or upon individual liability, either upon contract or in tort, as the attorney general determines is wise. No action or recovery in any form or manner, or against any party or parties, precludes further or additional action or recovery in any other form or manner or against another party, either concurrently with or later found necessary, to secure complete recovery and restitution with respect to all matters exhibited, set out, or described in the report. The suits may be brought in the name of the state on the relation of the attorney general for the benefit of the state, or the municipality, taxing or assessment district, or other public entity that may be proper. The actions brought against any defendants may be joined, as to parties, form, and causes of action, in the manner that the attorney general decides.

(h) Any report described in this section or a copy duly certified by the state examiner shall be taken and received in any and all courts of this state as prima facie evidence of the facts stated and contained in

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the reports.

(i) If an examination, investigation, or test is made without a petition being first filed and the examination, investigation, or test shows that the terms of the contract are being complied with, then the expense of the examination, investigation, or test shall be paid by the state upon vouchers approved by the state examiner from funds available for contractual service of the state board of accounts. If such a report shows misfeasance, malfeasance, or nonfeasance in public office or shows that the terms of the plans and specifications under which a contract has been awarded are not being complied with, it is unlawful to make the report public until the report has been certified to the attorney general.

(j) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that all of the following conditions are satisfied, the examiner shall report the determination to the state examiner:

(1) A substantial amount of public funds has been misappropriated or diverted.

(2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of public funds was committed by the officer or an employee of the office.

(k) After receiving a preliminary report under subsection (j), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(l) In an action under subsection (k), the attorney general may attach the defendant's property under IC 34-25-2.

(m) A preliminary report under subsection (j) is confidential until the final report under subsection (e) is issued, unless the attorney general institutes an action under subsection (k) on the basis of the preliminary report.

SECTION 18. IC 5-11-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under ~~of~~ this chapter or ~~of~~ **under** any other statute discloses:

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1 (1) malfeasance, misfeasance, or nonfeasance in office or of any  
 2 officer or employee;  
 3 (2) that any public money has been:  
 4 (A) unlawfully expended, either by having been expended for  
 5 a purpose not authorized by law in an amount exceeding that  
 6 authorized by law, or by having been paid to a person not  
 7 lawfully entitled to receive it; or  
 8 (B) obtained by fraud or in any unlawful manner; or  
 9 (3) that any money has been wrongfully withheld from the public  
 10 treasury;  
 11 a duly verified copy of the report shall be submitted by the state  
 12 examiner to the attorney general, who shall institute and prosecute civil  
 13 proceedings as provided in section 1 of this chapter, **and to the**  
 14 **inspector general.**  
 15 SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 16 JULY 1, 2011]: IC 4-4-11-15.1; IC 5-1.5-2-10; IC 5-13-12-3.1;  
 17 IC 5-20-1-4.1; IC 8-10-1-7.1; IC 9-15-2-2.2; IC 10-15-2-11;  
 18 IC 14-12-1-10.1; IC 14-13-1-14.5; IC 15-13-2-13; IC 21-11-9-3;  
 19 IC 26-4-3-10; IC 27-1-29-27.1.  
 20 SECTION 20. **An emergency is declared for this act.**

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